103D CONGRESS
1ST SESSION

H. R. 2264

AN ACT

To provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

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AN ACT

To provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

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 1993''.

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TITLE I—COMMITTEE ON AGRICULTURE

TITLE II—COMMITTEE ON ARMED SERVICES

TITLE III—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

TITLE IV—COMMITTEE ON EDUCATION AND LABOR

TITLE V—COMMITTEE ON ENERGY AND COMMERCE

TITLE VI—COMMITTEE ON FOREIGN AFFAIRS

TITLE VII—COMMITTEE ON THE JUDICIARY

TITLE VIII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

TITLE IX—COMMITTEE ON NATURAL RESOURCES

TITLE X—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

TITLE XI—COMMITTEE ON PUBLIC WORKS

TITLE XII—COMMITTEE ON VETERANS' AFFAIRS

TITLE XIII—COMMITTEE ON WAYS AND MEANS—SAVINGS

TITLE XIV—COMMITTEE ON WAYS AND MEANS—REVENUES

TITLE XV—BUDGET PROCESS

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Reconciliation Act of 1993''.

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title and table of contents.

Subtitle A—Commodity Programs

Sec. 1101. Wheat program.
Sec. 1102. Feed grain program.
Sec. 1103. Upland cotton program.
Sec. 1104. Rice program.
Sec. 1105. Dairy program.
Sec. 1106. Tobacco program.
Sec. 1107. Sugar program.
Sec. 1108. Oilseeds program.

Sec. 1109. Peanut program.
Sec. 1110. Honey program.
Sec. 1111. Wool and mohair program.
Sec. 1112. Conforming amendments to continue deficit reduction activities in crop years after 1995.

Subtitle B—Restructuring of Loan Programs

Sec. 1201. Restructuring of certain loan programs.
Sec. 1202. Reorganization of rural development functions.

Subtitle C—Food Stamp Program

Sec. 1301. Short title.
Sec. 1302. References to Act.

Chapter 1—Ensuring Adequate Food Assistance

Sec. 1311. Maximum benefit level.
Sec. 1312. Helping low-income high school students.
Sec. 1313. Families with high shelter expenses.
Sec. 1314. Resource exclusion for earned income tax credits.
Sec. 1315. Homeless families in transitional housing.
Sec. 1316. Households benefiting from general assistance vendor payments.
Sec. 1317. Continuing benefits to eligible households.
Sec. 1318. Improving the nutritional status of children in Puerto Rico.

Chapter 2—Promoting Self Sufficiency

Sec. 1321. Income exclusion for education assistance.
Sec. 1322. Child support payments to nonhousehold members.
Sec. 1323. Child support exclusion.
Sec. 1324. Improving access to employment and training activities.
Sec. 1325. Vehicles needed to seek and continue employment and for household transportation.
Sec. 1326. Vehicles necessary to carry fuel or water.
Sec. 1327. Demonstration projects testing resource accumulation.

Chapter 3—Simplifying the Provision of Food Assistance

Sec. 1331. Simplifying the household definition for households with children and others.
Sec. 1332. Eligibility of children of parents participating in drug or alcohol treatment programs.
Sec. 1333. Resources of households with disabled members.
Sec. 1334. Ensuring adequate funding for the food stamp program.

Chapter 4—Improving Program Integrity

Sec. 1341. Use and disclosure of information provided by retail food stores and wholesale food concerns.
Sec. 1342. Additional means of claims collection.
Sec. 1343. Demonstration projects testing activities directed at street trafficking in coupons.

Chapter 5—Improving Food Stamp Program Management

Sec. 1351. Clarification of categorical eligibility.

Sec. 1352. Technical amendments related to electronic benefit transfer.
Sec. 1353. Disqualification of recipients for trading firearms, ammunition, explosives, or controlled substances for coupons.
Sec. 1354. Uncapped civil money penalty for trafficking in coupons.
Sec. 1355. Uncapped civil money penalty for selling firearms, ammunition, explosives, or controlled substances for coupons.
Sec. 1356. Modifying the food stamp quality control system.

CHAPTER 6—UNIFORM REIMBURSEMENT RATES

Sec. 1361. Uniform reimbursement rates.

CHAPTER 7—IMPLEMENTATION AND EFFECTIVE DATES

Sec. 1371. Implementation and effective dates.

Subtitle D—Miscellaneous Provisions

Sec. 1401. Maximum expenditures under market promotion program for fiscal years 1994 through 1998.
Sec. 1402. Admission, entrance, and recreation fees.
Sec. 1403. Additional program changes to meet reconciliation requirements.
Sec. 1404. Environmental conservation acreage reserve program amendments.
Sec. 1405. Levels of insurance coverage under the Federal Crop Insurance Act.

Subtitle A—Commodity Programs

SEC. 1101. WHEAT PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

(1) REDUCTION.—Subsection (c)(1)(C)(ii) of section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a) is amended by striking ''85 percent'' and inserting ''80 percent''.

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of wheat.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—Section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a)(1), (a)(4)(C), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(3)(A), (e)(3)(C)(iii), (f)(1), and (q), by striking "1995" each place it appears and inserting "1998";

(C) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 1998";

(D) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 1998"; and

(E) in the heading of subsection (e)(1)(G), by striking "1995" and inserting "1998"; and

(F) in subsection (g)(1), by striking "and 1995" and inserting "through 1998".

(2) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title III of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3382) is amended—

(A) in section 302 (7 U.S.C. 1379d note), by striking ''May 31, 1996'' and inserting ''May 31, 1999'';

(B) in section 303 (7 U.S.C. 1331 note), by striking ''1995'' and inserting ''1998'';

(C) in section 304 (7 U.S.C. 1340 note), by striking ''1995'' and inserting ''1998''; and

(D) in section 305 (7 U.S.C. 1445a note)—

(i) in the section heading, by striking ''**1995**'' and inserting ''**1998**''; and

(ii) by striking ''1995'' and inserting ''1998''.

(3) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1(i)) is amended by striking ''1995'' both places it appears and inserting ''1998''.

SEC. 1102. FEED GRAIN PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

(1) REDUCTION.—Subsection (c)(1)(C)(ii) of section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended by striking ''85 percent'' and inserting ''80 percent''.

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of feed grains.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a)(1), (a)(4)(C), (a)(6), (b)(1), (c)(1)(A), (c)(1)(B)(iii)(I), (c)(1)(B)(iii)(III), (e)(1)(G), (e)(1)(H), (e)(2)(H), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (p)(1), (q)(1), and (r), by striking "1995" each place it appears and inserting "1998";

(C) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 1998";

(D) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 1998";

(E) in the headings of subsections (e)(1)(G) and (e)(1)(H), by striking "1995" both places it appears and inserting "1998"; and

(F) in subsection (g)(1), by striking ''and 1995'' and inserting ''through 1998''.

(2) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 402 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444b note) is amended—

(A) in the section heading, by striking ''**1995**'' and inserting ''**1998**''; and

(B) by striking ''1995'' and inserting ''1998''.

(3) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking ''1996'' and inserting ''1999''.

SEC. 1103. UPLAND COTTON PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

(1) REDUCTION.—Subsection (c)(1)(C)(ii) of section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended by striking ''85 percent'' and inserting ''80 percent''.

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of upland cotton.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—(A) Section 103(h)(16) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended by striking ''1996'' and inserting ''1999''.

(B) Section 103B of such Act (7 U.S.C. 1444–2) is further amended—

(i) in the section heading, by striking ''**1995**'' and inserting ''**1998**'';

(ii) in subsections (a)(1), (b)(1), (c)(1)(A), (c)(1)(B)(ii), (e)(3)(A), (f)(1), and (o), by striking ''1995'' each place it appears and inserting ''1998''; and

(iii) in subparagraphs (B)(i), (D)(i), (E)(i), and (F)(i) of subsection (a)(5), by striking ''1996'' each place it appears and inserting ''1999''.

(C) Section 203(b) of such Act (7 U.S.C. 1446d(b)) is amended by striking ''1995'' and inserting ''1998''.

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by

striking "1995" each place it appears and inserting "1998".

(3) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title V of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3421) is amended—

(A) in section 502 (7 U.S.C. 1342 note), by striking "1995" and inserting "1998";

(B) in section 503 (7 U.S.C. 1444 note), by striking "1995" and inserting "1998"; and

(C) in section 505 (7 U.S.C. 1342 note)—

(i) in the section heading, by striking "**1996**" and inserting "**1999**"; and

(ii) by striking "1996" and inserting "1999".

SEC. 1104. RICE PROGRAM.

(a) FIVE PERCENT REDUCTION IN PAYMENT ACRES.—

(1) REDUCTION.—Subsection (c)(1)(C)(ii) of section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441–2) is amended by striking "85 percent" and inserting "80 percent".

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of rice.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—Such section is further amended—

(1) in the section heading, by striking "**1995**" and inserting "**1998**";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "1998";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "1999";

(4) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 1998"; and

(5) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 1998".

SEC. 1105. DAIRY PROGRAM.

(a) ALLOCATION OF PURCHASE PRICES FOR BUTTER AND NONFAT DRY MILK.—

(1) IN GENERAL.—Subsection (c)(3) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(A) in the first sentence of subparagraph (A), by striking "The Secretary" and inserting "Subject to subparagraph (B), the Secretary";

(B) by redesignating subparagraph (B) as subparagraph (C); and

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

"(B) GUIDELINES.—In allocating the rate of price support between the purchase prices of butter and nonfat dry milk under this paragraph, the Secretary may not—

"(i) offer to purchase butter for more than $0.65 per pound; or

"(ii) offer to purchase nonfat dry milk for less than $1.034 per pound.".

(2) APPLICATION OF AMENDMENTS.—The amendments made by paragraph (1) shall apply with respect to purchases of butter and nonfat dry milk that are made by the Secretary of Agriculture under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) on or after the date of the enactment of this Act.

(b) REDUCTION IN PRICE RECEIVED.—Subsection (h)(2) of such section 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) during each of the calendar years 1996 through 1998, 10 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of each of the calendar years 1996 through 1998 in the manner provided in subparagraph (B).".

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN FISCAL YEARS AFTER 1995.—

(1) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a), (b), (d)(1)(A), (d)(2)(A), (d)(3), (f), (g)(1), and (k), by striking "1995" each place it appears and inserting "1998"; and

(C) in subsection (g)(2), by striking "1994" and inserting "1997".

(2) TRANSFER TO MILITARY AND VETERANS HOSPITALS.—Subsections (a) and (b) of section 202 of such Act (7 U.S.C. 1446a) are amended by strik-

ing ''1995'' both places it appears and inserting ''1998''.

(3) FEDERAL MILK MARKETING ORDERS.—Section 101(b) of the Agriculture and Food Act of 1981 (7 U.S.C. 608c note) is amended by striking ''1995'' and inserting ''1998''.

(4) DAIRY INDEMNITY PROGRAM.—Section 3 of Public Law 90–484 (7 U.S.C. 450l) is amended by striking ''1995'' and inserting ''1998''.

(5) FOOD SECURITY ACT OF 1985.—The Food Security Act of 1985 is amended—

(A) in section 153 (15 U.S.C. 713a–14), by striking ''1995'' and inserting ''1998''; and

(B) in section 1163 (7 U.S.C. 1731 note), by striking ''1995'' each place it appears and inserting ''1998''.

SEC. 1106. TOBACCO PROGRAM.

(a) TEN PERCENT INCREASE IN MARKETING ASSESSMENT.—Subsection (g)(1) of section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking ''equal to'' and all that follows through the period and inserting the following: ''equal to—

''(A) in the case of the 1991 through 1993 crops of tobacco, .5 percent of the national average

price support level for each such crop as otherwise provided for in this section; and

"(B) in the case of the 1994 through 1998 crops of tobacco, .55 percent of the national average price support level for each such crop as otherwise provided for in this section.".

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN FISCAL YEARS AFTER 1995.—Such subsection is further amended by striking "1995" and inserting "1998".

(c) ACREAGE-POUNDAGE QUOTAS FOR TOBACCO.—

(1) DEFINITIONS.—Subsection (a) of section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended—

(A) by inserting "DEFINITIONS.—" after "(a)"; and

(B) by striking paragraphs (2), (3), (4), (5), (6), (7), and (8) and inserting the following new paragraphs:

"(2) FARM ACREAGE ALLOTMENT.—The term 'farm acreage allotment' for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by dividing the farm marketing quota by the farm yield.

"(3) FARM YIELD.—The term 'farm yield' means the yield per acre for a farm determined according to regulations issued by the Secretary and which would be expected to result in a quality of tobacco acceptable to the tobacco trade.

"(4) FARM MARKETING QUOTA.—

"(A) IN GENERAL.—The term 'farm marketing quota' for a farm for a marketing year means a number that is equal to the number of pounds of tobacco determined by multiplying—

"(i) the farm marketing quota for the farm for the previous marketing year (prior to any adjustment for undermarketing or overmarketing); by

"(ii) the national factor.

"(B) ADJUSTMENT.—The farm marketing quota determined under subparagraph (A) for a marketing year shall be increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediate preceding marketing year (if marketing quotas were in effect for that year under the program established by this section) is less than or exceeds the farm marketing quota for such year.

Notwithstanding the preceding sentence, the farm marketing quota for a marketing year shall not be increased under this subparagraph for undermarketing by an amount in excess of the farm marketing quota determined for the farm for the immediately preceding year prior to any increase for undermarketing or decrease for overmarketing. If due to excess marketing in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction shall be made for the subsequent marketing year or years.

"(5) NATIONAL FACTOR.—The term 'national factor' for a marketing year means a number obtained by dividing—

"(A) the national marketing quota (less the reserve provided for under subsection (e)); by

"(B) the sum of the farm marketing quotas (prior to any adjustments for undermarketing or overmarketing) for the immediate preceding marketing year for all farms for which marketing quotas for the kind of to-

bacco involved will be determined for such succeeding marketing year.''.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in the first sentence of subsection (b), by striking ''and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco,'';

(B) in the first sentence of subsection (c), by striking ''and at the same time announce the national acreage allotment and national average yield goal'';

(C) in subsection (d)—

(i) in the sixth sentence, by striking '', national acreage allotment, and national average yield goal'';

(ii) in the eighth sentence, by striking '', national acreage allotment and national average yield goal''; and

(iii) in the ninth sentence, by striking '', national acreage allotment, and national average goal are'' and inserting ''is'';

(D) in subsection (e)—

(i) in the first sentence, by striking ''No farm acreage allotment or farm yield

shall be established'' and inserting ''A farm marketing quota and farm yield shall not be established'';

(ii) in the second sentence, by striking ''acreage allotment'' both places it appears and inserting ''marketing quota'';

(iii) in the second sentence, by striking ''acreage allotments'' both places it appears and inserting ''marketing quotas''; and

(iv) in the last sentence, by striking ''acreage allotment'' and inserting ''marketing quota''; and

(E) in subsection (g)—

(i) in paragraph (1), by striking ''paragraph (a)(8)'' and inserting ''subsection (a)(4)''; and

(ii) in paragraph (3), by striking ''subsection (a)(8)'' and inserting ''subsection (a)(4)''.

(3) FARM MARKETING QUOTA REDUCTIONS.—Subsection (f) of such section is amended to read as follows:

''(f) CAUSES FOR FARM MARKETING QUOTA REDUCTIONS.—(1) When an acreage-poundage program is in ef-

fect for any kind of tobacco under this section, the farm marketing quota next established for a farm shall be reduced by the amount of such kind of tobacco produced on the farm—

"(A) which was marketed as having been produced on a different farm;

"(B) for which proof of disposition is not furnished as required by the Secretary;

"(C) on acreage equal to the difference between the acreage reported by the farm operator or a duly authorized representative and the determined acreage for the farm; and

"(D) as to which any producer on the farm files, or aids, or acquiesces, in the filing of any false report with respect to the production or marketing of tobacco.

"(2) If the Secretary, through the local committee, finds that no person connected with a farm caused, aided, or acquiesced in any irregularity described in paragraph (1), the next established farm marketing quota shall not be reduced under this subsection.

"(3) The reduction required under this subsection shall be in addition to any other adjustments made pursuant to this section.

"(4) In establishing farm marketing quotas for other farms owned by the owner displaced by acquisition of the owner's land by any agency, as provided in section 378 of this Act, increases or decreases in such farm marketing quotas as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency.

"(5) Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 316) be leased and sold under the terms and conditions in section 316 of this Act, except that any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred.".

SEC. 1107. SUGAR PROGRAM.

(a) TEN PERCENT INCREASE IN MARKETING ASSESSMENT.—Subsection (i) of section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

(1) in paragraph (1), by striking "equal to" and all that follows through the period and inserting the following: "equal to—

"(A) in the case of marketings during fiscal years 1992 through 1994, .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane

or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

"(B) in the case of marketings during fiscal years 1995 through 1999, .198 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing)."; and

(2) in paragraph (2), by striking "equal to" and all that follows through the period and inserting the following: "equal to—

"(A) in the case of marketings during fiscal years 1992 through 1994, .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

"(B) in the case of marketings during fiscal years 1995 through 1999, .2123 cents per pound of beet sugar, processed by the processor

from domestically produced sugar beets or sugar beet molasses, that has been marketed.''.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is further amended—

(A) in the section heading, by striking ''**1995**'' and inserting ''**1998**'';

(B) in subsections (a), (c), (d)(1), and (j), by striking ''1995'' each place it appears and inserting ''1998''; and

(C) in paragraphs (1) and (2) of subsection (i), as amended by subsection (a), by striking ''1996'' both places it appears and inserting ''1999''.

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Section 359b(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb(a)(1)) is amended by striking ''1996'' and inserting ''1999''.

SEC. 1108. OILSEEDS PROGRAM.

(a) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in the section heading, by striking "**1995**" and inserting "**1998**"; and

(2) in subsections (b), (c), (e)(1), and (n), by striking "1995" each place it appears and inserting "1998".

SEC. 1109. PEANUT PROGRAM.

(a) ASSESSMENT TO COVER UNANTICIPATED LOSSES IN ADMINISTERING THE PROGRAM.—

(1) ADDITIONAL ASSESSMENT.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(A) by redesignating subsection (h) as subsection (i); and

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

"(h) ADDITIONAL MARKETING ASSESSMENT.—

"(1) TWO PERCENT ASSESSMENT.—In addition to the marketing assessment required by subsection (g), the Secretary shall also provide for a nonrefundable marketing assessment applicable to each of the 1993 through 1998 crops of peanuts and collected and paid in accordance with this subsection. The assessment shall be on a per pound basis in an amount equal to 2 percent of the national average quota or additional peanut support rate per pound, as appli-

cable, for the applicable crop. No peanuts shall be assessed more than 2 percent of the applicable support rate under this subsection.

"(2) FIRST PURCHASERS.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

"(A) collect from the producer a marketing assessment equal to 1 percent of the applicable national average support rate times the quantity of peanuts acquired;

"(B) pay, in addition to the amount collected under subparagraph (A), a marketing assessment in an amount equal to 1 percent of the applicable national average support rate times the quantity of peanuts acquired; and

"(C) remit the amounts required under subparagraphs (A) and (B) to the Commodity Credit Corporation in a manner specified by the Secretary.

"(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the as-

sessment under this subsection and shall remit the assessment by such time as is specified by the Secretary.

"(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a price support loan made under this section, ½ of the assessment under this subsection shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts as provided in subparagraph (B) of paragraph (2). For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds under this subsection shall be treated as having been paid to the producer.

"(5) RESERVE ACCOUNT.—

"(A) ESTABLISHMENT.—The Secretary shall establish in the Commodity Credit Corporation a reserve account to be administered by the Secretary for purposes of this section. There shall be deposited in the reserve account for each crop of peanuts an amount equal to—

"(i) the total amount remitted to the Commodity Credit Corporation under paragraphs (2) and (3) as the payment of the

marketing assessment applicable to that crop of peanuts under this subsection; and

"(ii) the total amount deducted from the proceeds of a price support loan or paid by first purchasers under paragraph (4) as the payment of the marketing assessment applicable to that crop of peanuts under this subsection.

"(B) USE OF RESERVE ACCOUNT.—The Secretary shall use amounts in the reserve account established in this paragraph to cover losses incurred by the Commodity Credit Corporation on the sale or disposal of peanuts for which price support has been provided under this section. Funds in the reserve account shall be made available until expended.

"(6) APPLICATION OF OTHER PROVISIONS.—Paragraphs (2)(B), (5), and (6) of subsection (g) shall apply with respect to the marketing assessment required by this subsection.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 15 days after the date of the enactment of this Act.

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is further amended—

(A) in the section heading, by striking "**1995**" and inserting "**1998**";

(B) in subsections (a)(1), (a)(2), (b)(1), and (g)(1), by striking "1995" each place it appears and inserting "1998"; and

(C) in subsection (i) (as redesignated by subsection (a)(1)(A)), by striking "1995" and inserting "1998".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking "**1995**" and inserting "**1998**";

(ii) in subsections (a)(1), (b)(1)(A), (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3), and (f), by striking "1995" each place it appears and inserting "1998"; and

(iii) in subsection (d)(1), by inserting after "5 calendar years" the following: ", or such other period as the Secretary con-

siders to be appropriated in the case of a referendum held after 1995,'';

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking ''**1995**'' and inserting ''**1998**''; and

(ii) in subsection (c), by striking ''1995'' and inserting ''1998'';

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking ''1995'' and inserting ''1998''; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking ''**1995**'' and inserting ''**1998**''; and

(ii) in subsection (i), by striking ''1995'' and inserting ''1998''.

(3) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title VIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3459) is amended—

(A) in section 801 (104 Stat. 3459), by striking ''1995'' and inserting ''1998'';

(B) in section 807 (104 Stat. 3478), by striking ''1995'' and inserting ''1998''; and

(C) in section 808 (7 U.S.C. 1441 note), by striking ''1995'' and inserting ''1998''.

(c) ASSESSMENT UNDER PEANUT MARKETING AGREEMENT.—Section 8b(b)(1) of the Agricultural Adjustment Act (7 U.S.C. 608b(b)(1)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, 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) any assessment imposed under such agreement shall apply to peanut handlers (as that term is defined by the Secretary) who have not entered into such an agreement with the Secretary in addition to those handlers who have entered into such agreement.''.

SEC. 1110. HONEY PROGRAM.

(a) REDUCED SUPPORT RATE.—Subsection (a) of section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446h) is amended by striking ''than 53.8 cents'' and inserting ''than—

''(1) 53.8 cents per pound for the 1991 through 1993 crop years; and

"(2) 50 cents per pound for the 1994 through 1998 crop years.".

(b) PAYMENT LIMITATIONS.—Subsection (e)(1) of such section is amended—

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

(2) by striking subparagraph (D); and

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

"(D) $125,000 in the 1994 crop year;

"(E) $100,000 in the 1995 crop year;

"(F) $75,000 in the 1996 crop year; and

"(G) $50,000 in each of the 1997 and subsequent crop years.".

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES.—Subsections (a), (c)(1), and (j) of such section are amended by striking "1995" each place it appears and inserting "1998".

(d) TERMINATION OF ASSESSMENT.—Subsection (i)(1) of such section is amended by striking "1995" and inserting "1993".

SEC. 1111. WOOL AND MOHAIR PROGRAM.

(a) PAYMENT LIMITATIONS.—Section 704(b)(1) of the National Wool Act of 1954 (7 U.S.C. 1783(b)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (C);

(2) by striking subparagraph (D); and

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

''(D) $125,000 for the 1994 marketing year;

''(E) $100,000 for the 1995 marketing year;

''(F) $75,000 for 1996 marketing year; and

''(G) $50,000 for each of the 1997 and subsequent marketing years.''.

(b) MARKETING CHARGES.—Section 706 of National Wool Act of 1954 (7 U.S.C. 1785) is amended by inserting after the second sentence the following new sentence: ''In determining the net sales proceeds and national payment rates for shorn wool and shorn mohair the Secretary shall not deduct marketing charges for commissions, coring, or grading.''.

(c) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—Subsections (a) and (b)(2) of section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) are amended by striking ''1995'' both places it appears and inserting ''1998''.

(d) TERMINATION OF MARKETING ASSESSMENT.—Section 704(c) of the National Wool Act of 1954 (7 U.S.C. 1783(c)) is amended by striking ''1995'' and inserting ''1992''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) POLICY OF CONGRESS.—Section 702 of the National Wool Act of 1954 (7 U.S.C. 1781) is amended—

(A) by striking '', strategic,'' in the first sentence; and

(B) by striking ''as a measure of national security and to promote'' and inserting ''that as a method to promote''.

(2) ELIMINATION OF OBSOLETE PROVISION.—Section 703(b) of the National Wool Act of 1954 (7 U.S.C. 1782(b)) is amended—

(A) in paragraph (1), by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)'';

(B) in paragraph (2), by striking ''Except as provided in paragraph (3), for'' and inserting ''For''; and

(C) by striking paragraph (3).

(3) ADVERTISING AND SALES PROMOTION PROGRAMS.—Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended—

(A) by inserting ''(a)'' after ''SEC. 708.''; and

(B) by adding at the end the following new subsection:

''(b)(1) Except as provided in paragraph (2), to the extent that the Secretary determines that the amount of funds that would otherwise be made available under subsection (a) in any marketing year for agreements entered into under such subsection is less than the amount made available under such subsection in the previous marketing year, the difference in such amounts shall be provided from amounts available to support the prices of wool and mohair under section 703 of this title. Any amount provided under this subsection shall be considered to be an expenditure made in connection with payments to producers under this title for purposes of section 705 of this title.

''(2) Paragraph (1) shall not apply if the Secretary determines that any portion of the difference between the amounts made available under subsection (a) between two consecutive marketing years is the result of a per unit reduction in the amount of the assessment imposed under the agreements entered into under such subsection.''.

SEC. 1112. CONFORMING AMENDMENTS TO CONTINUE DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.

(a) SUPPLEMENTAL SET-ASIDE AND ACREAGE LIMITATION AUTHORITY.—Section 113 of the Agricultural Act of 1949 (7 U.S.C. 1445h) is amended by striking ''1995'' and inserting ''1998''.

(b) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Subsections (a)(1), (b), and (c) of section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) are amended by striking ''1995'' each place it appears and inserting ''1998''.

(c) DISASTER PAYMENTS.—Section 208 of the Agricultural Act of 1949 (7 U.S.C. 1446i) is amended—

(1) in the section heading, by striking ''**1995**'' and inserting ''**1998**'';

(2) in subsection (d), by striking ''1995'' and inserting ''1998''.

(d) MISCELLANEOUS.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(1) in section 402(b) (7 U.S.C. 1422(b)), by striking ''1995'' and inserting ''1998'';

(2) in section 403(c) (7 U.S.C. 1423(c)), by striking ''1995'' and inserting ''1998'';

(3) in section 406(b) (7 U.S.C. 1426(b))—

(A) by striking "1995" each place it appears and inserting "1998"; and

(B) by striking "1996" each place it appears and inserting "1999"; and

(4) in section 408(k)(3) (7 U.S.C. 1428(k)(3)), by striking "1995" and inserting "1998".

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking "1995" each place it appears and inserting "1998";

(2) in subsections (b)(1) and (b)(2) of section 505 (7 U.S.C. 1465), by striking "1995" each place it appears and inserting "1998"; and

(3) in section 509 (7 U.S.C. 1469), by striking "1995" and inserting "1998".

(f) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended in subsections (a), (b)(1), and (c) by striking "1995" each place it appears and inserting "1998".

(g) AGRICULTURE AND FOOD ACT OF 1981.—Section 1014 of the Agriculture and Food Act of 1981 (7 U.S.C. 4110) is amended by striking "1995" and inserting "1998".

(h) FOOD SECURITY ACT OF 1985.—The Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1354) is amended—

(1) in section 902(c)(2)(A) (7 U.S.C. 1446 note), by striking ''1995'' and inserting ''1998'';

(2) in paragraphs (1)(A), (1)(B), and (2)(A) of section 1001 (7 U.S.C. 1308), by striking ''1995'' each place it appears and inserting ''1998'';

(3) in section 1001C(a) (7 U.S.C. 1308–3(a)), by striking ''1995'' both places it appears and inserting ''1998'';

(4) in section 1017(b) (7 U.S.C. 1385 note), by striking ''1995'' and inserting ''1998''; and

(5) in section 1019 (7 U.S.C. 1310a), by striking ''1995'' and inserting ''1998''.

(i) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking ''1995'' each place it appears and inserting ''1998''; and

(2) in section 1154(b)(1)(A), by striking ''1995'' both places it appears and inserting ''1998''.

(j) READJUSTMENT OF SUPPORT LEVELS.—Section 1302 of the Agricultural Reconciliation Act of 1990 (7 U.S.C. 1421 note) is amended in subsections (b)(1), (b)(3), and (d)(1)(C) by striking ''1995'' each place it appears and inserting ''1998''.

Subtitle B—Restructuring of Loan Programs

SEC. 1201. RESTRUCTURING OF CERTAIN LOAN PROGRAMS.

(a) LOAN PROGRAMS UNDER THE RURAL ELECTRIFICATION ACT OF 1936.—

(1) INSURED LOAN PROGRAMS.—Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended—

(A) by striking subsections (b) and (d);

(B) by redesignating subsection (c) as subsection (b); and

(C) by inserting after subsection (b) (as so redesignated) the following:

''(c) INSURED ELECTRIC LOANS.—

''(1) HARDSHIP LOANS.—

''(A) IN GENERAL.—The Administrator shall make insured electric loans at an interest rate of 5 percent per annum to any applicant therefor who meets each of the following requirements:

"(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the borrower provides service.

"(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the borrower provides service.

"(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

"(B) SEVERE HARDSHIP LOANS.—The Administrator may make an insured electric loan at an interest rate of 5 percent per annum to an applicant therefor if, in the sole discretion of

the Administrator, the applicant has experienced a severe hardship.

"(C) LIMITATION.—The Administrator may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban or urbanized area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

"(2) MUNICIPAL RATE LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications therefor, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

"(B) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

"(I) the interest rate determined by the Administrator to be equal to the current market yield on outstand-

ing municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act which is based on the current market yield on outstanding municipal obligations; plus

"(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which—

"(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

"(bb) the interest rate on commercial loans for such period that do not afford the borrower such a right.

"(ii) MAXIMUM RATE.—The interest rate described in this subparagraph on a loan to an applicant therefor shall not exceed 7 percent if—

"(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

"(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the borrower provides service; and

"(bb) the average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

"(iii) EXCEPTION.—Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban or urbanized area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

"(C) LOAN TERM.—

"(i) IN GENERAL.—Subject to clause (ii), the applicant for a loan under this paragraph may select the term during which the loan is to be repaid, and, at the end of such term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

"(ii) MAXIMUM TERM.—Notwithstanding clause (i), the applicant may not select a term that ends more than 35 years after the beginning of the 1st term the applicant selects under clause (i).

"(D) CALL PROVISION.—The Administrator shall offer any applicant for a loan under

this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

"(3) OTHER SOURCE OF CREDIT NOT REQUIRED IN CERTAIN CASES.—The Administrator may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

"(d) INSURED TELEPHONE LOANS.—

"(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured telephone loans, to the extent of qualifying applications therefor, at an interest rate of 5 percent per annum, to any applicant who meets each of the following requirements:

"(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 4.

"(ii) The applicant is capable of producing net income or margins, before interest payments on the loan applied for, of

not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3), and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

"(B) AUTHORITY TO WAIVE TIER REQUIREMENT.—The Administrator may waive the requirement of subparagraph (A)(ii) in any case in which the Administrator determines (and sets forth the reasons therefor in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

"(C) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan under title IV.

"(2) COST-OF-MONEY LOANS.—

"(A) IN GENERAL.—The Administrator may make insured telephone loans for the purchase and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and personal customer premise equipment) directly related to the furnishing, improvement, or extension of rural telecommunications service or the acquisition of a rural telecommunications capability, at an interest rate equal to the then cost of money to the Government of the United States for loans of similar maturity, but not more than 7 percent per annum, to any applicant therefor who meets the following requirements:

"(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

"(ii) The applicant is capable of producing net income or margins, before interest payments on the loan applied for, of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3), and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

"(B) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan.

"(C) CONCURRENT LOAN AUTHORITY.—On request of any applicant for a loan under this paragraph during any fiscal year, the Administrator shall—

"(i) consider the application to be for a loan under this paragraph and a loan under section 408; and

"(ii) if the applicant is eligible therefor, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 408, as the amount made

available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 408 for the fiscal year.

"(D) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 306.

"(3) STATE TELECOMMUNICATIONS MODERNIZATION PLANS.—

"(A) APPROVAL.—If, within 6 months after final regulations are promulgated to carry out this paragraph, the public utility commission of any State develops a telecommunications modernization plan that meets the requirements of subparagraph (B), then the Administrator shall approve the plan for the State. Otherwise, the Administrator shall approve any telecommunications modernization plan for the State that meets such requirements, which is developed by a majority of the borrowers of

telephone loans made under this title who are located in the State.

"(B) REQUIREMENTS.—A telecommunications modernization plan must, at a minimum, meet the following objectives:

"(i) The plan must provide for the elimination of party line service.

"(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

"(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

"(iv) The plan must provide for—

"(I) subscribers in rural areas to be able to receive through telephone lines—

"(aa) multiple voices;

"(bb) video images; and

"(cc) data at a rate of at least 1,000,000 bits of information per second; and

"(II) the proper routing of information to subscribers.

"(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

"(C) FINALITY OF APPROVAL.—A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved.".

(2) RURAL TELEPHONE BANK LOAN PROGRAM.—Section 408 of the Rural Electrification Act of 1936 (7 U.S.C. 948) is amended—

(A) in subsection (a)—

(i) by striking ", (1)" and all that follows through "(3)" and inserting "(1) for the purchase and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and personal customer premise equipment) directly related to the furnishing, improvement, or extension of rural telecommunications service or the ac-

quisition of a rural telecommunications capability, and (2)''; and

(ii) by striking ''(2) hereof'' and inserting ''clause (1)'';

(B) in subsection (b)—

(i) by amending paragraph (4) to read as follows:

''(4)(A) The Governor of the telephone bank may make a loan under this section only to an applicant therefor who meets the following requirements:

''(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

''(ii) The applicant is capable of producing net income or margins, before interest payments on the loan applied for, of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

''(iii) The Administrator has approved, under section 305(d)(3), a telecommunications modernization plan for the State in which the applicant is located, and, if the plan was developed by telephone borrowers under title III, the applicant is a participant in the plan.'';

(ii) in paragraph (8)—

(I) by inserting "(A)" after "(8)";

(II) by striking "if such prepayment is not made later than September 30, 1988" and inserting "except for any prepayment penalty provided for in a loan agreement entered into before the date of the enactment of the Omnibus Budget Reconciliation Act of 1993"; and

(III) by adding at the end the following:

"(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 407(b), the Governor of the telephone bank shall—

"(i) use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 407(b) before October 1, 1991, to the extent any such obligations are outstanding; and

"(ii) in repaying such obligations, first repay the advances bearing the greatest rate of interest."; and

(iii) by adding at the end the following:

"(9) On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

"(A) consider the application to be for a loan under this section and a loan under section 305(d)(2); and

"(B) if the applicant is eligible therefor, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 305(d)(2), as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 305(d)(2) for the fiscal year.

"(10) On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 305(d)(2)."; and

(C) by adding at the end the following:

"(e) Loans and advances made under this section on or after November 5, 1990, shall bear interest at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before the date of the enactment of this subsection.".

(3) FUNDING.—Section 314 of such Act (7 U.S.C. 940d) is amended to read as follows:

"SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the Administrator such sums as may be necessary for the cost of loans in the following amounts, for the following purposes and periods of time:

"(1) ELECTRIC HARDSHIP LOANS.—For loans under section 305(c)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

"(2) ELECTRIC MUNICIPAL RATE LOANS.—For loans under section 305(c)(2)—

"(A) for fiscal year 1994, $600,000,000; and

"(B) for each of fiscal years 1995 through 1998, $600,000,000, increased by the adjustment percentage for the fiscal year.

"(3) TELEPHONE HARDSHIP LOANS.—For loans under section 305(d)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

"(4) TELEPHONE COST-OF-MONEY LOANS.—For loans under section 305(d)(2)—

"(A) for fiscal year 1994, $198,000,000; and

"(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

"(b) ADJUSTMENT PERCENTAGE DEFINED.—As used in subsection (a), the term 'adjustment percentage' means, with respect to a fiscal year, the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending

on July 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on July 31, 1993.

"(c) MANDATORY LEVELS.—The Administrator shall make insured loans under this title from the Rural Electrification and Telephone Revolving Fund established under section 301, for the purposes, in the amounts, and for the periods of time specified in subsection (a), as provided in advance in appropriations Acts.

"(d) AVAILABILITY OF FUNDS FOR INSURED LOANS.—Amounts made available for loans under section 305 are authorized to remain available until expended.".

(4) RULE OF INTERPRETATION.—Section 309(a) of such Act (7 U.S.C. 939(a)) is amended by adding at the end the following: "The preceding sentence shall not be construed to make section 408(b)(2) or 412 applicable to this title.".

(5) MISCELLANEOUS AMENDMENTS.—

(A) Section 2 of such Act (7 U.S.C. 902) is amended—

(i) by inserting "(a)" before "The Administrator";

(ii) by striking "telephone service in rural areas, as hereinafter provided;" and inserting "electric and telephone service in rural areas, as provided in this Act, and for the purpose of assisting electric borrowers to implement demand side management and energy conservation programs"; and

(iii) by adding at the end the following:

"(b) Not later than January 1, 1994, the Administrator shall issue interim regulations to implement the authority contained in subsection (a) to make loans for the purpose of assisting electric borrowers to implement demand side management and energy conservation programs. If such regulations are not issued by such date, the Administrator shall consider any demand side management program which is approved by a State agency to be eligible for such loans."

(B) Section 4 of such Act (7 U.S.C. 904) is amended by inserting "and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management

and energy conservation programs'' after ''central station service''.

(C) Section 7 of such Act (7 U.S.C. 907) is amended—

(i) by inserting ''(a)'' before ''The Administrator is'';

(ii) by designating the 2nd undesignated paragraph as subsection (b); and

(iii) by adding at the end the following:

''(c) Section 306(b) of the Consolidated Farm and Rural Development Act shall apply to a borrower of a loan under this Act in the same manner in which such section applies to an association referred to in such section.''.

(D) Section 13 of such Act (7 U.S.C. 913) is amended—

(i) by inserting '', except as provided in section 203(b),'' before ''shall be deemed to mean any area''; and

(ii) by striking ''city, village, or borough having a population in excess of fifteen hundred inhabitants'' and inserting ''urban or urbanized area, as defined by the Bureau of the Census''.

(E) Section 203(b) of such Act (7 U.S.C. 923(b)) is amended by striking ''one thousand five hundred'' and inserting ''5,000''.

(F) Section 307 of such Act (7 U.S.C. 937) is amended by adding at the end the following: ''The Administrator may not request any applicant for an electric loan under this Act to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.''.

(G) Section 406 of such Act (7 U.S.C. 946) is amended by adding at the end the following:

''(i) The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as 'the RTB Equity Fund').''.

(H) Section 18 of such Act (7 U.S.C. 918) is amended—

(i) by inserting ''(a) NO CONSIDERATION OF BORROWER'S LEVEL OF GENERAL FUNDS.—'' before ''The Administrator''; and

(ii) by adding at the end the following:

"(b) NO LOAN ORIGINATION FEES.—The Administrator and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan under this Act.".

(I) Title III of such Act (7 U.S.C. 931–940d) is amended by inserting after section 306B the following:

"SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS FOR LOANS, LOAN GUARANTEES, AND LIEN ACCOMMODATIONS.

"A distribution borrower not in default on the repayment of any loan made or guaranteed under this Act shall be eligible for a loan, loan guarantee, or lien accommodation under this title. For the purpose of determining such eligibility, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"SEC. 306D. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO ELECTRIC BORROWERS.

"The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this Act whose net worth exceeds 110 percent of the out-

standing principal balance on all loans made or guaranteed to the borrower by the Administrator.''.

(b) EXPANDED ELIGIBILITY FOR LOANS FOR WATER AND WASTE DISPOSAL FACILITIES.—Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting after the 1st sentence the following: ''The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936, for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents.''.

(c) REGULATIONS.—Not later than October 1, 1993, the Administrator of the Rural Development Administration shall issue interim final rules to implement the amendments made by this section.

SEC. 1202. REORGANIZATION OF RURAL DEVELOPMENT FUNCTIONS.

(a) ADMINISTRATION OF RURAL ELECTRIFICATION ACT OF 1936 TRANSFERRED TO THE RURAL DEVELOPMENT ADMINISTRATION.—

(1) IN GENERAL.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by

striking all after the enacting clause that precedes section 2 and inserting the following:

"SECTION 1. SHORT TITLE; ADMINISTRATION OF ACT.

"(a) SHORT TITLE.—This Act may be cited as the 'Rural Electrification Act of 1936'.

"(b) ADMINISTRATION OF ACT.—The Administrator of the Rural Development Administration (in this Act referred to as the 'Administrator') shall carry out this Act under the general direction and supervision of the Secretary of Agriculture.".

(2) CONFORMING AMENDMENTS.—

(A) Section 3(a) of such Act (7 U.S.C. 903(a)) is amended by striking "appointed pursuant to the provisions of this Act".

(B) Section 8 of such Act (7 U.S.C. 908) is amended—

(i) by striking "authorized to be appointed by this Act"; and

(ii) by striking "Rural Electrification Administration created by this Act" and inserting "Rural Development Administration".

(C) Each of the following provisions of such Act is amended by striking "Rural Elec-

trification Administration'' and inserting ''Rural Development Administration'':

(i) Section 306A(b) (7 U.S.C. 936a(b)).

(ii) Section 403(b) (7 U.S.C. 943(b)).

(iii) Section 404 (7 U.S.C. 944).

(iv) Section 406(c) (7 U.S.C. 946(c)).

(v) Section 410(a)(1) (7 U.S.C. 950(a)(1)).

(b) OTHER FUNCTIONS OF THE RURAL ELECTRIFICATION ADMINISTRATION TRANSFERRED TO THE RURAL DEVELOPMENT ADMINISTRATION.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is amended by adding at the end the following:

''(g) TRANSFER OF FUNCTIONS OF THE RURAL ELECTRIFICATION ADMINISTRATION TO THE RURAL DEVELOPMENT ADMINISTRATION.—

''(1) IN GENERAL.—All rights, interests, obligations, and duties of the Administrator of the Rural Electrification Administration arising before the date of the enactment of this subsection, from any loan made, insured, or guaranteed by, or other action of, the Rural Electrification Administration

shall be vested in the Administrator of the Rural Development Administration.

"(2) REFERENCES.—Any reference in any law, regulation, or order in effect immediately before the date of the enactment of this subsection to the Rural Electrification Administration or to the Administrator of the Rural Electrification Administration, is deemed to be a reference to the Rural Development Administration or to the Administrator of the Rural Development Administration, respectively.

"(3) EFFECT ON PENDING PROCEEDINGS AND PARTIES TO SUCH PROCEEDINGS.—

"(A) NONABATEMENT OF PROCEEDINGS.—This subsection shall not be construed to abate any proceeding commenced by or against the Rural Electrification Administration or the Administrator of the Rural Electrification Administration.

"(B) EFFECT ON PARTIES.—If an officer of the Rural Electrification Administration, in the official capacity of such officer, is a party to a proceeding pending on the date of the enactment of this subsection, then such action shall be continued with the Administrator, or other appropriate officer, of the Rural Develop-

ment Administration substituted or added as a party.

"(4) INCIDENTAL TRANSFERS.—The Secretary shall transfer all personnel from the Rural Electrification Administration to the Rural Development Administration, and shall make such determinations as may be appropriate to carry out this subsection.".

(c) STRUCTURE OF THE RURAL DEVELOPMENT ADMINISTRATION.—Such section 364 (7 U.S.C. 2006f), as amended by subsection (b) of this section, is amended by adding at the end the following:

"(h) STRUCTURE OF THE RURAL DEVELOPMENT ADMINISTRATION.—

"(1) DEPUTY ADMINISTRATOR FOR RURAL UTILITIES.—The Administrator of the Rural Development Administration shall appoint a Deputy Administrator for Rural Utilities who shall administer—

"(A) the programs authorized by the Rural Electrification Act of 1936; and

"(B) the rural water and waste disposal programs administered by the Rural Development Administration.

"(2) ASSISTANT ADMINISTRATORS.—The Administrator of the Rural Development Administration may appoint—

"(A) an Assistant Administrator for the electric programs authorized by the Rural Electrification Act of 1936;

"(B) an Assistant Administrator for the telephone programs authorized by such Act;

"(C) an Assistant Administrator who shall be responsible for—

"(i) rural utility technical engineering standards and specifications; and

"(ii) other utility management and accounting functions assigned by the Administrator; and

"(D) an Assistant Administrator for water and sewer programs.".

(d) RURAL ECONOMIC DEVELOPMENT.—

(1) IN GENERAL.—Such section 364 (7 U.S.C. 2006f), as amended by subsections (b) and (c) of this section, is amended by adding at the end the following:

"(i) RURAL ECONOMIC DEVELOPMENT.—A borrower of a loan or loan guarantee under the Rural Electrification Act of 1936 shall be eligible for assistance under all pro-

grams administered by the Rural Development Administration, and the Administrator of the Rural Development Administration shall encourage and facilitate the full participation of such a borrower in such programs.

"(j) TECHNICAL ASSISTANCE UNIT.—The Administrator of the Rural Development Administration shall establish a technical assistance unit to provide to borrowers under the programs administered by the Rural Development Administration advice and guidance on community and economic development activities.".

(2) CONFORMING REPEAL.—Section 11A of the Rural Electrification Act of 1936 (7 U.S.C. 911a) is hereby repealed.

(e) REGULATIONS.—Not later than January 1, 1994, the Administrator of the Rural Development Administration shall issue interim final rules to implement the amendments made by this section.

Subtitle C—Food Stamp Program

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the "Mickey Leland Childhood Hunger Relief Act".

SEC. 1302. REFERENCES TO THE ACT.

Except as otherwise provided in this subtitle, references in this subtitle to "the Act" and sections of the Act shall be deemed to be references to the Food Stamp

Act of 1977 (7 U.S.C. 2011 et seq.) and the sections of such Act.

CHAPTER 1—ENSURING ADEQUATE FOOD ASSISTANCE

SEC. 1311. MAXIMUM BENEFIT LEVEL.

Section 3(o) of the Act (7 U.S.C. 2012(o)) is amended by striking ''(4) through'' and all that follows through the end of the subsection, and inserting the following: ''and (4) on October 1, 1993, and each October 1 thereafter, adjust the cost of such diet to reflect 104 percent of the cost of the thrifty food plan in the preceding June (without regard to adjustments made to such costs in any previous year), as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size.''.

SEC. 1312. HELPING LOW-INCOME HIGH SCHOOL STUDENTS.

Section 5(d)(7) of the Act (7 U.S.C. 2014(d)(7)) is amended by striking ''who is a student, and who has not attained his eighteenth birthday'' and inserting ''who is an elementary or secondary school student, and who is 21 years of age or younger''.

SEC. 1313. FAMILIES WITH HIGH SHELTER EXPENSES.

(a) COMPUTATION.—Section 5(e) of the Act (7 U.S.C. 2014(e)) is amended—

(1) in the fourth sentence by striking ": *Provided*, That the amount" and all that follows through "June 30"; and

(2) in the fifth sentence by striking "under clause (2) of the preceding sentence".

(b) LIMITATIONS.—

(1) FISCAL YEAR 1994.—Effective on the date of enactment of this Act, section 5(e) of the Act (7 U.S.C. 2014(e)) is amended by inserting after the fourth sentence the following:

"In the 12-month period ending September 30, 1994, such excess shelter expense deduction shall not exceed $214 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $372, $305, $259, and $158 a month, respectively.".

(2) REMOVAL OF CAP.—Effective October 1, 1994, section 5(e) of the Act (7 U.S.C. 2014(e)), as amended by paragraph (1), is amended by striking the fifth sentence.

SEC. 1314. RESOURCE EXCLUSION FOR EARNED INCOME TAX CREDITS.

Section 5(g)(3) of the Act (7 U.S.C. 2014(g)(3)) is amended by adding at the end the following:

"The Secretary shall also exclude from financial resources any earned income tax credits received by any member of the household for a period of 12 months from receipt if such member was participating in the food stamp program at the time the credits were received and participated in such program continuously during the twelve-month period.".

SEC. 1315. HOMELESS FAMILIES IN TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Act (7 U.S.C. 2014(k)(2)(F)) is amended to read as follows:

"(F) housing assistance payments made to a third party on behalf of the household residing in transitional housing for the homeless;".

SEC. 1316. HOUSEHOLDS BENEFITING FROM GENERAL ASSISTANCE VENDOR PAYMENTS.

Section 5(k)(1)(B) of the Act (7 U.S.C. 2014(k)(1)(B)) is amended by striking "living expenses" and inserting "housing expenses, not including energy or utility-cost assistance,".

SEC. 1317. CONTINUING BENEFITS TO ELIGIBLE HOUSEHOLDS.

Section 8(c)(2)(B) of the Act (7 U.S.C. 2017(c)(2)(B)) is amended by inserting "of more than one month in" after "following any period".

SEC. 1318. IMPROVING THE NUTRITIONAL STATUS OF CHILDREN IN PUERTO RICO.

Section 19(a)(1)(A) of the Act (7 U.S.C. 2028(a)(1)(A)) is amended by—

(1) striking ''$1,091,000,000'' and inserting ''$1,111,000,000''; and

(2) striking ''$1,133,000,000'' and inserting ''$1,158,000,000''.

CHAPTER 2—PROMOTING SELF SUFFICIENCY

SEC. 1321. INCOME EXCLUSION FOR EDUCATION ASSISTANCE.

Section 5 of the Act (7 U.S.C. 2014) is amended by—

(1) amending subsection (d)(3) to read as follows:

''(3) all educational loans on which payment is deferred (including any loan origination fees or insurance premiums associated with such loans), grants, scholarships, fellowships, veterans' educational benefits, and the like awarded to a household member enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof,'';

(2) striking ", and no portion" and all that follows through "for living expenses," in subsection (d)(5); and

(3) striking subsection (k)(3).

SEC. 1322. CHILD SUPPORT PAYMENTS TO NON-HOUSEHOLD MEMBERS.

Section 5(d)(6) of the Act (7 U.S.C. 2014(d)6)) is amended by striking the comma at the end and inserting the following—

": *Provided*, That child support payments made by a household member to or for a person who is not a member of the household shall be excluded from the income of the household of the person making such payments if such household member was legally obligated to make such payments: Provided further, That the Secretary is authorized to prescribe by regulation the method(s), which may include calculation on a retrospective basis, that State agencies may use to determine the amount of child support excluded,".

SEC. 1323. CHILD SUPPORT EXCLUSION.

Section 5 of the Act (7 U.S.C. 2014) is amended—

(1) in subsection (d)(13)—

(A) by striking "at the option" and all that follows through "subsection (m)," and inserting "(A)"; and

(B) by adding at the end ''or (B) the first $50 of any child support payment in the month received if such payment was made by the absent parent in the month when due,''; and

(2) by striking subsection (m).

SEC. 1324. IMPROVING ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES.

(a) DEPENDENT CARE DEDUCTION.—Section 5(e) of the Act (7 U.S.C. 2014(e)) is amended in clause (1) of the fourth sentence by—

(1) striking ''$160 a month for each dependent'' and inserting ''$200 a month for a dependent child under 2 years of age and $175 a month for any other dependent''; and

(2) striking '', regardless of the dependent's age,''.

(b) REIMBURSEMENTS TO PARTICIPANTS IN EMPLOYMENT AND TRAINING PROGRAMS.—

(1) COSTS OTHER THAN COSTS OF DEPENDENT CARE.—Section 6(d)(4)(I)(i)(I) of the Act (7 U.S.C. 2015(d)(4)(I)(i)(I)) is amended by striking '', except that'' and all that follows through ''per month'' and inserting the following—

''(which may include reimbursements for costs of any supportive services of the kinds provided or re-

imbursed under the State's plan under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.)), except that State agencies may establish limits on reimbursements to participants for such costs, which limits may not be less than $25 per month''.

(2) COSTS OF DEPENDENT CARE.—Section 6(d)(4)(I)(i)(II) of the Act (7 U.S.C. 2015(d)(4)(I)(i)(II)) is amended to read as follows—

''(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in a local area where an employment, training, or education program under title IV of such Act is in operation, or was in operation, on the date of enactment of the Hunger Prevention Act of 1988) up to any limit set by the State agency (which limit shall not be less than the limit for the dependent care deduction under section 5(e)), but in no event shall such payment or reimbursements exceed the applicable local market rate as determined by procedures consistent

with any such determination under the Social Security Act. Individuals subject to the program under this paragraph may not be required to participate if dependent costs exceed the limit established by the State agency under this subclause or other actual costs exceed any limit established under subclause (I).''.

(c) CONFORMING AMENDMENTS.—Section 16(h)(3) of the Act (7 U.S.C. 2025(h)(3)) is amended by—

(1) striking ''$25'' and all that follows through ''dependent care costs)'', and inserting ''the payment made under section 6(d)(4)(I)(i)(I) and subject to any limits the State has established under such section''; and

(2) striking ''representing $160 per month per dependent'' and inserting ''equal to the payment made under section 6(d)(4)(I)(i)(II) but not more than the applicable local market rate,''.

SEC. 1325. VEHICLES NEEDED TO SEEK AND CONTINUE EMPLOYMENT AND FOR HOUSEHOLD TRANSPORTATION.

Section 5(g)(2) of the Act (7 U.S.C. 2014(g)(2)) is amended by striking ''$4,500'' and inserting the following: ''a level set by the Secretary, which shall be $5,500 through September 30, 1994, and which shall be adjusted

on each October 1 thereafter to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics for the 12-month period ending on June 30 preceding the date of such adjustment and rounded to the nearest $50''.

SEC. 1326. VEHICLES NECESSARY TO CARRY FUEL OR WATER.

Section 5(g)(2) of the Act (7 U.S.C. 2014(g)(2)) is amended by adding at the end the following:

''The Secretary shall exclude from financial resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.''.

SEC. 1327. DEMONSTRATION PROJECTS TESTING RESOURCE ACCUMULATION.

Section 17 of the Act (7 U.S.C. 2026) is amended by adding at the end the following:

''(k) The Secretary may conduct, under such terms and conditions as the Secretary may prescribe, for a period not to exceed 4 years, demonstration projects to test allowing eligible households to accumulate resources up to $10,000 for later expenditure for a purpose directly related to improving the education, training, or employability (including self employment) of household members, for the

purchase of a home for the household, for a change of the household's residence, or for making major repairs to the household's home. The Secretary is authorized to pay up to $100,000,000 in food stamp benefits to households participating in such demonstration projects during the period in which such projects are in operation.''.

CHAPTER 3—SIMPLIFYING THE PROVISION OF FOOD ASSISTANCE

SEC. 1331. SIMPLIFYING THE HOUSEHOLD DEFINITION FOR HOUSEHOLDS WITH CHILDREN AND OTHERS.

Section 3(i) of the Act (7 U.S.C. 2012(i)) is amended—

(1) in the first sentence—

(A) by striking ''(2)'' and inserting ''or (2)'';

(B) by striking '', or (3) a parent of minor children and that parent's children'' and all that follows through ''parents and children, or siblings, who live together'', and inserting the following:

''. Spouses who live together, parents and their children 21 years of age or younger (who are not themselves parents living with their children or married living with their spouses) who live together, and children (excluding foster children) under 18 years of

age who live with and are under the parental control of a person other than their parent together with the person exercising parental control''; and

(C) striking '', unless one of '' and all that follows through ''disabled member''; and

(2) in the second sentence by striking ''clause (1) of the preceding sentence'' and inserting ''the preceding sentences''.

SEC. 1332. ELIGIBILITY OF CHILDREN OF PARENTS PARTICIPATING IN DRUG OR ALCOHOL ABUSE TREATMENT PROGRAMS.

Section 3 of the Act (7 U.S.C. 2012) is amended—

(1) in the last sentence of subsection (i) by inserting '', together with their children,'' after ''narcotics addicts or alcoholics''; and

(2) in subsection (g)(5) by inserting '', and their children,'' after ''or alcoholics''.

SEC. 1333. RESOURCES OF HOUSEHOLDS WITH DISABLED MEMBERS.

Section 5(g)(1) of the Act (7 U.S.C. 2014(g)(1)) is amended by striking ''a member who is 60 years of age or older,'' and inserting ''an elderly or disabled member,''.

SEC. 1334. ENSURING ADEQUATE FUNDING FOR THE FOOD STAMP PROGRAM.

Section 18 of the Act (7 U.S.C. 2027) is amended by—

(1) striking the third and fourth sentences of subsection (a)(1) and inserting the following—

''The Secretary shall, once every 3 months, submit a report to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Forestry, and Nutrition of the Senate setting forth the Secretary's best estimate of the preceding quarter's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each quarterly report, the Secretary shall also state whether there is reason to believe that supplemental appropriations will be needed to support the operation of the program through the end of the fiscal year.''; and

(2) striking subsections (b), (c), and (d) and redesignating subsections (e) and (f) as subsections (b) and (c), respectively.

CHAPTER 4—IMPROVING PROGRAM INTEGRITY

SEC. 1341. USE AND DISCLOSURE OF INFORMATION PROVIDED BY RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(c) of the Act (7 U.S.C. 2018(c)) is amended—

(1) in the second sentence by inserting after ''disclosed to and used by'' the following:

''State and Federal law enforcement and investigative agencies for the purposes of administering or enforcing the provisions of this Act or any other Federal or State law and the regulations issued under this Act or such law, and'';

(2) by inserting after the second sentence the following:

''An officer or employee of an agency described in the preceding sentence who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law any information obtained under the authority granted by this subsection shall be subject to section 1905 of title 18 of the United States Code.''; and

(3) in the last sentence by striking ''Such purposes shall not exclude'' and inserting the following—

"Such regulations shall establish the criteria to be used by the Secretary to determine that such information is needed. Such regulations shall not prohibit".

SEC. 1342. ADDITIONAL MEANS OF CLAIMS COLLECTION.

(a) SAFEGUARDS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended by—

(1) striking "and (B)" and inserting "(B)"; and

(2) striking the semi-colon at the end and inserting the following:

", and (C) such safeguards shall not prevent the use by, or disclosure of such information, to agencies of the Federal Government (including the United States Postal Service) for purposes of collecting the amount of an overissuance of coupons, as determined under section 13(b) of this Act and excluding claims arising from an error of the State agency, that has not been recovered pursuant to such section, from refunds of Federal taxes as authorized pursuant to section 3720A of title 31 of the United States Code, or from Federal pay (including salaries and pensions) as authorized pursuant to section 5514 of title 5 of the United States Code;".

(b) RECOVERY.—Section 13 of the Act (7 U.S.C. 2022) is amended by adding the following:

"(d) The amount of an overissuance of coupons as determined under subsection (b) and except for claims arising from an error of the State agency, that has not been recovered pursuant to such subsection may be recovered from refunds of Federal taxes, as authorized pursuant to section 3720A of title 31 of the United States Code, or from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 of the United States Code.".

SEC. 1343. DEMONSTRATION PROJECTS TESTING ACTIVITIES DIRECTED AT STREET TRAFFICKING IN COUPONS.

Section 17 of the Act (7 U.S.C. 2026) is amended by adding a new subsection (l) at the end thereof as follows—

"(l) The Secretary may use up to $4 million of funds provided in advance in appropriations Acts for projects authorized by this section in Fiscal Year 1994 to conduct projects in which State or local food stamp agencies test innovative ideas for working with State or local law enforcement agencies to investigate and prosecute coupon street trafficking by recipients, buyers, and authorized retail stores.".

CHAPTER 5—IMPROVING FOOD STAMP PROGRAM MANAGEMENT

SEC. 1351. CLARIFICATION OF CATEGORICAL ELIGIBILITY.

Effective on the date of enactment of this Act, section 5 of the Act (7 U.S.C. 2014) is amended by—

(1) striking ''and the third sentence of section 3(i)'' each place it appears in subsection (a) and inserting the '', the third sentence of section 3(i), and section 20(f)''; and

(2) striking ''II,'' in subsection (j).

SEC. 1352. TECHNICAL AMENDMENTS RELATED TO ELECTRONIC BENEFIT TRANSFER.

(a) ELIGIBILITY DISQUALIFICATION OF INDIVIDUALS.—Section 6(b)(1)(B) of the Act (7 U.S.C. 2015(b)(1)(B)) is amended by striking ''or authorization cards'' and inserting '', authorization cards, or access devices''.

(b) ELIGIBILITY DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.—Section 12(b)(3)(B) of the Act (7 U.S.C. 2021(b)(3)(B)) is amended by—

(1) striking ''or authorization cards'' and inserting '', authorization cards, or access devices''; and

(2) striking ''or cards'' and inserting '', cards, or devices''.

SEC. 1353. DISQUALIFICATION OF RECIPIENTS FOR TRADING FIREARMS, AMMUNITION, EXPLOSIVES, OR CONTROLLED SUBSTANCES FOR COUPONS.

Section 6(b)(1) of the Act (7 U.S.C. 2015(b)(1)) is amended by striking subdivisions (ii) and (iii) and inserting the following:

''(ii) for a period of 1 year upon—

''(I) the second occasion of any such determination; or

''(II) the first occasion of a finding of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); and

''(iii) permanently upon—

''(I) the third occasion of any such determination;

''(II) the second occasion of a finding of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for coupons; or

"(III) the first occasion of a finding of the trading of firearms, ammunition, or explosives for coupons.".

SEC. 1354. UNCAPPED CIVIL MONEY PENALTY FOR TRAFFICKING IN COUPONS.

Effective on the date of enactment of this Act, section 12(b)(3)(B) of the Act (7 U.S.C. 2021(b)(3)(B)) is amended by striking "(except" and all that follows through ") in", and inserting "in".

SEC. 1355. UNCAPPED CIVIL MONEY PENALTY FOR SELLING FIREARMS, AMMUNITION, EXPLOSIVES, OR CONTROLLED SUBSTANCES FOR COUPONS.

Effective on the date of enactment of this Act, section 12(b)(3)(C) of the Act (7 U.S.C. 2021(b)(3)(C)) is amended—

(1) by striking "substances (as the term is" and inserting "substance (as"; and

(2) by striking "(except" and all that follows through ") in", and inserting "in".

SEC. 1356. MODIFYING THE FOOD STAMP QUALITY CONTROL SYSTEM.

(a) AMENDMENTS.—Section 16(c) of the Act (7 U.S.C. 2025(c)) is amended—

(1) in paragraph (1)(C)—

(A) by striking ''payment error tolerance level'' and inserting ''national performance measure''; and

(B) by striking ''equal to'' and all that follows through the period at the end, and inserting the following:

''equal to—

''(i) the product of—

''(I) the value of all allotments issued by the State agency in the fiscal year; times

''(II) the lesser of—

''(aa) the ratio of—

''(1) the amount by which the State agency's payment error rate for the fiscal year exceeds the national performance measure for the fiscal year, to

''(2) the national performance measure for the fiscal year; or

''(bb) one; times

''(III) the amount by which the State agency's payment error rate for the fiscal

year exceeds the national performance measure for the fiscal year.

"(ii) The amount of liability shall not be affected by corrective action under subparagraph (B).";

(2) in paragraph (3)(A) by striking "60 days (or 90 days at the discretion of the Secretary)" and inserting "120 days"; and

(3) in paragraph (6) by striking "shall be used" and all that follows through "level" the last place it appears.

(b) STUDY BY THE OFFICE OF TECHNOLOGY ASSESSMENT.—The Office of Technology Assessment shall undertake a study of measurement error, any bias in penalty amounts, extreme value bias, regression formula, and of geographical and temporal uniformity of measurements, in the food stamp program quality control system, and shall report the results and recommendations of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 12 months after the date of enactment of this Act.

(c) STUDY BY THE SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall conduct a study of major causal factors which contribute to the payment

error rate. The Secretary shall also conduct controlled experiments under which various reviewers review identical cases, with the objective of determining the degree of uniformity in quality control error-rate measurements and the extent to which different levels of investment of resources in the review process affect measurement error. The Secretary shall report the results and recommendations (including recommendations as to what measures would best reduce measurement error and increase uniformity of quality control error-rate measurements at reasonable cost) of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 2 years after the date of enactment of this Act.

CHAPTER 6—UNIFORM REIMBURSEMENT RATES

SEC. 1361. UNIFORM REIMBURSEMENT RATES.

(a) AMENDMENTS.—Section 16 of the Act (7 U.S.C. 2025) is amended—

(1) in subsection (a)—

(A) by striking ''and (5)'' and inserting ''(5)'';

(B) by inserting before the colon the following—

1 ", (6) automated data processing and information
2 retrieval systems subject to the conditions set forth
3 in subsection (g), (7) food stamp program investiga-
4 tions and prosecutions, and (8) implementing and
5 operating the immigration status verification system
6 under section 1137(d) of the Social Security Act (42
7 U.S.C. 1320b–7(d))"; and
8 (C) in the proviso by inserting after "75
9 per centum" the following:
10 "through June 30, 1994, 70 percent for the 1-year
11 period beginning July 1, 1994, 60 percent for the 1-
12 year period beginning July 1, 1995, and 50 percent
13 for any subsequent period,";
14 (2) in subsection (g)—
15 (A) by inserting "through June 30, 1995,
16 equal to 60 percent for the 1-year period begin-
17 ning July 1, 1995, and 50 percent effective
18 July 1, 1996," after "1991,"; and
19 (B) by striking "automatic" and inserting
20 "automated"; and
21 (3) in subsection (j) by inserting after "100 per
22 centum" the following:
23 "through June 30, 1994, 70 percent for the 1-year period
24 beginning July 1, 1994, 60 percent for the 1-year period

beginning July 1, 1995, and 50 percent for any subsequent period,''.

(b) APPLICATION OF AMENDMENTS.—The reductions in enhanced Federal match rates for administration resulting from the amendments made by subsection (a) shall apply to payments to States for expenditures incurred only after—

(1) the end of the State fiscal year that ends during 1994; or

(2) in the case of a State with a State legislature which is not scheduled to have a regular legislative session in 1994, the end of the State fiscal year that ends during 1995;

without regard to whether or not final regulations to-carry out such amendments have been promulgated-by the Secretary before the end of either of such-State fiscal years.

CHAPTER 7—IMPLEMENTATION AND EFFECTIVE DATES

SEC. 1371. IMPLEMENTATION AND EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE AND IMPLEMENTATION.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect, and shall be implemented beginning on, October 1, 1993.

(b) SPECIAL EFFECTIVE DATES AND IMPLEMENTATION.—(1) Sections 1312, 1315, 1316, 1317, 1322, 1323, 1326, 1331, 1333, and 1353 and the amendments made by such sections shall take effect, and shall be implemented beginning on, July 1, 1994.

(2) Paragraphs (1) and (3) of section 1356(a) and the amendments made by such paragraphs shall take effect, and shall be implemented beginning on, October 1, 1991.

(3) Paragraph (2) of section 1356(a) and the amendment made by such paragraph shall take effect, and shall be implemented beginning on, October 1, 1992.

Subtitle D—Miscellaneous Provisions

SEC. 1401. MAXIMUM EXPENDITURES UNDER MARKET PROMOTION PROGRAM FOR FISCAL YEARS 1994 THROUGH 1998.

(a) LIMITATION.—Section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended by striking ''not less than $200,000,000 for each of the fiscal years 1991 through 1995'' and inserting ''an amount equal to $147,734,000 for each of the fiscal years 1991 through 1998''.

(b) APPLICATION OF AMENDMENTS.—The amendment made by this section shall apply with respect to fiscal years beginning after September 30, 1993.

SEC. 1402. ADMISSION, ENTRANCE, AND RECREATION FEES.

(a) AUTHORITY TO IMPOSE FEES.—

(1) ENTRANCE AND ADMISSION FEES.—The Secretary of Agriculture may charge admission or entrance fees at National Monuments, National Volcanic Monuments, National Scenic Areas, and areas of concentrated public use administered by the Secretary.

(2) RECREATION USE FEES.—The Secretary may charge recreation use fees at lands administered by the Secretary in connection with the use of specialized outdoor recreation sites, equipment, services, or facilities, including visitors' centers, picnic tables, boat launching facilities, or campgrounds.

(b) AMOUNT OF FEES.—The amount of the admission, entrance, and recreation fees authorized to be imposed under this section shall be determined by the Secretary.

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

(1) The term ''area of concentrated public use'' means an area administered by the Secretary that meets each of the following criteria:

(A) The area is managed primarily for outdoor recreation purposes.

(B) Facilities and services necessary to accommodate heavy public use are provided in the area.

(C) The area contains at least one major recreation attraction.

(D) Public access to the area is provided in such a manner that admission fees can be efficiently collected at one or more centralized locations.

(2) The term ''boat launching facility'' includes any boat launching facility regardless of whether specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities, are provided.

(3) The term ''campground'' means any campground where a majority of the following amenities are provided, as determined by the Secretary:

(A) Tent or trailer spaces.

(B) Drinking water.

(C) An access road.

(D) Refuse containers.

(E) Toilet facilities.

(F) The personal collection of recreation use fees by an employee or agent of the Secretary.

(G) Reasonable visitor protection.

(H) If campfires are permitted in the campground, simple devices for containing the fires.

(4) The term ''Secretary'' means the Secretary of Agriculture.

SEC. 1403. ADDITIONAL PROGRAM CHANGES TO MEET RECONCILIATION REQUIREMENTS.

The Secretary of Agriculture shall consolidate personnel and field, regional, and national offices of agencies within the Department of Agriculture in order to reduce personnel and duplicative overhead expenses as a result of the consolidation such that Department expenditures are reduced by—

(1) $90,000,000 in fiscal year 1995;

(2) $97,000,000 in fiscal year 1996;

(3) $135,000,000 in fiscal year 1997; and

(4) $178,000,000 in fiscal year 1998.

SEC. 1404. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AMENDMENTS.

(a) ENROLLMENT REQUIREMENT.—

(1) CONSERVATION RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

(i) by striking ''may'' and inserting ''shall'';

(ii) by striking ''the amount of acres specified in section 1230(b)'' and inserting ''a total of 38,000,000 acres during the 1986 through 1995 calendar years''; and

(iii) by striking ''each of calendar years 1994 and 1995'' and inserting ''the 1995 calendar year''.

(B) CONFORMING AMENDMENT.—Section 1230(b) of such Act (16 U.S.C. 3830(b)) is amended by striking ''to place in'' and all that follows through ''acres''.

(2) WETLANDS RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1237(b) of such Act (16 U.S.C. 3837(b)) is amended to read as follows:

''(b) MINIMUM ENROLLMENT.—The Secretary shall enroll into the wetlands reserve program—

''(1) a total of not less than 330,000 acres by the end of the 1995 calendar year; and

"(2) a total of not less than 975,000 acres during the 1991 through 2000 calendar years.".

(B) CONFORMING AMENDMENT.—Section 1237(c) of such Act (16 U.S.C. 3837(c)) is amended by striking "1995" and inserting "2000".

(b) USE OF COMMODITY CREDIT CORPORATION.—Section 1241 of such Act (16 U.S.C. 3841) is amended—

(1) in subsection (a)—

(A) by striking "(a)(1) During each of the fiscal years ending September 30, 1986, and September 30, 1987" and inserting "(a) During each of the fiscal years 1994 through 2000"; and

(B) by striking paragraph (2); and

(2) in subsection (b), by striking "(A) through (E)" and inserting "A through E".

SEC. 1405. LEVELS OF INSURANCE COVERAGE UNDER THE FEDERAL CROP INSURANCE ACT.

(a) CONVERSION OF PROGRAM TO FOUR LEVELS OF COVERAGE.—The Federal Crop Insurance Act is amended—

(1) in subsection (a) of section 508 (7 U.S.C. 1508)—

(A) in the first sentence, by striking ''If sufficient actuarial data are available, as determined by the Board,'' and inserting ''Subject to section 508B, based on the actuarial and underwriting data available to the Board,''; and

(B) by striking the fifth, sixth, seventh, eighth, ninth, tenth, fourteenth, fifteenth, and sixteenth sentences; and

(2) by inserting after section 508A (7 U.S.C. 1508a) the following new section:

''SEC. 508B. FOUR LEVELS OF CROP INSURANCE COVERAGE.

''(a) FOUR LEVELS OF COVERAGE.—In making crop insurance available under section 508 to producers of agricultural commodities grown in the United States, the Corporation shall make available four levels of insurance coverage against losses in yields of the insured commodity:

''(1) LEVEL I.—Coverage level I shall be available only to those producers who do not purchase insurance at coverage levels II, III, or IV and shall provide for the indemnification of those producers for losses in yield to the extent that such losses exceed 65 percent of the determined yield of the commodity for the farm, as established under subsection (b).

"(2) LEVELS II, III, AND IV.—Coverage levels II, III, and IV shall provide for the indemnification of producers for those losses in yield to the extent that such losses exceed 50, 35, and 25 percent, respectively, of—

"(A) the average proven yield on the farm for a representative period based on the actual production history of the farm, as determined from the producer's records; or

"(B) if such records are not available or are insufficient, the recorded or appraised average yield of the commodity on the farm for a representative period, subject to such adjustments as the Board may prescribe to ensure that the average yield for farms in the same area, which are subject to the same conditions, are fair and just.

"(b) DETERMINED YIELD.—For purposes of subsection (a)(1), the determined yield for a commodity shall be equal to—

"(1) in the case of a crop of any commodity for which the Agricultural Stabilization and Conservation Service establishes a yield for the farm, the yield so established; and

"(2) in the case of a crop of any other commodity, the recorded or appraised average yield of the commodity on the farm for a representative period, subject to such adjustments as the Board may prescribe to ensure that the average yield for farms in the same area, which are subject to the same conditions, are fair and just.

"(c) USE OF ASCS YIELD.—If the Agricultural Stabilization and Conservation Service has established a yield for a crop of a commodity for a farm and such yield is higher than the yield determined for the farm under subsection (a)(2) for coverage levels II, III, or IV, the producer may elect to use such higher yield for purpose of coverage levels II, III, and IV. Use of such higher yield shall be subject to an additional premium for the coverage at such a rate as the Board determines appropriate to accurately reflect the increased risk involved and that the Board determines to be actuarially sufficient to cover claims for losses on such insurance and to establish a reasonable reserve against unforeseen losses. No premium subsidy or administrative subsidy may be provided by the Corporation in connection with any additional coverage provided under this subsection.

"(d) PRICE ELECTIONS.—The Corporation shall establish a high and low price election for each agricultural

1 commodity for which insurance is available under this
2 title. The high price shall not be less than the projected
3 market price of the commodity. Coverage levels II, III, and
4 IV shall be available to producers at any price election
5 that is equal to or less than the high price election and
6 shall be quoted in terms of dollars per acre coverage that
7 may be purchased. Coverage level I shall be offered only
8 at the low price election.

9 ''(e) COVERAGE AND PRICE INFORMATION.—The
10 Corporation shall ensure that each producer is provided
11 accurate and adequate information at the time of applica-
12 tion regarding the amount of coverage available at each
13 level of coverage for the commodity to be insured and the
14 cost to the producer for such coverage.

15 ''(f) ANNUAL REPORT.—The Corporation shall report
16 annually to the Congress the results of its operations re-
17 garding each commodity for which insurance is available
18 under this title. The report shall include for each insured
19 commodity a description of operations under this section
20 at each level of coverage.''.

21 (b) PREMIUM PAYMENT.—Subsection (e)(3) of sec-
22 tion 508 of the Federal Crop Insurance Act (7 U.S.C.
23 1508) is amended to read as follows:

"(3) For the purpose of encouraging the broadest possible participation in the crop insurance program, the Corporation shall pay—

"(A) with respect to each policy providing for coverage level I, the full amount of the premium for such coverage; and

"(B) with respect to each policy providing for coverage level II, III, or IV, the portion of the premium that is equal to the amount that would have been paid under subparagraph (A) if the producer had elected coverage level I.".

(c) REINSURANCE.—Subsection (h) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended to read as follows:

"(h) REINSURANCE.—The Corporation shall provide reinsurance, to the maximum extent practicable, upon such terms and conditions as the Board may determine to be consistent with subsections (a) and (b) and with sound reinsurance principles promulgated pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 401, et seq.), which the Board shall modify as necessary to conform to the purposes of this Act, taking into account the expenses of the Corporation paid on its own policies of insurance. Reinsurance shall be provided to insurers including private insurance companies or pools of such com-

panies, reinsurers of such companies, or State or local governmental entities, including any political subdivisions thereof, that insure producers of any agricultural commodity under a plan or plans acceptable to the Corporation. However, in the case of the sale of coverage level I policies only (but not for the processing and adjustment of claims on those policies), contractors of the Corporation shall be paid only $50 per policy, of which $25.50 shall be paid by the policyholder at the time of application and $24.50 shall be paid by the Corporation. Whenever the Corporation provides reinsurance under this subsection to any such insurers, the Corporation shall pay (as provided in subsection (e)) the portion of the producer's premium for such insurance so reinsured. Insurers of policies on which reinsurance is provided shall make use of licensed private insurance agents and brokers on the same basis as provided for policies of the Corporation under section 507(c)(3) of this title, except that the provisions for compensating agents and brokers from premiums paid by the insured shall not apply. The Corporation shall periodically revise its reinsurance agreement with the reinsured companies to provide for the reinsured companies to bear an increased share of any potential loss under such agreement, in cases in which the financial conditions of the rein-

sured companies and the availability of private reinsurance so permits.''.

(d) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply beginning with crops to be harvested in 1995.

TITLE II—COMMITTEE ON ARMED SERVICES

SEC. 2001. LIMITATION ON COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES.

Paragraph (2) of section 1401a(b) of title 10, United States Code, is amended to read as follows:

''(2) PRE-AUGUST 1, 1986 MEMBERS.—

''(A) GENERAL RULE.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

''(i) the price index for the base quarter of that year, exceeds

''(ii) the base index.

''(B) SPECIAL RULE FOR FISCAL YEARS 1994 THROUGH 1998.—In the case of the increases in retired pay that, pursuant to paragraph (1), become effective on December 1 of

each of fiscal years 1994, 1995, 1996, 1997, and 1998, the initial month for which each such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be as set forth in the following table:

"Fiscal year:	First month for which increase is payable:
1994	April 1994.
1995	July 1995.
1996	October 1996.
1997	January 1998.
1998	April 1999.

"(C) EXCLUSION OF DISABILITY RETIREES FROM ROLLING COLA.—Subparagraph (B) does not apply with respect to the retired pay of a member retired under chapter 61 of this title.".

SEC. 2002. ELIMINATION OF MILITARY PAY RAISE FOR FISCAL YEAR 1994 AND REDUCTION IN THE AMOUNT OF THE RAISE FOR FISCAL YEARS 1995 THROUGH 1998.

(a) FISCAL YEAR 1994.—During fiscal year 1994, no increase in the rates of basic pay, basic allowance for quarters, or basic allowance for subsistence of members of the uniformed services shall be made or take effect pursuant to section 1009 of title 37, United States Code.

(b) ONE PERCENT REDUCTION IN SUBSEQUENT FISCAL YEARS.—If the General Schedule of compensation for Federal classified employees is increased under section 5303 of title 5, United States Code, as amended by title

X of this Act, during fiscal year 1995, 1996, 1997, or 1998, the elements of compensation of members of the uniformed services shall likewise be increased during that fiscal year in the manner provided in section 1009 of title 37, United States Code, based on the corresponding increase under section 5303 of title 5, United States Code (as so amended).

TITLE III—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.

(a) IN GENERAL.—Section 11(d)(11) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(11)) is amended to read as follows:

"(11) DEPOSITOR PREFERENCE.—

"(A) IN GENERAL.—Subject to section 5(e)(2)(C), amounts realized from the liquidation or other resolution of any insured depository institution by any receiver appointed for such institution shall be distributed to pay claims (other than secured claims to the extent of any such security) in the following order of priority:

"(i) Administrative expenses of the receiver.

"(ii) Any deposit liability of the institution.

"(iii) Any claim of an employee of the institution, other than a senior executive officer (as defined by the Corporation pursuant to section 32(f)), for pay accrued but unpaid as of the date the receiver was appointed for the institution.

"(iv) Any other general or senior liability of the institution (which is not a liability described in clause (v) or (vi)).

"(v) Any obligation subordinated to depositors or other general creditors (which is not an obligation described in clause (vi)).

"(vi) Any obligation to shareholders arising as a result of their status as shareholders (including any depository institution holding company or any shareholder or creditor of such company).

"(B) EFFECT ON STATE LAW.—

"(i) IN GENERAL.—The provisions of subparagraph (A) shall not supersede the law of any State except to the extent such law is inconsistent with the provisions of

such subparagraph, and then only to the extent of the inconsistency.

"(ii) PROCEDURE FOR DETERMINATION OF INCONSISTENCY.—Upon the Corporation's own motion or upon the request of any person with a claim described in subparagraph (A)(i) or any State which is submitted to the Corporation in accordance with procedures which the Corporation shall prescribe, the Corporation shall determine whether any provision of the law of any State is inconsistent with any provision of subparagraph (A) and the extent of any such inconsistency.

"(iii) JUDICIAL REVIEW.—The final determination of the Corporation under clause (ii) shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(C) ACCOUNTING REPORT.—Any distribution by the Corporation in connection with any claim described in subparagraph (A)(vi) shall be accompanied by the accounting report required under paragraph (15)(B).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 11(c)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(13)) is amended—

(A) in subparagraph (A), by striking ''subject to subparagraph (B),'';

(B) in inserting ''and'' after the semicolon at the end of subparagraph (A);

(C) by striking subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B).

(2) Section 11(g)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1921(g)(4)) is amended by striking ''If the Corporation'' and inserting ''Subject to subsection (d)(11), if the Corporation''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to insured depository institutions for which a receiver is appointed after the date of the enactment of this Act.

SEC. 3002. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—The 1st undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 289) is amended to read as follows:

''(a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE BANKS.—

''(1) STOCKHOLDER DIVIDENDS.—

"(A) IN GENERAL.—After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend of 6 percent on paid-in capital stock.

"(B) DIVIDEND CUMULATIVE.—The entitlement to dividends under subparagraph shall be cumulative.

"(2) DEPOSIT OF NET EARNINGS IN SURPLUS FUND.—That portion of net earnings of each Federal reserve bank which remains after dividend claims under subparagraph (A) have been fully met shall be deposited in the surplus fund of the bank.

"(3) PAYMENT TO TREASURY.—During fiscal years 1994 through 1998, any amount in the surplus fund of any Federal reserve bank in the excess of the amount equal to 3 percent of the total paid-in capital and surplus of the member banks of such bank shall be transferred to the Board for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury.".

(b) ADDITIONAL TRANSFERS FOR FISCAL YEARS 1997 AND 1998.—

(1) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of

the Federal reserve banks pursuant to section 7(a)(3) of the Federal Reserve Act, the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, a total amount of $106,000,000 in fiscal year 1997 and a total amount of $107,000,000 in fiscal year 1998.

(2) ALLOCATION BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 1997 or 1998, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1) during the fiscal year for which such transfer is made.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The penultimate undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 290) is amended by striking ''The net earnings derived'' and inserting ''(b) USE OF EARNINGS TRANS-

FERRED TO THE TREASURY.—The net earnings derived''.

(2) The last undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 531) is amended by striking ''Federal reserve banks'' and inserting ''(c) EXEMPTION FROM TAXATION.—Federal reserve banks''.

SEC. 3003. USE OF RETURN DATA FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended as follows:

(1) CONSENT FORMS.—In subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''(including the Indian housing program under title II of the United States Housing Act of 1937)'' before the 1st comma;

(B) in paragraph (1), by striking ''and'' at the end;

(C) in paragraph (2), by striking the period at the end and inserting ''; and'';

(D) by inserting after paragraph (2) the following new paragraph:

"(3) sign a consent from approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits."; and

(E) in the last sentence, by striking "This" and inserting the following: "Except as provided in this subsection, this".

(2) APPLICANT AND PARTICIPANT PROTECTIONS.—In subsection (c)(2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting after "compensation law" the following: "or pursuant to section 6103(i)(7)(D)(ix) of the Internal Revenue Code of 1986 from the Commissioner of Social Security or the Secretary of the Treasury"; and

(II) by inserting "(in the case of information obtained pursuant to such

section 303(i))'' before ''representatives''; and

(ii) in clause (ii), by inserting ''or public housing agency'' after ''owner'' each place it appears;

(B) in subparagraph (B), by inserting after ''wages'' each place it appears the following: '', other earnings or income,''; and

(C) in subparagraph (C), by inserting before the second comma the following: ''at a hearing that provides the basic elements of due process''.

(3) PENALTY.—In subsection (c)(3)—

(A) in subparagraph (A), by inserting ''or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986'' after ''Social Security Act''; and

(B) in the first sentence of subparagraph (B)—

(i) by striking clause (i) and inserting the following: ''(i) a negligent or knowing disclosure of information referred to in this section, section 303(i) of the Social Security Act, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 about

such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 303(i), or such section 6103(l)(7)(D)(ix), or''; and

(ii) in clause (ii), by inserting ''such 6103(l)(7)(D)(ix),'' after ''303(i),''.

(4) CONFORMING AMENDMENT.—The heading of subsection (c) of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended by striking ''STATE EMPLOYMENT''.

SEC. 3004. GNMA REMIC GUARANTEE FEES.

Section 306(g)(3) of the National Housing Act (12 U.S.C. 1721(g)(3)) is amended by adding at the end the following new subparagraph:

''(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection and other related fees shall be charged by the Association in an amount not to exceed the value, as

1 determined by the Association, of the guarantee or com-
2 mitment to guarantee. The Association shall take such ac-
3 tion as may be necessary to reasonably assure that such
4 portion of the value of the guaranties or commitments to
5 guaranty as the Association determines is appropriate ac-
6 crues to the benefit of mortgagors under mortgages exe-
7 cuted after the date of the enactment of this subparagraph
8 by or upon which such securities or notes are backed.

9 ''(ii) For each Federal fiscal year, the Association
10 shall submit a report to the Congress describing any ac-
11 tivities of the Association with respect to guarantying and
12 making commitments to guaranty multiclass securities de-
13 scribed in clause (i). The report shall be submitted not
14 later than 90 days after the end of the fiscal year for
15 which the report is made and shall identify the extent of
16 such activities during the fiscal year, the size of each
17 transaction closed during the fiscal year involving such se-
18 curities, the number of mortgages involved in each such
19 transaction, the amount of the fees charged and earned
20 by the Association for such transactions, and any persons
21 receiving payments for any services provided with respect
22 to any such transactions and the amounts of such pay-
23 ments, and shall include an estimate of the portion of the
24 value of the guarantee or commitment to guarantee accru-

ing to the benefit of mortgagors and a description of any action taken by the Association to ensure such accrual.

''(iii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.''.

SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PREMIUMS.

To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act, the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such

1 Fund and may consider any other information that the
2 Secretary determines to be appropriate.

3 TITLE IV—EDUCATION AND
4 LABOR

5 **SEC. 4000. TABLE OF CONTENTS.**

6 The table of contents of this title is as follows:

TITLE IV—EDUCATION AND LABOR

Sec. 4000. Table of contents.

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Subtitle A—Federal Direct Loan Program

CHAPTER 1—AMENDMENTS TO PART D OF TITLE IV OF THE HIGHER EDUCATION ACT OF 1965

SEC. 4001. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the ''Student Loan Reform Act of 1993''.

(b) REFERENCES.—References in this subtitle to ''the Act'' are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 4002. FEDERAL DIRECT STUDENT LOAN PROGRAM.

Part D of title IV of the Act (20 U.S.C. 1087a et seq.) is amended to read as follows:

"PART D—FEDERAL DIRECT STUDENT LOAN PROGRAM

"SEC. 451. PURPOSE; PROGRAM AUTHORIZATION.

''(a) PURPOSE.—It is the purpose of this part—

''(1) to simplify the delivery of student loans to borrowers and eliminate borrower confusion;

''(2) to provide a variety of repayment plans, including income contingent repayment through the EXCEL Account, to borrowers so that they have flexibility in managing their student loan repayment obligations, and so that those obligations do not

foreclose community service-oriented career choices for those borrowers;

"(3) to replace, through an orderly transition, the Federal Family Education Loan Program under part B of this title with the Federal Direct Student Loan Program under this part;

"(4) to avoid the unnecessary cost, to taxpayers and borrowers, and administrative complexity associated with the Federal Family Education Loan Program under part B of this title through the use of a direct student loan program; and

"(5) to create a more streamlined student loan program that can be managed more effectively at the Federal level.

"(b) PROGRAM AUTHORITY.—There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students in attendance at participating institutions of higher education selected by the Secretary (and the eligible parents of such students), to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for

students in attendance at participating institutions (and their parents).

"SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS.

"(a) IN GENERAL.—The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

"(1) directly to an institution of higher education that has an agreement with the Secretary under section 454(a) to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 454(b) to originate loans under this part, or

"(2) through an alternative originator designated by the Secretary to students and parents of students attending institutions of higher education that have an agreement with the Secretary under section 454(a) but that do not have an agreement with the Secretary under section 454(b).

"(b) FEES FOR ORIGINATION SERVICES.—

"(1) FEES FOR INSTITUTIONS.—The Secretary shall pay fees to institutions of higher education (or a consortium of such institutions) with agreements

under section 454(b), in an amount established by the Secretary, to assist in meeting the costs of loan origination. Such fees—

"(A) shall be paid by the Secretary based on all the loans made under this part to a particular borrower in the same academic year;

"(B) shall be subject to a sliding scale that decreases the amount of such fees as the number of borrowers increases; and

"(C)(i) for academic year 1994–1995, shall not exceed a program-wide average of $10 per borrower for all the loans made under this part in the same academic year; and

"(ii) for succeeding academic years, shall not exceed such average fee as the Secretary shall establish in regulations.

"(2) FEES FOR ALTERNATIVE ORIGINATORS.—The Secretary shall pay fees for loan origination services to alternative originators of loans made under this part in an amount established by the Secretary in accordance with the terms of the contract between the Secretary and each such alternative originator.

"(c) NO ENTITLEMENT TO PARTICIPATE OR ORIGINATE.—No institution of higher education shall have a

right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

"SEC. 453. SELECTION OF INSTITUTIONS FOR PARTICIPATION AND ORIGINATION.

"(a) PHASE-IN OF PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary shall enter into agreements pursuant to section 454(a) with institutions of higher education to participate in the direct student loan programs under this part, and agreements pursuant to section 454(b) with institutions of higher education to originate loans in such programs, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through one or more contracts under section 456 or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the

first year of the program shall, to the extent feasible, be entered into not later than January 1, 1994.

"(2) TRANSITION PROVISIONS.—In order to ensure an expeditious but orderly transition from the loan programs under part B of this title to the direct student loan programs under this part, the Secretary shall, in the exercise of his or her discretion, determine the number of institutions with which he or she shall enter into agreements under sections 454 (a) and (b) for any academic year, except that the Secretary shall exercise such discretion so as to achieve the following goals:

"(A) for academic year 1994–1995, loans made under this part shall represent 4 percent of the sum of new student loan volume under this part and part B of this title;

"(B) for academic year 1995–1996, loans made under this part shall represent 25 percent of the sum of new student loan volume under this part and part B of this title;

"(C) for academic year 1996–1997, loans made under this part shall represent 60 percent of the sum of new student loan volume under this part and part B of this title; and

"(D) for academic year 1997–1998, loans made under this part shall represent 100 percent of the sum of new student loan volume under this part and part B of this title.

"(3) CASH MANAGEMENT.—The requirements of the Cash Management Improvement Act of 1990 (Public Law 101–453) shall apply to the program under this part only to the extent specified in a schedule established by the Secretaries of Education and the Treasury, except that such schedule shall provide for the application of all such requirements not later than July 1, 1998.

"(b) SELECTION CRITERIA FOR PARTICIPATION.—

"(1) APPLICATION.—Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

"(2) AGREEMENT.—When the program authorized under this part is fully implemented, the Secretary shall enter into agreements under section 454(a) with institutions that submit applications in accordance with paragraph (1).

"(3) TRANSITION SELECTION CRITERIA.—Until such full implementation, the Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with them under section 454(a), from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary may prescribe, by—

"(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, and control of the institution; and

"(ii) selecting institutions that are reasonably representative of the respective categories; and

"(B) if needed to carry out the purposes of this part, selecting additional institutions.

"(c) SELECTION CRITERIA FOR ORIGINATION.—

"(1) IN GENERAL.—The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

"(A) has an agreement under subsection 454(a);

"(B) desires to originate loans under this part; and

"(C) meets the criteria specified in paragraph (2).

"(2) TRANSITION SELECTION CRITERIA.—For academic year 1994–1995, the Secretary may approve an institution to originate loans only if such institution—

"(A) made loans under part E of this title in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 464(g) for the most recent fiscal year for which data are available;

"(B) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E;

"(C) is not overdue on program or financial reports or audits required under this title;

"(D) is not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c);

"(E) in the opinion of the Secretary, has not had significant deficiencies identified by the State postsecondary review entity under subpart 1 of part H of this title;

"(F) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this title, including those demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

"(G) provides an assurance that it has no delinquent outstanding debts to the United States, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the United States, or the Secretary in his or her discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency or agencies; and

"(H) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

"(3) REGULATIONS GOVERNING APPROVAL AFTER TRANSITION.—For academic year 1995–1996 and subsequent academic years, the Secretary shall publish regulations governing the approval of institutions to originate loans.

"(d) CONSORTIA.—Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education with agreements under section 454(a) may apply as consortia to originate loans under this part for students in attendance at such institutions. Such institutions shall each be required to meet the requirements of subsection (c) with respect to loan origination.

"SEC. 454. AGREEMENTS WITH INSTITUTIONS.

"(a) PARTICIPATION AGREEMENTS.—An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

"(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

"(A) identify eligible students who seek student financial assistance at such institution in accordance with section 484;

"(B) estimate the need of each such student as required by part F of this title for an academic year, provided that any loan obtained by a student under this part with the same terms (except as otherwise provided in this part) as loans made under section 428A or 428H, or a loan obtained by a parent under this part with the same terms (except as other-

wise provided in this part) as loans made under section 428B, or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

"(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to the amount of such loan, except that the institution may, in exceptional circumstances specified in regulations prescribed by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part F of this title), if the reason for such action is documented and provided in written form to such student;

"(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G (other than subsection (b)(1) of such section); and

"(E) provide timely and accurate information—

"(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after they leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

"(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

"(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

"(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

"(4) provide that students at the institution and their parents (with respect to such students) will not be eligible to participate in the programs under part B of this title for the period during which such institution participates in the direct student loan program under this part;

"(5) provide for the implementation of a quality assurance system, as established by the Secretary, to ensure that the institution is complying with program requirements and meeting program objectives;

"(6) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

"(7) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

"(b) ORIGINATION.—An agreement with any institution of higher education for the origination of loans under this part shall—

"(1) supplement the agreement entered into in accordance with subsection (a);

"(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a), as modified to relate to the origination of loans by the institution;

"(3) provide that the institution will originate loans to eligible students and parents in accordance with this part; and

"(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

"(c) WITHDRAWAL AND TERMINATION PROCEDURES.—The Secretary shall establish procedures by which institutions may withdraw or be terminated from the program under this part.

"SEC. 455. TERMS AND CONDITIONS OF LOANS.

"(a) IN GENERAL.—

"(1) PARALLEL TERMS, CONDITIONS, BENEFITS, AND AMOUNTS.—Unless otherwise specified in

this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under sections 428, 428A, 428B, and 428H of this title.

"(2) DESIGNATION OF LOANS.—Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

"(A) section 428 shall be known as 'Federal Direct Student Loans';

"(B) section 428A shall be known as 'Federal Direct Supplemental Loans for Students';

"(C) section 428B shall be known as 'Federal Direct PLUS Loans'; and

"(D) section 428H shall be known as 'Federal Direct Unsubsidized Student Loans'.

"(b) INTEREST RATES.—

"(1) RATES FOR FDSL AND FDUSL.—(A) For Federal Direct Student Loans and Federal Direct Unsubsidized Student Loans made before July 1, 1997, the applicable rate of interest shall, during any 12-month period beginning on July 1 and end-

ing on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.

"(B) For Federal Direct Student Loans and Federal Direct Unsubsidized Student Loans made on or after July 1, 1997, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 for all such loans and be equal to—

"(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

"(ii) 1 percent,

except that such rate shall not exceed 9 percent.

"(2) RATES FOR FDSLS.—(A) For Federal Direct Supplemental Loans for Students made before July 1, 1997, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.1 percent,

except that such rate shall not exceed 11 percent.

"(B) For Federal Direct Supplemental Loans for Students made on or after July 1, 1997, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 for all such loans and be equal to—

"(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

"(ii) 1.5 percent,

except that such rate shall not exceed 11 percent.

"(3) RATES FOR FDPLUS.—(A) For Federal Direct PLUS loans made before July 1, 1997, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 for loans and be equal to—

"(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.1 percent,

except that such rate shall not exceed 10 percent.

"(B) For Federal Direct PLUS loans made on or after July 1, 1997, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 for all such loans and be equal to—

"(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

"(ii) 2.1 percent,

except that such rate shall not exceed 10 percent.

"(4) PUBLICATION.—The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

"(c) LOAN FEE.—For academic years 1994–1995, 1995–1996, and 1996–1997, the Secretary shall charge the borrower of a loan made under this part a loan fee of 5 percent of the principal amount of the loan. For academic years 1997–1998 and succeeding academic years, the Secretary shall charge the borrower of a loan made

1 under this part a loan fee of 3.65 percent of the principal
2 amount of the loan.
3 "(d) REPAYMENT PLANS.—
4 "(1) DESIGN AND SELECTION.—Consistent with
5 criteria established by the Secretary, the Secretary
6 shall offer to a borrower of a loan made under this
7 part a variety of plans for repayment of such loan,
8 including principal and interest on the loan. The
9 borrower shall be entitled to accelerate, without pen-
10 alty, repayment on his or her loans. The borrower
11 may choose—
12 "(A) a standard repayment plan, with a
13 fixed annual repayment amount paid over a
14 fixed period of time, consistent with subsection
15 (a)(1) of this section;
16 "(B) an extended repayment plan, with a
17 fixed annual repayment amount paid over an
18 extended period of time, provided that the bor-
19 rower annually repays a minimum amount de-
20 termined by the Secretary, consistent with the
21 requirements of section 428(b)(1)(L);
22 "(C) a graduated repayment plan, with an-
23 nual repayment amounts established at two or
24 more graduated levels and paid over a fixed or
25 extended period of time, provided that any of

the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(D) except for the borrower of a Federal Direct PLUS Loan, an income contingent repayment plan known as the 'EXCEL Account,' with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time, not to exceed a maximum length of time determined by the Secretary.

"(2) SELECTION BY SECRETARY.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

"(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change his or her selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be,

1 under such terms and conditions as may be estab-
2 lished by the Secretary.

3 "(4) ALTERNATIVE REPAYMENT PLANS.—The
4 Secretary may provide, on a case-by-case basis, an
5 alternative repayment plan to a borrower of a loan
6 under this part who demonstrates to the satisfaction
7 of the Secretary that the terms and conditions of the
8 repayment plans available under paragraph (1) are
9 not adequate to accommodate the borrower's excep-
10 tional circumstances. In designing such alternative
11 repayment plans, the Secretary shall ensure that
12 such plans do not exceed the cost to the Federal
13 Government, as determined on the basis of the
14 present value of future payments by such borrowers,
15 of loans made using the plans available under para-
16 graph (1).

17 "(5) REPAYMENT AFTER DEFAULT.—The Sec-
18 retary may require any borrower who has defaulted
19 on a loan made under this part to—

20 "(A) pay all reasonable collection costs as-
21 sociated with such loan; and

22 "(B) repay the loan pursuant to an
23 EXCEL Account in accordance with subsection
24 (e).

25 "(e) REPAYMENT THROUGH EXCEL ACCOUNTS.—

1 "(1) INFORMATION AND PROCEDURES.—The
2 Secretary may obtain such information as is reason-
3 ably necessary regarding the income of a borrower
4 (and the borrower's spouse, if applicable) of a loan
5 made under this part that is, or may be, repaid pur-
6 suant to an EXCEL Account for the purpose of de-
7 termining the annual repayment obligation of the
8 borrower. Return and return information (as defined
9 in section 6103 of the Internal Revenue Code of
10 1986) may be obtained under the preceding sentence
11 only to the extent authorized by section 6103(l)(13)
12 of such Code. The Secretary shall establish proce-
13 dures for determining the borrower's repayment obli-
14 gation on that loan for such year, and such other
15 procedures as are necessary to implement effectively
16 repayment pursuant to an EXCEL Account.
17 "(2) REPAYMENT BASED ON ADJUSTED GROSS
18 INCOME.—A repayment schedule for a loan made
19 under this part and repaid pursuant to an EXCEL
20 Account shall be based on adjusted gross income (as
21 defined in section 62 of the Internal Revenue Code
22 of 1986, 26 U.S.C. 62) of the borrower or, if the
23 borrower is married and files a Federal income tax
24 return jointly with his or her spouse, on adjusted
25 gross income of the borrower and his or her spouse.

"(3) ADDITIONAL DOCUMENTS.—A borrower who chooses, or is required, to repay a loan made under this part pursuant to an EXCEL Account, and for whom adjusted gross income is unavailable or does not reasonably reflect his or her current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

"(4) REPAYMENT SCHEDULES.—EXCEL Account repayment schedules shall be established by the Secretary through regulations and shall require payments measured as a percentage of the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

"(5) CALCULATION OF BALANCE DUE.—The balance due on a loan made under this part that is repaid pursuant to an EXCEL Account shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may limit by regulation the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

"(6) NOTIFICATION TO BORROWERS.—The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to an EXCEL Account is notified of the terms and conditions of such plan, including notification of such borrower—

"(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986; and

"(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or his or her spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

"(f) DEFERMENT.—

"(1) EFFECT ON PRINCIPAL AND INTEREST.—A borrower of a loan made under this part who

meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

"(A) shall not accrue, in the case of a Federal Direct Student Loan or a Federal Direct Consolidation Loan that consolidated only Federal Direct Student Loans, or a combination of such loans and Federal Student Loans for which the student borrower received an interest subsidy under section 428; or

"(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct Supplemental Loan for Students loan, a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Student Loan, or a Federal Direct Consolidation Loan other than those described in subparagraph (A).

"(2) ELIGIBILITY.—A borrower of a loan made under this part shall be eligible for a deferment during any period—

"(A) during which the borrower—

"(i) is pursuing at least a half-time course of study at an eligible institution, as determined by such institution; or

"(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan, or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

"(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

"(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 435(o), that the borrower has experienced or will experience an economic hardship, regardless of the reason for such hardship.

"(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A borrower of a loan made under this part may consolidate such loan with the loans described in subsections (a)(4) and (d)(1)(C) of section 428C only under the terms and

conditions established by the Secretary under this part. Loans made under this subsection shall be known as 'Federal Direct Consolidation Loans'.

"(h) BORROWER DEFENSES.—Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations (except as authorized under section 458(a)) which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

"(i) NONDISCHARGEABILITY IN BANKRUPTCY.—Notwithstanding any other provision of law, a loan made under this part shall not be dischargeable in bankruptcy.

"SEC. 456. CONTRACTS.

"(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

"(1) IN GENERAL.—The Secretary may award one or more contracts for services and supplies under subsection (b). The entities with which the Secretary may enter into such contracts may include, but are not limited to, agencies with agreements with the Secretary under sections 428(b) and (c), if such agencies are otherwise qualified and com-

ply with the procedures applicable to the award of such contracts.

"(2) EXEMPTION.—(A) The Secretary may, through June 30, 1998, award contracts under this section without regard to the requirements in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) and the corresponding requirements of the Federal Acquisition Regulations if the Secretary—

"(i) determines in writing, on a case-by-case basis, that the Government's need for the services and supplies to be provided under the contract is of such an unusual and compelling urgency that sources from which the Secretary solicits bids or proposals must be limited; and

"(ii) notifies the Congress in writing of that determination not more than 30 days after the award of the contract.

"(B) The Secretary may make the determination described in subparagraph (A)(i) if the Secretary determines that exemption from the requirements described in subparagraph (A) is in the public interest and necessary for the orderly transition from the loan programs under part B to the direct student loan programs under this part.

"(C) On and after July 1, 1998, all statutory and regulatory requirements described in subparagraph (A) shall apply to the award of a contract under this section.

"(b) CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.—The Secretary may enter into one or more contracts for—

"(1) the alternative origination of loans to students attending institutions with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 454(b);

"(2) the servicing and collection of loans made under this part;

"(3) the establishment and operation of one or more data systems for the maintenance of records on all loans made under this part;

"(4) services to assist in the orderly transition from the loan programs under part B to the direct student loan programs under this part; and

"(5) such other aspects of the direct student loan programs as the Secretary determines are necessary to ensure the successful operation of the programs.

"SEC. 457. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress not later than July 1, 1993, and each July 1 for the 5 succeeding years an annual report describing the progress and status of the loan program under this part.

"(b) RESEARCH, DEMONSTRATION, AND EVALUATION.—The Secretary may use a portion of the funds described in section 459 for research on, or the demonstration or evaluation of, any aspects of the program authorized by this part, including flexible repayment plans.

"SEC. 458. REGULATORY ACTIVITIES.

"(a) NOTICE IN LIEU OF REGULATIONS FOR FIRST YEAR OF PROGRAM.—The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, the Secretary determines are reasonable and necessary to the successful implementation of the first year of the direct stu-

1 dent loan program authorized by this part. Section 431
2 of the General Education Provisions Act shall not apply
3 to the publication of such standards, criteria, and proce-
4 dures.

5 ''(b) CLOSING DATE FOR APPLICATIONS FROM IN-
6 STITUTIONS.—The Secretary shall establish a date not
7 later than October 1, 1993, as the closing date for receiv-
8 ing applications from institutions of higher education de-
9 siring to participate in the first year of the direct loan
10 program under this part.

11 ''(c) PUBLICATION OF LIST OF PARTICIPATING IN-
12 STITUTIONS AND CONTROL GROUP.—Not later than Jan-
13 uary 1, 1994, the Secretary shall publish in the Federal
14 Register a list of the institutions of higher education se-
15 lected to participate in the first year of the direct loan
16 program under this part.

17 **''SEC. 459. FUNDS FOR ADMINISTRATIVE EXPENSES.**

18 ''Each fiscal year, there shall be available to the Sec-
19 retary of Education from funds not otherwise appro-
20 priated, funds to be obligated for administrative costs
21 under this part, including the costs of the transition from
22 the loan programs under part B to the direct student loan
23 programs under this part and transition support for the
24 expenses of guaranty agencies in servicing outstanding
25 loans in their portfolios and in guaranteeing new loans,

not to exceed $261,000,000 in fiscal year 1994, $346,000,000 in fiscal year 1995, $552,000,000 in fiscal year 1996, $596,000,000 in fiscal year 1997, and $749,000,000 in fiscal year 1998. If in any fiscal year, the Secretary determines that additional funds for administrative expenses are needed as a result of such transition, or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary shall not exceed $2,504,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year.''.

CHAPTER 2—CONFORMING AMENDMENTS

SEC. 4021. PRESERVING LOAN ACCESS.

(a) PURPOSE.—It is the purpose of the amendments made by this section to provide the Secretary with flexible authority as needed to preserve access to student and parent loans under part B of title IV of the Act during the transition from the Federal Family Education Loan Program under such part to the Federal Direct Student Loan Program under part D of such title.

(b) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST RESORT SERVICES.—

1 (1) AMENDMENT.—Section 428(j) of the Act is
2 amended by adding at the end thereof the following
3 new paragraph:
4 ''(4) ADVANCES TO GUARANTY AGENCIES FOR
5 LENDER-OF-LAST RESORT SERVICES DURING TRAN-
6 SITION TO DIRECT LENDING.—(A) In order to en-
7 sure the availability of loan capital during the tran-
8 sition from the Federal Family Education Loan pro-
9 gram under this part to the Federal Direct Student
10 Loan program under part D of this title, the Sec-
11 retary is authorized to provide a guaranty agency
12 with additional advance funds in accordance with
13 section 422(c)(7), with such restrictions on the use
14 of such funds as are determined appropriate by the
15 Secretary, in order to ensure that the guaranty
16 agency will make loans as the lender-of-last-resort.
17 Such agency shall make such loans in accordance
18 with this subsection and the requirements of the
19 Secretary.
20 ''(B) Notwithstanding any other provision of
21 this part, a guaranty agency serving as a lender-of-
22 last-resort under this paragraph shall be paid a fee,
23 established by the Secretary, for making such loans
24 in lieu of interest and special allowance subsidies,
25 and shall be required to assign such loans to the

Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.''.

(2) CONFORMING AMENDMENT.—Section 422(c)(7) of the Act is amended by striking ''to a guaranty agency'' through the end thereof and inserting the following: ''to a guaranty agency—

''(A) in accordance with section 428(j), in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title; or

''(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 428(c)(10)(F)(v), in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A);''.

(c) LENDER REFERRAL SERVICES.—Section 428(e) of the Act is amended—

(1) in paragraph (1)—

(A) by amending the paragraph heading to read as follows: ''IN GENERAL; AGREEMENTS WITH GUARANTY AGENCIES.—'';

(B) by inserting the subparagraph designation ''(A)'' immediately after the paragraph heading;

(C) by striking ''in any State'' and inserting ''with which the Secretary has an agreement under subparagraph (B)''; and

(D) by adding at the end thereof the following new subparagraph:

''(B)(i) The Secretary may enter into agreements with guaranty agencies that meet standards established by the Secretary to provide lender referral services in geographic areas specified by the Secretary. Such guaranty agencies shall be paid in accordance with paragraph (3) for such services.

''(ii) The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures consistent with the provisions of this part and part D of this title, the Secretary determines are reasonable and necessary to provide lender referral

services under this subsection and ensure loan access to student and parent borrowers during the transition from the loan programs under this part to the direct student loan programs under part D of this title. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''in a State'' and inserting ''with which the Secretary has an agreement under paragraph (1)(B)'';

(B) by amending subparagraph (A) to read as follows:

''(A) such student is either a resident of, or is accepted for enrollment in, or is attending, an eligible institution located in a geographic area for which the Secretary (I) determines that loans are not available to all eligible students, and (II) has entered into an agreement with a guaranty agency under paragraph (1)(B) to provide lender referral services; and'';

(4) in paragraph (3), by striking ''The'' and inserting ''From funds available for costs of transition under section 459 of the Act, the''; and

(5) by striking paragraph (5).

(d) STUDENT LOAN MARKETING ASSOCIATION.—Section 439(q) of the Act is amended—

(1) in paragraph (1)(A)—

(A) in the first sentence, by striking ''the Association or its designated agency may begin making loans'' and inserting ''the Association or its designated agent shall, subject to the limitations in section 428(j)(3), begin making loans to such eligible borrowers''; and

(B) by striking the second sentence;

(2) in paragraph (2)(A), by striking ''the Association or its designated agent may'' and inserting ''the Association or its designated agent shall, subject to the limitations in section 428(j)(3),''; and

(3) in paragraph (3), by striking ''that—'' through the end thereof and inserting the following: ''that the conditions that caused the implementation of this subsection have ceased to exist.''.

SEC. 4022. GUARANTY AGENCY RESERVES.

Section 422 of the Act is amended by adding at the end thereof the following new subsection:

''(g) PRESERVATION OF GUARANTY AGENCY RESERVES.—

"(1) AUTHORITY TO RECOVER FUNDS.—Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part or the program authorized by part D of this title. However, the Secretary may not require the return of all of a guaranty agency reserve funds to the Secretary unless he or she determines that such return is essential to the operation of the program authorized by this part or the program authorized by part D of this title, or to ensure the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that the Secretary may—

"(A) direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency; and

"(B) direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets.

"(2) TERMINATION PROVISIONS IN CONTRACTS.—To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the effective date of this provision shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds

or assets, or is otherwise inconsistent with the terms or purposes of this section.''.

SEC. 4023. TERMS OF LOANS.

Section 428 of the Act is amended—

(1) in subsection (b)(1)(D), by striking ''be subject to'' through the end thereof and inserting the following: ''be subject to income contingent repayment in accordance with subsection (m);''; and

(2) in subsection (m)—

(A) by amending paragraph (1) to read as follows:

''(1) AUTHORITY OF SECRETARY TO REQUIRE.—The Secretary may require any borrower who has defaulted on a loan made under this part that is assigned to the Secretary under subsection (c)(8) to repay that loan under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, the EXCEL Account established for purposes of part D of this title.''; and

(B) by striking paragraphs (2) through (4) and inserting the following:

''(2) LOANS FOR WHICH INCOME CONTINGENT REPAYMENT MAY BE REQUIRED.—A loan made under this part may be required to be repaid under

this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).''.

SEC. 4024. ASSIGNMENT OF LOANS.

Section 428(c)(8) of the Act is amended by—

(1) inserting the subparagraph designation ''(A)'' after the paragraph heading;

(2) striking the second and third sentences; and

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

''(B) An orderly transition from the Federal Family Education Loan program under this part to the Federal Direct Student Loan program under part D of this title shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon his or her request.''.

SEC. 4025. TERMINATION OF GUARANTY AGENCY AGREEMENTS; ASSUMPTION OF GUARANTY AGENCY FUNCTIONS BY THE SECRETARY.

Section 428(c)(10) of the Act is amended—

(1) in subparagraph (C), by inserting a comma and ''as appropriate,'' immediately after ''the Secretary shall'';

(2) in subparagraph (D)—

(A) by inserting the clause designation "(i)" after "(D)";

(B) by striking "Each" and inserting "If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a";

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

"(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets of, the guaranty agency.";

(3) in subparagraph (E)—

(A) in clause (ii), by striking "or" at the end thereof;

(B) in clause (iii), by striking the period at the end thereof and inserting a semicolon; and

(C) by adding at the end thereof the following new clauses:

"(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest;

"(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers; or

"(vi) the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.";

(4) in subparagraph (F)—

(A) in the matter preceding clause (i), by striking "Except as provided in subparagraph (G), if" and inserting "If";

(B) by amending clause (v) to read as follows:

"(v) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

"(I) meet the immediate cash needs of the guaranty agency;

"(II) ensure the uninterrupted payment of claims; or

"(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j)(4);";

(C) in clause (vi)—

(i) by striking "and to avoid" and inserting "to avoid";

(ii) by striking the period at the end thereof and inserting ", and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title."; and

(iii) by redesignating such clause as clause (vii); and

(D) by inserting after clause (v) the following new clause:

"(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agen-

cy, under contract or otherwise, to any person or organization; or'';

(5) by striking subparagraph (G);

(6) by redesignating subparagraphs (H), (I), and (J) as subparagraphs (I), (J), and (K), respectively;

(7) by inserting after subparagraph (F) the following new subparagraphs:

''(G) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

''(i) such guaranty agency may not file for bankruptcy;

''(ii) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

''(iii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other

party on behalf of or with the concurrence of the guaranty agency, after the effective date of this provision shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

''(iv) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

''(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.''; and

(8) in subparagraph (K) (as redesignated by paragraph (6)), by striking ''system, together'' through the end thereof and inserting the following: ''system and the progress of the transition from the

loan programs under this part to the direct student loan programs under part D of this title.''.

SEC. 4026. ADMINISTRATIVE COST ALLOWANCE.

Section 428(f)(1) of the Act is amended—

(1) in subparagraph (A), by striking ''The Secretary'' and inserting ''For a fiscal year prior to fiscal year 1994, the Secretary''; and

(2) in subparagraph (B), by inserting ''prior to fiscal year 1994'' after ''any fiscal year''.

SEC. 4027. CONSOLIDATION LOANS.

Section 428C of the Act is amended—

(1) by amending subsection (a)(3)(A) to read as follows:

''(3) DEFINITION OF ELIGIBLE BORROWERS.—(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)(ii), by inserting ''with income-sensitive repayment terms'' after ''obtain a consolidation loan'';

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph:

''(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations of the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and'';

(B) in paragraph (4), by amending subparagraph (C) to read as follows:

''(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M), and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section; and

''(ii) provides that interest shall accrue and be paid—

''(I) by the Secretary, in the case of a consolidation loan that consolidated only

Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

"(II) by the borrower, or capitalized, in the case of a consolidation loan other than one described in subclause (I);"; and

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

"(5) DIRECT LOANS.—In the event that a borrower is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from a lender with an agreement under subsection (a)(1), the Secretary shall offer any such borrower who applies for it, a direct consolidation loan to be repaid pursuant to an EXCEL Account under part D of this title, except that the Secretary shall not offer such loans if, in his or her judgment, the Department does not yet have the necessary origination and servicing arrangements in place for such loans."; and

(3) in subsection (c)—

(A) in paragraph (1), by amending subparagraphs (B) and (C) to read as follows:

"(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the

unpaid principal balance of the loan that is equal to the greater of—

"(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

"(ii) 9 percent.

"(C) A consolidation loan made on or after July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.";

(B) in paragraph (2)(A)—

(i) in the matter preceding clause (i), by striking out "income sensitive repayment schedules. Such repayment terms" and inserting in lieu thereof "income sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income sensitive repayment schedules, or by the terms of repayment pursuant to an EXCEL Account offered by the Secretary under subsection (b)(5), such repayment terms";

(ii) by redesignating clauses (i), (ii), (iii), (iv), and (v) as clauses (ii), (iii), (iv), (v), and (vi), respectively;

(iii) by inserting immediately preceding clause (ii) (as redesignated by clause (ii)) the following new clause:

''(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;''; and

(iv) by adding a period at the end of clause (vi) (as redesignated by clause (ii));

(C) by striking out suparagraph (B) of paragraph (2); and

(D) by redesignating subparagraph (C) of paragraph (2) as subparagraph (B); and

(E) in paragraph (3)(A), by inserting after the subparagraph designation the following: ''except as required by the terms of repayment pursuant to an EXCEL Account offered by the Secretary under subsection (b)(5),''.

SEC. 4028. STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Act is further amended by adding at the end thereof the following new subsection:

''(s) TRANSITION STUDY.—The Secretaries of Education and the Treasury shall prepare a study, to be com-

pleted within 6 months of the enactment of this provision, which shall examine alternatives concerning the status, operations, and purposes of the Association during and after the transition from the Federal Family Education Loan program to the Federal Direct Student Loan program. Such study shall—

"(1) consider how best to meet the needs of students and taxpayers;

"(2) reflect the need for the Association to maintain liquidity and perform other functions for the Federal Family Education Loan program during the transition from such program to the Federal Direct Student Loan program under part D of this title, including additional duties as specified by the Secretary of Education or the Secretary of the Treasury;

"(3) consider any appropriate change to part D of title VII, relating to the College Construction Loan Insurance Association; and

"(4) be considered by the Secretaries of Education and the Treasury in developing any legislative proposals concerning any changes to the status of the Association as a Government-sponsored enterprise or its duties under the Federal Family Education Loan program.".

SEC. 4029. AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 252(c)(1)(B), by striking ''guaranteed'';

(2) in section 256(b)—

(A) by striking the subsection designation and heading and inserting the following:

''(b) EFFECT OF ORDERS ON STUDENT LOAN PROGRAMS.—

''(1) FEDERAL FAMILY EDUCATION LOAN PROGRAM.—(A)'';

(B) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C), respectively, and by indenting such subparagraphs by an additional 2 ems spaces;

(C) in paragraph (1)(A) (as redesignated in subparagraph (B)), by striking ''described in paragraphs (2) and (3)'' and inserting ''described in subparagraphs (B) and (C)'';

(D) in paragraph (1)(B) (as redesignated in subparagraph (C)), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(E) by adding at the end thereof the following new paragraph:

"(2) FEDERAL DIRECT STUDENT LOAN PROGRAM.—(A) Any reductions that are required to be achieved from the Federal Direct Student Loan program operated under part D 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 by the application of the measures described in subparagraph (B).

"(B) 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 loan fee that is authorized to be collected pursuant to section 456(c) of such Act shall be increased by 0.50 percent.".

CHAPTER 3—EFFECTIVE DATES; STUDY

SEC. 4031. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall be effective upon enactment.

(b) INCOME CONTINGENT REPAYMENT.—The amendments made by section 4023 of this Act shall be effective for loans made in accordance with section 428

for periods of instruction beginning on or after July 1, 1993, or made on or after July 1, 1993, in the case of loans made in accordance with section 428A, 428B, or 428C of the Act.

(c) ADMINISTRATIVE COST ALLOWANCE.—The amendments made by section 4026 of this Act shall be effective on October 1, 1994.

(d) CONSOLIDATION LOANS.—The amendments made by section 4027 of this Act (other than the amendment made by section 4027(2)(B)) shall be effective for loans made in accordance with section 428C of the Act or after July 1, 1994.

SEC. 4032. STUDY OF INTERNAL REVENUE SERVICE COLLECTION OF STUDENT LOANS.

(a) GENERAL RULE.—The Secretary of Education, in consultation with the Secretary of the Treasury, shall conduct a study of the feasibility of implementing a system for the repayment of Federal student loans through wage withholding or other means involving the Internal Revenue Service. Such study shall include an examination of—

(1) whether the Internal Revenue Service could implement such a system within its current resources and without adversely affecting the ability of the Internal Revenue Service to collect tax revenues,

(2) the cumulative impact on voluntary compliance with the tax system of increased disclosure of tax return information and increased Internal Revenue Service involvement in nontax collection activities,

(3) the anticipated effect on the management of Federal student loan collections and on borrower repayment of such loans, and

(4) the ability of the Internal Revenue Service to effectively service student loans.

(b) RECOMMENDATIONS.—Not later than the date 6 months after the date of the enactment of this Act, the Secretary of Education shall submit to the Congress a report on the study conducted under subsection (a), together with such legislative recommendations as such Secretary may deem advisable.

SEC. 4033. PREFERENCE OF COMMITTEE FOR IRS COLLECTION MECHANISM.

It is the sense of the Committee on Education and Labor that—

(1) the Committee may not, consistent with its jurisdiction under the Rules of the House of Representatives, amend this Act to include provisions providing for the collection of student loans pursuant to the Internal Revenue Code of 1986 using the

Internal Revenue Service of the Department of the Treasury;

(2) the Committee would support the amendment of this Act to include such provisions, as well as amendments to the Higher Education Act of 1965, in the manner proposed by H.R. _____ as introduced on May 11, 1993; and

(3) the Committee recommends that the House of Representatives consider and adopt such amendments.

Subtitle B—Cost Sharing by States

SEC. 4101. COST SHARING BY STATES.

(a) AMENDMENT.—Section 428 of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following new subsection:

''(n) STATE SHARE OF DEFAULT COSTS.—(1) In the case of any State in which there are located any institutions of higher education with cohort default rates that exceed 20 percent, such State shall pay to the Secretary an amount equal to—

''(A) the new loan volume attributable to all institutions in the State for the current fiscal year, multiplied by

''(B) the percentage specified in paragraph (2), multiplied by

"(C) the quotient of—

"(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State, divided by

"(ii) the total amount of loan volume attributable to current and former students of institutions located in that State entering repayment in the period used to calculate the cohort default rate.

"(2) For purposes of paragraph (1)(B), the percentage used shall be—

"(A) 12.5 percent for fiscal year 1995;

"(B) 20 percent for fiscal year 1996; and

"(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

"(3) For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

"(A) the amount of the loans received for attendance by its current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

"(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

"(4) A State may charge a fee to an institution of higher education that participates in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection. Such fee structure shall include a process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on October 1, 1994.

Subtitle C—ERISA Amendments Relating to Group Health Plans

SEC. 4201. COORDINATION OF ERISA PREEMPTION RULES WITH TITLE XIX PROVISIONS PROVIDING FOR LIABILITY OF THIRD PARTIES.

(a) IN GENERAL.—Paragraph (8) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(8)) is amended to read as follows:

"(8)(A) Subsection (a) of this section shall not apply to any State law to the extent necessary to permit the State to comply with the following requirements for the receipt of Federal financial assistance under title XIX of the Social Security Act:

"(i) subparagraphs (A), (B), and (H) of section 1902(a)(25) of such Act (relating to third-party liability) and section 1903(o) of such Act (relating to medicaid as secondary payor), as in effect on October 1, 1993; and

"(ii) sections 1902(a)(45) and 1912 of such Act (relating to assignment of rights of payment), as in effect on May 12, 1993.

"(B) Paragraph (2)(B) shall not apply to any State law to the extent necessary to permit the compliance of the State with any of the requirements described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

SEC. 4202. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) is amended by adding at the end the following new section:

"SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

''A group health plan may not reduce its coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by adding after the item relating to section 608 the following new item:

''Sec. 609. Continued coverage of costs of a pediatric vaccine under group health plans.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

SEC. 4203. TEMPORARY RULES GOVERNING PREEMPTION OF CERTAIN STATE LAWS.

Paragraph (5) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

''(5)(A)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-51).

''(ii) Nothing in clause (i) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

''(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after January 14, 1983), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts 1 and 4 and the preceding sections of this part.

''(B)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to subtitle 2 of title 19 of

1 the Annotated Code of Maryland (relating to the Health
2 Services Cost Review Commission).
3 "(ii) Nothing in clause (i) shall be construed to ex-
4 empt from subsection (a)—
5 "(I) any State tax law relating to employee ben-
6 efit plans, or
7 "(II) any amendment of the provision referred
8 to in clause (i) enacted on or after May 12, 1993,
9 to the extent it provides for more than the effective
10 administration of such Act as in effect on such date.
11 "(iii) Notwithstanding clause (i), parts 1 and 4 of
12 this subtitle, and the preceding sections of this part to
13 the extent they govern matters which are governed by the
14 provisions of such parts 1 and 4, shall supersede the provi-
15 sion referred to in clause (i) (as in effect on or after May
16 12, 1993), but the Secretary may enter into cooperative
17 arrangements under this subparagraph and section 506
18 with officials of the State of Maryland to assist them in
19 effectuating the policies of such provision which are super-
20 seded by such parts 1 and 4 and the preceding sections
21 of this part.
22 "(C)(i) Except as provided in clauses (ii) and (iii),
23 subsection (a) shall not apply to the following provisions
24 of the law of the State of Minnesota:

"(I) section 295.52, Minnesota Statutes, as amended in May 1993 by House File 1178 (relating to receipts tax on providers);

"(II) section 19 of article 9 of the Minnesota Health Right Act, as amended in May 1993 by House File 1178 (relating to passthrough of 2 percent gross receipts tax on providers); and

"(III) subdivision 2 of section 3 of article 1 of such Act, article 7 of such Act, and section 1 of article 3 of Minnesota House File 1178 and section 4 and all that follows through the end of such article 3, as enacted in May 1993 (relating to data collection).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a)—

"(I) any State tax law relating to employee benefit plans (other than a provision described in clause (i)), and

"(II) any amendment of any provision referred to in clause (i) enacted on or after May 12, 1993, to the extent it provides for more than the effective administration of such provision as in effect on such date.

"(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to

the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provisions described in clause (i) (as in effect on or after May 12, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Minnesota to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

''(D)(i) Except as provided in clauses (ii), (iv), (v), and (vii), subsection (a) shall not apply to the following provisions of the law of the State of New York:

''(I) subdivisions 1(b) and 4(e) of section 2807–c of the Public Health Law (relating to 13 percent surcharge);

''(II) subdivision 1(c) of section 2807–c of the Public Health Law (relating to uniform hospital charges);

''(III) subdivision 2–a of section 2807–c of the Public Health Law (relating to the variable surcharge for HMOs);

''(IV) subdivision 14 of section 2807–c of the Public Health Law (relating to basic percentage allowances for bad debt and charity care);

1 "(V) subdivision 14–b of section 2807–c of the
2 Public Health Law (relating to health care services
3 allowances);
4 "(VI) subdivision 14–c of section 2807–c of the
5 Public Health Law (relating to further allowances
6 for financially distressed hospitals); and
7 "(VII) section 18 of chapter 266 of the laws of
8 1986, as amended (relating to excess malpractice in-
9 surance adjustments).
10 "(ii) Except as provided in clause (iii), nothing in
11 clause (i) shall be construed to exempt from subsection
12 (a)—
13 "(I) any State tax law relating to employee ben-
14 efit plans, or
15 "(II) any provision referred to in clause (i) to
16 the extent that any law of the State of New York
17 appropriates amounts based on amounts collected by
18 the State under such provision for any purpose other
19 than carrying out the programs established under
20 the provisions described in clause (i).
21 "(iii) Notwithstanding clause (ii), subsection (a) shall
22 not apply to any provision of the law of the State of New
23 York to the extent that such provision constitutes—

"(I) an HMO surcharge of the type provided for under subdivision 2–a of such section 2807–c (as in effect on February 2, 1993), or

"(II) an allowance, of the type provided for under the provisions referred to in clause (i) (as so in effect), for bad debts, charity care, health care services, or excess malpractice insurance,

but only if the law of such State appropriates amounts based on and equivalent to amounts collected by the State under such provision solely for the purpose of carrying out one or more programs established under the provisions described in clause (i).

"(iv) Subsection (a) shall apply to any provision of the law of the State of New York to the extent that such provision constitutes a surcharge of the type provided for under subdivisions 1(b) and 4(e) of section 2807–c of the Public Health Law of the State of New York (as in effect on February 2, 1993) unless such provision provides for use of amounts collected under such provision solely for the purpose of carrying out one or more programs established under the provisions described in clause (i).

"(v) Nothing in clause (i) shall be construed to exempt from subsection (a) any amendment of any provision referred to in clause (i) enacted on or after February 2, 1993, to the extent it provides for more than the effective

1 administration of such provisions as in effect on such date,
2 unless such amendment constitutes only a change in the
3 methodology of determining payments to hospitals and
4 would result in—

5 "(I) a surcharge described in clause (iii)(I) of
6 not more than 9 percent with respect to which the
7 requirements of clause (iii) are met,

8 "(II) an allowance described in clause (iii)(II)
9 which does not exceed in the aggregate a Statewide
10 average of not more than 10 percent and with re-
11 spect to which the requirements of clause (iii) are
12 met, or

13 "(III) a surcharge described in clause (iv) of
14 not more than 13 percent with respect to which the
15 requirements of clause (iv) are met.

16 "(vi) Subsection (a) shall not apply to any amend-
17 ment to chapter 2 of the laws of 1988 of the State of
18 New York, as amended, to the extent that such amend-
19 ment extends the period for which the provisions referred
20 to in clause (i) are in effect.

21 "(vii) Notwithstanding clause (i), parts 1 and 4 of
22 this subtitle, and the preceding sections of this part to
23 the extent they govern matters which are governed by the
24 provisions of such parts 1 and 4, shall supersede the provi-
25 sions described in clause (i) (as in effect on or after Feb-

ruary 2, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of New York to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

''(viii) The provisions of this subparagraph shall be effective as of February 2, 1993.

''(E) This paragraph shall cease to be effective as of May 12, 1995.''.

TITLE V—COMMITTEE ON ENERGY AND COMMERCE

Subtitle A—Medicare Program

SEC. 5000. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment 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 that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1989'', and ''OBRA–1990'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omni-

1 bus Budget Reconciliation Act of 1987 (Public Law 100–
2 203), the Omnibus Budget Reconciliation Act of 1989
3 (Public Law 101–239), and the Omnibus Budget Rec-
4 onciliation Act of 1990 (Public Law 101–508), respec-
5 tively.

6 (c) TABLE OF CONTENTS OF SUBTITLE.—The table
7 of contents of this subtitle is as follows:

Sec. 5000. References in subtitle; table of contents of subtitle.

CHAPTER 1—PROVISIONS RELATING TO PART B

SUBCHAPTER A—PHYSICIANS' SERVICES

Sec. 5001. Reduction in default update for conversion factor for 1994.
Sec. 5002. Reduction in performance standard rate of increase and increase in maximum reduction permitted in default update.
Sec. 5003. Classification of primary care services as a separate category of services.
Sec. 5004. Phased-in reduction in practice expense relative value units for certain services.
Sec. 5005. Limitation on payment for the anesthesia care team.
Sec. 5006. Basing payments for anesthesia services on actual time.
Sec. 5007. Separate payment for interpretation of electrocardiograms.
Sec. 5008. Payments for new physicians and practitioners.
Sec. 5009. Geographic adjustment factors for medicare physicians' services.
Sec. 5010. Extra-billing limits.
Sec. 5011. Relative values for pediatric services.
Sec. 5012. Antigens under physician fee schedule.
Sec. 5013. Administration of claims relating to physicians' services.
Sec. 5014. Miscellaneous and technical corrections.

SUBCHAPTER B—OUTPATIENT HOSPITAL SERVICES AND AMBULATORY SURGICAL SERVICES

Sec. 5021. Extension of 10 percent reduction in payments for capital-related costs of outpatient hospital services.
Sec. 5022. Extension of current reduction in payments for other costs of outpatient hospital services.
Sec. 5023. 1-year freeze in ambulatory surgery rates.
Sec. 5024. Eye or eye and ear hospitals.
Sec. 5025. Extension of cap on payments for intraocular lenses.
Sec. 5026. Miscellaneous and technical corrections.

SUBCHAPTER C—DURABLE MEDICAL EQUIPMENT

Sec. 5031. Revisions to payment rules for durable medical equipment.
Sec. 5032. Payment for parenteral and enteral nutrients, supplies, and equipment during 1994.
Sec. 5033. Treatment of nebulizers and aspirators.

Sec. 5034. Certification of suppliers.
Sec. 5035. Prohibition against carrier forum shopping.
Sec. 5036. Restrictions on certain marketing and sales activities.
Sec. 5037. Kickback clarification.
Sec. 5038. Beneficiary liability for noncovered services.
Sec. 5039. Adjustments for inherent reasonableness.
Sec. 5040. Payment for surgical dressings.
Sec. 5041. Payments for tens devices.
Sec. 5042. Miscellaneous and technical corrections.

SUBCHAPTER D—PART B PREMIUM

Sec. 5051. Part B premium.

SUBCHAPTER E—OTHER PROVISIONS

Sec. 5061. Payments for clinical diagnostic laboratory tests.
Sec. 5062. Treatment of inpatients and provision of diagnostic and therapeutic X-ray services by rural health clinics and Federally qualified health centers.
Sec. 5063. Application of mammography certification requirements.
Sec. 5064. Extension of Alzheimer's disease demonstration.
Sec. 5065. Oral cancer drugs.
Sec. 5066. Extension of municipal health service demonstration projects.
Sec. 5067. Treatment of certain Indian health programs and facilities as Federally-qualified health centers.
Sec. 5068. Interest payments.
Sec. 5069. Clarification of coverage of certified nurse-midwife services performed outside the maternity cycle.
Sec. 5069A. Increase in, and study of, annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
Sec. 5070. Miscellaneous and technical corrections.

CHAPTER 2—PROVISIONS RELATING TO PARTS A AND B

Sec. 5071. Elimination of add-on for overhead of hospital-based home health agencies.
Sec. 5072. Study and report on medicare GME payments.
Sec. 5073. Medicare as secondary payer.
Sec. 5074. Extension of self-referral ban to additional specified services.
Sec. 5075. Reduction in payment for erythropoietin.
Sec. 5076. Medicare hospital agreements with organ procurement organizations.
Sec. 5077. Extension of waiver for Watts Health Foundation.
Sec. 5078. Improved outreach for qualified medicare beneficiaries.
Sec. 5079. Social health maintenance organizations.
Sec. 5080. Peer review organizations.
Sec. 5081. Hospice information to home health beneficiaries.
Sec. 5082. Health maintenance organizations.
Sec. 5083. Miscellaneous and technical corrections.

CHAPTER 3—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 5091. Standards for medicare supplemental insurance policies.

CHAPTER 1—PROVISIONS RELATING TO PART B

Subchapter A—Physicians' Services

SEC. 5001. REDUCTION IN DEFAULT UPDATE FOR CONVERSION FACTOR FOR 1994.

Section 1848(d)(3)(A) (42 U.S.C. 1395w–4(d)(3)(A)) is amended—

(1) in clause (i), by striking ''clause (iii)'' and inserting ''clauses (iii) and (iv)'', and

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

''(iv) ADJUSTMENT IN PERCENTAGE INCREASE FOR 1994.—In applying clause (i) for services (other than primary care services) furnished in 1994, the percentage increase in the appropriate update index shall be reduced by—

''(I) 3 percentage points for surgical services (as defined for purposes of subsection (j)(1)), and

''(II) 2 percentage points for other services.''.

SEC. 5002. REDUCTION IN PERFORMANCE STANDARD RATE OF INCREASE AND INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) REDUCTION IN PERFORMANCE STANDARD FACTOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w–4(f)(2)(B)) is amended—

(1) by striking ''and'' at the end of clause (ii), and

(2) by striking clause (iii) and inserting the following:

''(iii) for 1993 is 2 percentage points,

''(iv) for 1994 is 3½ percentage points, and

''(v) for each succeeding year is 4 percentage points.''.

(b) INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w–4(d)(3)(B)(ii)) is amended—

(1) in subclause (II), by striking ''or 1995'', and

(2) in subclause (III), by striking ''3'' and inserting ''5''.

SEC. 5003. CLASSIFICATION OF PRIMARY CARE SERVICES AS A SEPARATE CATEGORY OF SERVICES.

(a) IN GENERAL.—Section 1848(j)(1) (42 U.S.C. 1395w–4(j)(1)) is amended by inserting ", primary care services (as defined in section 1842(i)(4))," after "Secretary)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply—

(1) to volume performance standard rates of increase established under section 1848(f) of the Social Security Act for fiscal years beginning with fiscal year 1994, and

(2) to updates in the conversion factors for physicians' services established under section 1848(d) of such Act for physicians' services to be furnished in calendar years beginning with 1996.

SEC. 5004. PHASED-IN REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.

(a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall reduce the practice expense relative value units applied to services described in clause (iii) furnished in—

"(I) 1994, by 25 percent of the number by which the number of practice expense relative value units (determined for 1994 without regard to this subparagraph) exceeds the number of work relative value units determined for 1994,

"(II) 1995, by an additional 25 percent of such excess, and

"(III) 1996 and subsequent years, by an additional 25 percent of such excess.

"(ii) FLOOR ON REDUCTIONS.—The practice expense relative value units for a physicians' service shall not be reduced under this subparagraph to a number less than 110 percent of the number of work relative value units.

"(iii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are

not described in clause (iv) and for which—

"(I) there are work relative value units, and

"(II) the number of practice expense relative value units (determined for 1994) exceeds 110 percent of the number of work relative value units (determined for such year).

"(iv) EXCLUDED SERVICES.—For purposes of clause (iii), the services described in this clause are—

"(I) anesthesia services,

"(II) radiology services, and

"(III) services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.".

(b) DEVELOPMENT OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.—

(1) The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physician's service.

(2) The Secretary shall transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

SEC. 5005. LIMITATION ON PAYMENT FOR THE ANESTHESIA CARE TEAM.

(a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDICAL DIRECTION.—

(1) IN GENERAL.—Section 1848(a) (42 U.S.C. 1395w–4(a)), as amended by section 5008(a)(1), is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL DIRECTION.—

"(A) IN GENERAL.—With respect to physicians' services furnished on or after January 1, 1994, and consisting of medical direction of two, three, or four concurrent anesthesia cases, the fee schedule amount to be applied shall not exceed one-half of the amount described in subparagraph (B).

"(B) AMOUNT.—The amount described in this subparagraph, for a physician's medical direction of the performance of anesthesia services, is the following percentage of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the physician alone:

"(i) For services furnished during 1994, 120 percent.

"(ii) For services furnished during 1995, 115 percent.

"(iii) For services furnished during 1996, 110 percent.

"(iv) For services furnished during 1997, 105 percent.

"(v) For services furnished after 1997, 100 percent.".

(2) ELIMINATION OF REDUCTION FOR MEDICAL DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (13).

(b) PAYMENT TO A CERTIFIED REGISTERED NURSE ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—Subparagraph (B) of section 1833(l)(4) (42 U.S.C. 1395l(l)(4)) is amended—

(1) in clause (i), by inserting ''and before January 1, 1994,'' after ''1991,'';

(2) in clause (ii)—

(A) by adding ''and'' at the end of subclause (II),

(B) by striking the comma at the end of subclause (III) and inserting a period, and

(C) by striking subclauses (IV) through (VII); and

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

''(iii) In the case of services of a certified registered nurse anesthetist who is medically directed by a physician and that are furnished on or after January 1, 1994, the fee schedule amount shall be one-half of the amount described in section 1848(a)(4)(B) with respect to the physician.''.

SEC. 5006. BASING PAYMENTS FOR ANESTHESIA SERVICES ON ACTUAL TIME.

(a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w–4(b)(2)(B)) is amended by adding at the end the following: ''For anesthesia services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993, for

determining the amount of time that may be billed for such services under this section.''.

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: ''For anesthesia services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993, for determining the amount of time that may be billed for such services under this section.''.

SEC. 5007. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w–4(b)) is amended to read as follows:

''(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

''(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

''(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms

in the relative value for visits and consultations.''.

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)), as amended by section 5004(a); is amended by adding at the end the following new subparagraph:

''(F) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

''(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 5007(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

''(ii) shall reduce the amounts determined under subsection (a)(2)(B)(ii)(I) by

such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 5007(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1994 that exceed the amount of such expenditures that would have been made if such amendment had not been made.''.

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting ''and as adjusted under subsection (c)(2)(F)(ii)'' after ''for 1994'';

(2) in subsection (c)(2)(A)(i), by adding at the end the following: ''Such relative values are subject to adjustment under subparagraph (F)(i).''; and

(3) in subsection (i)(1)(B), by adding at the end ''including adjustments under subsection (c)(2)(F),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 5008. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w–4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1994 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1994 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(ii)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4), as amended by section 5007(c), is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting ''and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''(c)(2)(F)(ii)'';

(2) in subsection (c)(2)(A)(i), by inserting ''and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''under subparagraph (F)(i)''; and

(3) in subsection (i)(1)(B), by inserting ''and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''under subsection (c)(2)(F)''.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5009. GEOGRAPHIC ADJUSTMENT FACTORS FOR MEDICARE PHYSICIANS' SERVICES.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by striking ''shall review'' and inserting ''shall, in consultation with appropriate representatives of physicians, review''.

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended by adding at the end the following new subparagraph:

> ''(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.''.

(c) DEADLINE FOR INITIAL REVIEW AND REVISION.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995.

(d) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and

report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

SEC. 5010. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT AND UNIFORM APPLICATION.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w–4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation

of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).".

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w–4(g)(2)(C)) is amended by inserting "or for nonparticipating suppliers or

other persons'' after ''nonparticipating physicians''.

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking '', and the term'' and inserting ''; the term'', and

(ii) by inserting before the period at the end the following: ''; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))''.

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(A) in subsection (a)(3)—

(i) by inserting ''AND SUPPLIERS'' after ''PHYSICIANS'',

(ii) by inserting ''or a nonparticipating supplier or other person'' after ''nonparticipating physician'', and

(iii) by adding at the end the following: ''In the case of physicians' services (including services which the Secretary ex-

cludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.''; (B) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting ''(including services which the Secretary excludes pursuant to subsection (j)(3))'' after ''a physician's service''; (C) in subsection (g)(2)(D), by inserting ''(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)'' after ''subsection (a)''; (D) in subsection (g)(3)(B)—

(i) by inserting after the first sentence the following: ''No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.'', and

(ii) in the last sentence, by striking ''previous sentence'' and inserting ''first sentence'';

(E) in subsection (h)—

(i) by inserting ''or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))'' after ''physician'' the first place it appears,

(ii) by inserting '', supplier, or other person'' after ''physician'' the second place it appears, and

(iii) by inserting '', suppliers, and other persons'' after ''physicians'' the second place it appears; and

(F) in subsection (j)(3), by inserting '', except for purposes of subsections (a)(3), (g), and (h)'' after ''tests and''.

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 5014(e), is amended by adding at the end the following new paragraph:

1 "(18)(A) Payment for any service furnished by a
2 practitioner described in subparagraph (C) and for which
3 payment may be made under this part on a reasonable
4 charge or fee schedule basis may only be made under this
5 part on an assignment-related basis.

6 "(B) A practitioner described in subparagraph (C) or
7 other person may not bill (or collect any amount from)
8 the individual or another person for any service described
9 in subparagraph (A), except for deductible and coinsur-
10 ance amounts applicable under this part. No person is lia-
11 ble for payment of any amounts billed for such a service
12 in violation of the previous sentence. If a practitioner or
13 other person knowingly and willfully bills (or collects an
14 amount) for such a service in violation of such sentence,
15 the Secretary may apply sanctions against the practitioner
16 or other person in the same manner as the Secretary may
17 apply sanctions against a physician in accordance with
18 section 1842(j)(2) in the same manner as such section ap-
19 plies with respect to a physician. Paragraph (4) of section
20 1842(j) shall apply in this subparagraph in the same man-
21 ner as such paragraph applies to such section.

22 "(C) A practitioner described in this subparagraph
23 is any of the following:

1 "(i) A physician assistant, nurse practitioner, or
2 clinical nurse specialist (as defined in section
3 1861(aa)(5)).
4 "(ii) A certified registered nurse anesthetist (as
5 defined in section 1861(bb)(2)).
6 "(iii) A certified nurse-midwife (as defined in
7 section 1861(gg)(2)).
8 "(iv) A clinical social worker (as defined in sec-
9 tion 1861(hh)(1)).
10 "(v) A clinical psychologist (as defined by the
11 Secretary for purposes of section 1861(ii)).
12 "(D) For purposes of this paragraph, a service fur-
13 nished by a practitioner described in subparagraph (C) in-
14 cludes any services and supplies furnished as incident to
15 the service as would otherwise be covered under this part
16 if furnished by a physician or as incident to a physician's
17 service.".
18 (2) CONFORMING AMENDMENTS.—
19 (A) Section 1833 (42 U.S.C. 1395l) is
20 amended—
21 (i) in subsection (l)(5), by striking
22 subparagraph (B) and redesignating sub-
23 paragraph (C) as subparagraph (B);
24 (ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking ''and'' at the end of subparagraph (B),

(B) in subparagraph (C), by striking ''shall include'',

(C) in subparagraph (C), by striking the period at the end and inserting '', and'', and

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

''(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).''.

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

''(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

''(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

''(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

''(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;''.

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w–4(g)(6)(B)) is amended by inserting ''the extent to which actual charges exceed limiting charges, the number and

1 types of services involved, and the average amount of ex-
2 cess charges and'' after ''report to the Congress''.
3 (e) MISCELLANEOUS AND TECHNICAL AMEND-
4 MENTS.—Section 1833 (42 U.S.C. 1395l) is amended—
5 (1) in subsection (a)(1), as amended by section
6 5070(e)(2)—
7 (A) by striking ''and'' before ''(O)'', and
8 (B) by inserting before the semicolon at
9 the end the following: '', and (P) with respect
10 to services described in clauses (i), (ii) and (iv)
11 of section 1861(s)(2)(K), the amounts paid are
12 subject to the provisions of section
13 1842(b)(12)''; and
14 (2) in subsection (h)(5)(D)—
15 (A) by striking ''paragraphs (2) and (3)''
16 and by inserting ''paragraph (2)'', and
17 (B) by adding at the end the following:
18 ''Paragraph (4) of such section shall apply in
19 this subparagraph in the same manner as such
20 paragraph applies to such section.''.
21 (f) EFFECTIVE DATES.—
22 (1) ENFORCEMENT AND UNIFORM APPLICA-
23 TION; MISCELLANEOUS AND TECHNICAL AMEND-
24 MENTS.—The amendments made by subsections (a)
25 and (e) shall apply to services furnished on or after

the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1994.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1994.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning with 1994.

SEC. 5011. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1994, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may

be necessary to produce appropriate estimates for such relative values.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians and physical and occupational therapists.

(2) REPORT.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 5012. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(2)(G)," after "(2)(D),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5013. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

''(4) Neither a carrier nor the Secretary may impose a fee under this title—

''(A) for the filing of claims related to physicians' services,

''(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

''(C) for any appeal under this title with respect to physicians' services,

''(D) for applying for (or obtaining) a unique identifier under subsection (r), or

''(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.''.

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: ''(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) 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. 5014. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA–1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows ''(HCPCS codes 92250'' and inserting ''and 92260).''.

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA–1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking ''shall be determined as follows:'' and inserting ''shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:'',

(B) in clause (iv), by striking ''LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to'' and inserting ''ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for'',

(C) in clause (vii), by striking ''under this subparagraph'', and

(D) in clause (vii), by inserting ''reduced under this subparagraph by'' after ''shall not be''.

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking ''radiology services'' and all that follows and inserting ''nuclear medicine services.''.

(4) Section 4102(d) of OBRA–1990 is amended by striking ''new paragraph'' and inserting ''new subparagraph''.

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting ''RULE FOR CERTAIN SCANNING SERVICES.—'' after ''(E)''.

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking ''that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989'' and by striking ''provided under such section'' and inserting ''provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989''.

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA–1990).—(1) Section 4103(a) of OBRA–1990 is amended by striking ''REDUCTION IN FEE SCHEDULE'' and inserting ''REDUCTION IN PREVAILING CHARGES''.

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking ''shall be determined as follows:'' and inserting ''shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:'', and

(B) in clause (iii), by striking ''Subject to clause (iv), the prevailing charge conversion factor to

be applied in'' and inserting ''The adjusted prevailing charge conversion factor for''.

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA–1990).—(1) Section 4107(c) of OBRA–1990 is amended by inserting ''(a)(1)'' after ''subsection''.

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: ''In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).''.

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA–1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting '', tests specified in paragraph (14)(C)(i),'' after ''diagnostic laboratory tests''.

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking ''(a) IN GENERAL.—'', and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(h) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting ''PUBLICATION OF PERFORMANCE STANDARD RATES.—'' after ''(d)''.

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking ''prevailing charge'' the first place it appears and inserting ''customary charge''; and

(B) in clause (ii)(III), by striking ''second, third, and fourth'' and inserting ''first, second, and third''.

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)) is amended by striking ''respiratory therapist,''.

(5) Section 4106(c) of OBRA–1990 is amended by inserting ''of the Social Security Act'' after ''1848(d)(1)(B)''.

(6) Section 4114 of OBRA–1990 is amended by striking ''patients'' the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting ''date of the'' after ''since the''.

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking ''is amended''.

(9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking ''subsection (f)(5)(A)'' and inserting ''subsection (f)(5)(A))''.

(10) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking ''In section'' and inserting ''Section''.

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking ''as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)''.

(i) OTHER CORRECTIONS.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of OBRA–1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking ''(A) Any contract'' and inserting ''Any contract''; and

(B) by striking subparagraph (B).

(j) EFFECTIVE DATE.—Except as provided in subsection (i), the amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter B—Outpatient Hospital Services and Ambulatory Surgical Services

SEC. 5021. EXTENSION OF 10 PERCENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ''fiscal year 1992, 1993, 1994, or 1995'' and inserting ''fiscal years 1992 through 1998''.

SEC. 5022. EXTENSION OF CURRENT REDUCTION IN PAYMENTS FOR OTHER COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking ''1991'' and all that follows and inserting ''1991 through 1998.''.

SEC. 5023. 1-YEAR FREEZE IN AMBULATORY SURGERY RATES.

The Secretary of Health and Human Services shall not provide for any update in the amounts of payment described in paragraphs (2)(A) and (2)(B) of section 1833(i)(2) of the Social Security Act that otherwise would occur in fiscal year 1994.

SEC. 5024. EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—

(1) in paragraph (3)(B)(ii)—

(A) by striking ''the last sentence of this clause'' and inserting ''paragraph (4)'', and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

''(4)(A) In the case of a hospital that—

''(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

''(ii) receives more than 30 percent of its total revenues from outpatient services, and

''(iii) on October 1, 1987—

''(I) was an eye specialty hospital or an eye and ear specialty hospital, or

1 "(II) was operated as an eye or eye and
2 ear unit (as defined in subparagraph (B)) of a
3 general acute care hospital which, on the date
4 of the application described in clause (i), oper-
5 ates less than 20 percent of the beds that the
6 hospital operated on October 1, 1987, and has
7 sold or otherwise disposed of a substantial por-
8 tion of the hospital's other acute care oper-
9 ations,
10 the cost proportion and ASC proportion in effect under
11 subclauses (I) and (II) of paragraph (3)(B)(ii) for cost
12 reporting periods beginning in fiscal year 1988 shall re-
13 main in effect for cost reporting periods beginning on or
14 after October 1, 1988, and before January 1, 1995.
15 "(B) For purposes of this subparagraph (A)(iii)(II),
16 the term 'eye or eye and ear unit' means a physically sepa-
17 rate or distinct unit containing separate surgical suites de-
18 voted solely to eye or eye and ear services.".
19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to portions of cost reporting pe-
21 riods beginning on or after January 1, 1994.

SEC. 5025. EXTENSION OF CAP ON PAYMENTS FOR INTRAOCULAR LENSES.

(a) IN GENERAL.—Section 4151(c)(3) of OBRA–1990 is amended by striking ''December 31, 1992'' and inserting ''December 31, 1994''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of OBRA–1990.

SEC. 5026. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section 1833(i)(2)(A)(i) (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 and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,''.

(B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(i) 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

(ii) 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 during a fiscal year (beginning with fiscal year 1996), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved.''.

(C) The second sentence of section 1833(i)(1) (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.''.

(2) Section 4151(c)(3) of OBRA–1990 is amended by striking ''for the insertion of an intraocular lens'' and inserting ''for an intraocular lens inserted''.

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall develop and implement a process under which interested parties may

1 request review by the Secretary of the appropriateness of
2 the reimbursement amount provided under section
3 1833(i)(2)(A)(iii) of the Social Security Act with respect
4 to a class of new technology intraocular lenses. For pur-
5 poses of the preceding sentence, an intraocular lens may
6 not be treated as a new technology lens unless it has been
7 approved by the Food and Drug Administration.

8 (2) In determining whether to provide an adjustment
9 of payment with respect to a particular lens under para-
10 graph (1), the Secretary shall take into account whether
11 use of the lens is likely to result in reduced risk of
12 intraoperative or postoperative complication or trauma,
13 accelerated postoperative recovery, reduced induced astig-
14 matism, improved postoperative visual acuity, more stable
15 postoperative vision, or other comparable clinical advan-
16 tages.

17 (3) The Secretary shall publish notice in the Federal
18 Register from time to time (but no less often than once
19 each year) of a list of the requests that the Secretary has
20 received for review under this subsection, and shall provide
21 for a 30-day comment period on the lenses that are the
22 subjects of the requests contained in such notice. The Sec-
23 retary shall publish a notice of his determinations with
24 respect to intraocular lenses listed in the notice within 90
25 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

Subchapter C—Durable Medical Equipment

SEC. 5031. REVISIONS TO PAYMENT RULES FOR DURABLE MEDICAL EQUIPMENT.

(a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN OF LOCAL PAYMENT AMOUNTS.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and (3)(C)(i)(II) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking ''1992'' the first place it appears and inserting ''1992, 1993, and 1994''; and

(ii) by striking ''1992'' the second place it appears and inserting ''the year''.

(B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking ''and'' at the end of subclause (I);

(ii) by redesignating subclause (II) as (IV); and

(iii) by inserting after subclause (I) the following new subclauses:

"(II) for 1992 and 1993, the amount determined under this clause for the preceding year increased by the covered item update for such subsequent year,

"(III) for 1994, 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 median 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 median of all local payment amounts determined under such clause for such item or device for that year, and".

(2) MISCELLANEOUS DEVICES AND ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)(III), by striking ''1992'' and inserting ''1992, 1993, and 1994''; and

(B) in subparagraph (B)—

(i) by striking ''and'' at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

''(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

''(iii) for 1994, 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 median of all local purchase prices computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local purchase prices computed under such subparagraph for the item for the year; and''.

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking ''1991 and 1992'' and inserting ''1991, 1992, 1993, and 1994''; and

(B) in subparagraph (B)—

(i) by striking ''and'' at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

''(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

''(iii) for 1994, the local monthly payment rate computed under subparagraph (A)(ii) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the median 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 median of all local monthly payment rates computed for the item under such subparagraph for the year; and''.

(b) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

(1) IN GENERAL.—Section 1834(h)(2) (42 U.S.C. 1395m(h)(2)) is amended—

(A) in subparagraph (A)(ii)(II), by striking ''1992 or 1993'' and inserting ''1992, 1993, or 1994'';

(B) in subparagraph (B)(ii), by striking ''each subsequent year'' and inserting ''1993'';

(C) in subparagraph (C)(iv), by striking ''regional purchase price computed under subparagraph (B)'' and inserting ''national limited purchase price computed under subparagraph (E)'';

(D) in subparagraph (D)(ii), by striking ''a subsequent year'' and inserting ''1993''; and

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

''(E) 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 1994, equal to the local purchase price computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median 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 median 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 applicable percentage increase for such subsequent year.".

(2) EXCEPTION FOR CERTAIN ITEMS.—Section 1834(h) (42 U.S.C. 1395m(h)), as amended by paragraph (1), is further amended—

(A) in paragraph (1)(B), by striking "subparagraph (C)," and inserting "subparagraphs (C) and (F),"; and

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

"(F) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5032. PAYMENT FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1994.

In determining the amount of payment under part B of title XVIII of the Social Security Act during 1994, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 5033. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking ''or'' at the end of clause (i),

(2) by adding ''or'' at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

''(iii) which is an accessory used in conjunction with a nebulizer or aspirator,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5034. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

''(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

''(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after October 1, 1994, for items furnished by a supplier of medical equipment

1 and supplies unless such supplier obtains (and
2 renews at such intervals as the Secretary may
3 require) a supplier number.
4 "(B) STANDARDS FOR POSSESSING A SUP-
5 PLIER NUMBER.—A supplier may not obtain a
6 supplier number unless—
7 "(i) for medical equipment and sup-
8 plies furnished on or after October 1,
9 1994, and before January 1, 1996, the
10 supplier meets standards prescribed by the
11 Secretary; and
12 "(ii) for medical equipment and sup-
13 plies furnished on or after January 1,
14 1996, the supplier meets revised standards
15 prescribed by the Secretary (in consulta-
16 tion with representatives of suppliers of
17 medical equipment and supplies, carriers,
18 and consumers) that shall include require-
19 ments that the supplier—
20 "(I) comply with all applicable
21 State and Federal licensure and regu-
22 latory requirements;
23 "(II) maintain a physical facility
24 on an appropriate site;

1 "(III) have proof of appropriate
2 liability insurance; and
3 "(IV) meet such other require-
4 ments as the Secretary may specify.
5 "(C) EXCEPTION FOR ITEMS FURNISHED
6 AS INCIDENT TO A PHYSICIAN'S SERVICE.—
7 Subparagraph (A) shall not apply with respect
8 to medical equipment and supplies furnished as
9 an incident to a physician's service.
10 "(D) PROHIBITION AGAINST MULTIPLE
11 SUPPLIER NUMBERS.—The Secretary may not
12 issue more than one supplier number to any
13 supplier of medical equipment and supplies un-
14 less the issuance of more than one number is
15 appropriate to identify subsidiary or regional
16 entities under the supplier's ownership or con-
17 trol.
18 "(E) PROHIBITION AGAINST DELEGATION
19 OF SUPPLIER DETERMINATIONS.—The Sec-
20 retary may not delegate (other than by contract
21 under section 1842) the responsibility to deter-
22 mine whether suppliers meet the standards nec-
23 essary to obtain a supplier number.
24 "(2) CERTIFICATES OF MEDICAL NECESSITY.—

1 "(A) STANDARDIZED CERTIFICATES.—Not
2 later than October 1, 1994, the Secretary shall,
3 in consultation with carriers under this part,
4 develop one or more standardized certificates of
5 medical necessity (as defined in subparagraph
6 (C)) for medical equipment and supplies for
7 which the Secretary determines that such a cer-
8 tificate is necessary.
9 "(B) PROHIBITION AGAINST DISTRIBUTION
10 BY SUPPLIERS OF CERTIFICATES OF MEDICAL
11 NECESSITY.—
12 "(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), a supplier of medical
14 equipment and supplies may not distribute
15 to physicians or to individuals entitled to
16 benefits under this part for commercial
17 purposes any completed or partially com-
18 pleted certificates of medical necessity on
19 or after October 1, 1994.
20 "(ii) EXCEPTION FOR CERTAIN BILL-
21 ING INFORMATION.—Clause (i) shall not
22 apply with respect to a certificate of medi-
23 cal necessity for any item that is not con-
24 tained on the list of potentially overused
25 items developed by the Secretary under

1 subsection (a)(15)(A) to the extent that
2 such certificate contains only information
3 completed by the supplier of medical equip-
4 ment and supplies identifying such supplier
5 and the beneficiary to whom such medical
6 equipment and supplies are furnished, a
7 description of such medical equipment and
8 supplies, any product code identifying such
9 medical equipment and supplies, and any
10 other administrative information (other
11 than information relating to the bene-
12 ficiary's medical condition) identified by
13 the Secretary. In the event a supplier pro-
14 vides a certificate of medical necessity con-
15 taining information permitted under this
16 clause, such certificate shall also contain
17 the fee schedule amount and the supplier's
18 charge for the medical equipment or sup-
19 plies being furnished prior to distribution
20 of such certificate to the physician.
21 ''(iii) PENALTY.—Any supplier of
22 medical equipment and supplies who know-
23 ingly and willfully distributes a certificate
24 of medical necessity in violation of clause
25 (i) is subject to a civil money penalty in an

1 amount not to exceed $1,000 for each such
2 certificate of medical necessity so distrib-
3 uted. The provisions of section 1128A
4 (other than subsections (a) and (b)) shall
5 apply to civil money penalties under this
6 subparagraph in the same manner as they
7 apply to a penalty or proceeding under sec-
8 tion 1128A(a).
9 "(C) DEFINITION.—For purposes of this
10 paragraph, the term 'certificate of medical ne-
11 cessity' means a form or other document con-
12 taining information required by the Secretary to
13 be submitted to show that a covered item is
14 reasonable and necessary for the diagnosis or
15 treatment of illness or injury or to improve the
16 functioning of a malformed body member.
17 "(3) COVERAGE AND REVIEW CRITERIA.—
18 "(A) DEVELOPMENT AND ESTABLISH-
19 MENT.—Not later than January 1, 1996, the
20 Secretary, in consultation with representatives
21 of suppliers of medical equipment and supplies,
22 individuals enrolled under this part, and appro-
23 priate medical specialty societies, shall develop
24 and establish uniform national coverage and
25 utilization review criteria for 200 items of medi-

cal equipment and supplies selected in accordance with the standards described in subparagraph (B). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(B) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under subparagraph (A) if the Secretary finds that—

"(i) the item is frequently purchased or rented by beneficiaries;

"(ii) the item is frequently subject to a determination that such item is not medically necessary; or

"(iii) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(C) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies

to determine whether items not included among the items selected under subparagraph (A) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) DEFINITION.—The term 'medical equipment and supplies' means—

"(A) durable medical equipment (as defined in section 1861(n));

"(B) prosthetic devices (as described in section 1861(s)(8));

"(C) orthotics and prosthetics (as described in section 1861(s)(9));

"(D) surgical dressings (as described in section 1861(s)(5));

"(E) such other items as the Secretary may determine; and

"(F) for purposes of paragraphs (1) and (3)—

"(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)), and

"(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)).".

1 (2) CONFORMING AMENDMENT.—Effective Oc-
2 tober 1, 1994, paragraph (16) of section 1834(a)
3 (42 U.S.C. 1395m(a)) is repealed.
4 (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON
5 UTILIZATION OF ITEMS.—Not later than July 1, 1996,
6 the Secretary shall submit a report to the Committee on
7 Ways and Means and the Committee on Energy and Com-
8 merce of the House of Representatives and the Committee
9 on Finance of the Senate analyzing the impact of the uni-
10 form criteria established under section 1834(i)(3)(A) of
11 the Social Security Act (as added by subsection (a)) on
12 the utilization of items of medical equipment and supplies
13 by individuals enrolled under part B of the medicare pro-
14 gram.
15 (c) USE OF COVERED ITEMS BY DISABLED BENE-
16 FICIARIES.—
17 (1) IN GENERAL.—The Secretary of Health and
18 Human Services, in consultation with representa-
19 tives of suppliers of durable medical equipment
20 under part B of the medicare program and individ-
21 uals entitled to benefits under such program on the
22 basis of disability, shall conduct a study of the ef-
23 fects of the methodology for determining payments
24 for items of such equipment under such part on the

ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than one 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), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(d) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than one year after the date of the enactment of this Act, 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 describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

SEC. 5035. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) USE OF CARRIERS TO PROCESS CLAIMS.—

"(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

"(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate regional carrier (as designated by the Secretary).

"(ii) For purposes of clause (i), the term 'appropriate regional carrier' means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after October 1, 1993.

(c) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

SEC. 5036. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual (other than a covered

item the supplier has already furnished to the individual) unless—

"(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

"(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the

1 programs under this Act, in accordance with
2 the procedures set forth in subsections (c), (f),
3 and (g) of section 1128.''.
4 (2) REQUIRING REFUND OF AMOUNTS COL-
5 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
6 (42 U.S.C. 1395m(a)), as amended by paragraph
7 (1), is amended by adding at the end the following
8 new paragraph:
9 ''(18) REFUND OF AMOUNTS COLLECTED FOR
10 CERTAIN DISALLOWED ITEMS.—
11 ''(A) IN GENERAL.—If a nonparticipating
12 supplier furnishes to an individual enrolled
13 under this part a covered item for which no
14 payment may be made under this part by rea-
15 son of paragraph (17)(B), the supplier shall re-
16 fund on a timely basis to the patient (and shall
17 be liable to the patient for) any amounts col-
18 lected from the patient for the item, unless—
19 ''(i) the supplier establishes that the
20 supplier did not know and could not rea-
21 sonably have been expected to know that
22 payment may not be made for the item by
23 reason of paragraph (17)(B), or
24 ''(ii) before the item was furnished,
25 the patient was informed that payment

under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 5037. KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting before the semicolon the following: "(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligi-

1 ble for benefits under part B of title XVIII, or perform-
2 ance of warehousing or stock inventory functions)''.
3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply with respect to services fur-
5 nished on or after the first day of the first month that
6 begins after the expiration of the 60-day period beginning
7 on the date of the enactment of this Act.

8 **SEC. 5038. BENEFICIARY LIABILITY FOR NONCOVERED**
9 **SERVICES.**

10 (a) UNASSIGNED CLAIMS.—
11 (1) IN GENERAL.—Section 1834(i) (42 U.S.C.
12 1395m(i)), as added by section 5034(a)(1), is
13 amended—
14 (A) by redesignating paragraph (4) as
15 paragraph (5), and
16 (B) by inserting after paragraph (3) the
17 following new paragraph:
18 ''(4) LIMITATION ON PATIENT LIABILITY.—If a
19 supplier of medical equipment and supplies (as de-
20 fined in paragraph (5))—
21 ''(A) furnishes an item or service to a ben-
22 eficiary for which no payment may be made by
23 reason of paragraph (1);

"(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

"(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.".

(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)), as amended by section 5037(a), is amended by striking "1834(i)(4)" and inserting "1834(i)(5)".

(b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1834(i)(4))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(i)(1); or

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15);

any expenses incurred for items and services furnished to an individual by such a supplier on an assignment-related basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items or services furnished on or after October 1, 1994.

SEC. 5039. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: ''In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 5040. PAYMENT FOR SURGICAL DRESSINGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 5034(a)(1), is amended by adding at the end the following new subsection:

''(j) PAYMENT FOR SURGICAL DRESSINGS.—

''(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

''(A) the actual charge for the item; or

''(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the

1 covered item updates described in such sub-
2 section for 1993 and 1994)
3 "(2) EXCEPTIONS.—Paragraph (1) shall not
4 apply to surgical dressings that are—
5 "(A) furnished as an incident to a physi-
6 cian's professional service; or
7 "(B) furnished by a home health agency.".
8 (b) CONFORMING AMENDMENT.—Section 1833(a)(1)
9 (42 U.S.C. 1395l(a)(1)), as amended by sections
10 5070(e)(2) and 5010(e)(1), is amended—
11 (1) by striking "and" before "(P)", and
12 (2) by inserting before the semicolon at the end
13 the following: ", and (Q) with respect to surgical
14 dressings, the amounts paid shall be the amounts
15 determined under section 1834(j)".
16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to items furnished on or after Jan-
18 uary 1, 1994.
19 **SEC. 5041. PAYMENTS FOR TENS DEVICES.**
20 (a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C.
21 1395m(a)(1)(D)) is amended by striking "15 percent" the
22 second place it appears and inserting "45 percent".
23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall apply to items furnished on or after
25 January 1, 1994.

SEC. 5042. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(A) for 1991 and 1992, 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 reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

"(15) 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 mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, decubitus care mattresses, and any such other item determined by the Secretary to

be potentially overused on the basis of any 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; or

"(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 or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1994, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 5013(a), is amended by adding at the end the following new paragraph:

"(5) 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).".

1 (4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is
2 amended by striking ''paragraph (10) and paragraph
3 (11)'' and inserting ''paragraphs (10) and (11)''.
4 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL
5 EQUIPMENT SUPPLIER COSTS.—
6 (1) COLLECTION AND ANALYSIS OF SUPPLIER
7 COST DATA.—The Administrator of the Health Care
8 Financing Administration shall, in consultation with
9 appropriate organizations, collect data on supplier
10 costs of durable medical equipment for which pay-
11 ment may be made under part B of the medicare
12 program, and shall analyze such data to determine
13 the proportions of such costs attributable to the
14 service and product components of furnishing such
15 equipment and the extent to which such proportions
16 vary by type of equipment and by the geographic
17 region in which the supplier is located.
18 (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-
19 MENT INDEX; REPORTS.—Not later than January 1,
20 1995—
21 (A) the Administrator shall submit a re-
22 port to the Committees on Energy and Com-
23 merce and Ways and Means of the House of
24 Representatives and the Committee on Finance
25 of the Senate on the data collected and the

analysis conducted under paragraph (1), 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.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking ''55'' and inserting ''56''.

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990 is amended by striking ''amendment made by subsection (a)'' and inserting ''amendments made by this subsection''.

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking ''1395m(a)(7)(A)'' and inserting ''1395m(a)(7)''.

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking ''clause (v)'' and inserting ''clause (vi)''.

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking ''or paragraph (3)''.

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking ''1834(a)'' and inserting ''1834(h)''.

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking ''Reconiliation'' and inserting ''Reconciliation''.

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking ''(2) through (7)'' each place it appears and inserting ''(2) through (5) and (7)'';

(ii) in paragraph (7), by striking ''(2) through (6)'' and inserting ''(2) through (5)'';

(iii) in paragraph (8), by striking ''paragraphs (6) and (7)'' each place it appears in the matter pre-

ceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

Subchapter D—Part B Premium

SEC. 5051. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by inserting "and for each month in 1996 and 1997" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1998".

Subchapter E—Other Provisions

SEC. 5061. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (iii),

(2) in clause (iv), by inserting ''and before January 1, 1994,'' after ''1990,'',

(3) by striking the period at the end of clause (iv) and inserting '', and'', and

(4) by adding at the end the following:

''(v) after December 31, 1993, is equal to 76 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).''.

(b) TWO PERCENT UPDATE FOR 1994 THROUGH 1998.—Section 1833(h)(2)(A)(ii)(III) (42 U.S.C. 1395l(h)(2)(A)(ii)(III)) is amended by striking ''1991, 1992, and 1993'' and inserting ''1991 through 1998''.

SEC. 5062. TREATMENT OF INPATIENTS AND PROVISION OF DIAGNOSTIC AND THERAPEUTIC X-RAY SERVICES BY RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.

(a) TREATMENT OF INPATIENTS.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(1) in paragraph (1), in the matter following subparagraph (C), by striking ''as an outpatient'' and inserting ''as a patient'';

(2) in paragraph (2)(A), by striking ''furnishing to outpatients'' and inserting ''furnishing to patients''; and

(3) in paragraph (3), in the matter following subparagraph (B), by striking ''as an outpatient'' and inserting ''as a patient''.

(b) TREATMENT OF DIAGNOSTIC AND THERAPEUTIC X-RAY SERVICES.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is further amended—

(1) in paragraph (1)(A), by inserting ''(i)'' after ''(A)'' and by adding at the end the following: ''and (ii) diagnostic and therapeutic x-ray services,'', and

(2) in paragraph (2)(A), by striking ''(A)'' and inserting ''(A)(i)''.

(c) CONFORMING AMENDMENT.—Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking ''and services of a certified registered nurse anesthetist'' and inserting ''services of a certified registered nurse anesthetist, rural health clinic services, and Federally-qualified health center services''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994, and shall apply to services furnished on or after such date.

SEC. 5063. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.

(a) SCREENING MAMMOGRAPHY.—Section 1834(c) (42 U.S.C. 1395m(c)) is amended—

(1) in paragraph (1)(B), by striking ''meets the quality standards established under paragraph (3)'' and inserting ''is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act'';

(2) in paragraph (1)(C)(iii), by striking ''paragraph (4)'' and inserting ''paragraph (3)'';

(3) by striking paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(b) DIAGNOSTIC MAMMOGRAPHY.—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by inserting ''and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act'' after ''necessary''.

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by striking ''or which does not meet the standards established under section 1834(c)(3)'' and inserting ''or which is not conducted by a facility described in section 1834(c)(1)(B)''.

(2) Section 1863 (42 U.S.C. 1395z) is amended by striking ''or whether screening mammography meets the standards established under section 1834(c)(3),''.

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(4) The third sentence of section 1865(a) (42 U.S.C. 1395bb(a)) is amended by striking "1834(c)(3),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.

SEC. 5064. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION.

Section 9342 of OBRA–1986, as amended by section 4164(a)(2) of OBRA–1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years"; and

(2) in subsection (f)—

(A) by striking "$55,000,000" and inserting "$60,000,000", and

(B) by striking "$3,000,000" and inserting "$5,000,000".

SEC. 5065. ORAL CANCER DRUGS.

(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 5070(f)(7)(B), is amended—

(1) by striking ''and'' at the end of subparagraph (N);

(2) by adding ''and'' at the end of subparagraph (O); and

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

''(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5066. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989, is amended—

(1) by striking ''December 31, 1993'' and inserting ''December 31, 1997'', and

(2) in the second sentence, by inserting after ''beneficiary costs,'' the following: ''costs to the medicaid program and other payors, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,''.

SEC. 5067. TREATMENT OF CERTAIN INDIAN HEALTH PROGRAMS AND FACILITIES AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C. 1395x(aa)(4)) is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

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

''(D) is an outpatient health program or facility operated by a tribe or tribal organization under the

Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 4161(a)(2)(C) of OBRA–1990.

SEC. 5068. INTEREST PAYMENTS.

(a) IN GENERAL.—Section 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied with respect to paper claims received in the 9-month period beginning January 1, 1993, by substituting ''27 calendar days'' for ''24 calendar days'' and ''17 calendar days''.

(b) PROHIBITING PAYMENT OF INTEREST DURING MANDATORY PAYMENT DELAY PERIOD.—Section 1842(c)(2)(C) (42 U.S.C. 1395u(c)(2)(C)) is amended by adding at the end the following: ''Notwithstanding any other provision of law, no interest may be paid with respect to a claim pursuant to the preceding sentence within any period following the submission of the claim during which no payment may be issued, mailed, or otherwise transmitted with respect to the claim.''.

SEC. 5069. CLARIFICATION OF COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES PERFORMED OUTSIDE THE MATERNITY CYCLE.

(a) IN GENERAL.—Section 1861(gg)(2) (42 U.S.C. 1395x(gg)(2)) is amended by striking ", and performs services" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5069A. INCREASE IN, AND STUDY OF, ANNUAL CAP ON AMOUNT OF MEDICARE PAYMENT FOR OUTPATIENT PHYSICAL THERAPY AND OCCUPATIONAL THERAPY SERVICES.

(a) INCREASE IN ANNUAL LIMITATION.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended by striking "$750" and inserting "$900" each place it appears.

(b) STUDY.—(1) The Physician Payment Review Commission shall conduct a study of the appropriateness of continuing an annual limitation on the amount of payment for outpatient services of independently practicing physical and occupational therapists under the medicare program.

(2) By not later than January 1, 1995, the Commission shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report

on the study conducted under paragraph (1). Such report shall include such recommendations for changes in such annual limitation as the Commission finds appropriate.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5070. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking ''provider number'' and inserting ''unique physician identification number''; and

(2) by striking ''and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))''.

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting ''and clinical social worker services'' after ''psychologist services''; and

(2) by striking ''psychologist'' the second and third place it appears and inserting ''psychologist or clinical social worker''.

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking ''systems'' each place it appears and inserting ''system''; and

(ii) by striking ''paragraphs (1) and (6)'' and inserting ''paragraph (1)''.

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by inserting ''and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992'' after ''1989''; and

(B) by striking ''1842(b)'' and inserting ''1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)''.

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.

1395l(n)(1)(B)(i)(II)) is amended by striking ''January 1,'' and inserting ''April 1,''.

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking ''subsection (aa)(3)'' and inserting ''subsection (aa)(5)''; and

(B) by striking ''subsection (aa)(4)'' and inserting ''subsection (aa)(6)''.

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ''and'' before ''(N)''; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking ''(M)'' and inserting '', and (O)'', and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking ''ambulatory'' each place it appears and inserting ''or ambulatory''; and

(B) by striking ''center,'' and inserting ''center''.

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking ''subsection (a)(1)(M)'' and inserting ''subsection (a)(1)(O)''.

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking ''subsection (s)(2)(K)(i)'' and inserting ''clauses (i) or (iii) of subsection (s)(2)(K)''.

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking ''this Act'' and inserting ''this title''.

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking ''1861(s)(2)(K)(i)'' and inserting ''1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)''.

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking ''1861(s)(2)(K)(i)'' and inserting ''1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)''.

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (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) (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.''.

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking ''for reporting'' and inserting ''for portions of cost reporting''; and

(B) by striking ''and on or before'' and inserting ''and ending on or before''.

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking ''(1)(A)'' and inserting ''(1)(A),''.

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking ''(a) SERVICES OF'' and all that follows through ''Section'' and inserting ''(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section''.

(5) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking ''certification'' the first place it appears and inserting ''approval''; and

(ii) by striking ''the Secretary's approval or disapproval of the certification'' and inserting ''Secretary's approval or disapproval''.

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting ''and to the Committee on Finance of the Senate'' after ''Representatives''.

(6) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

''(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990.''; and

(B) in subsection (e), by striking ''The amendments'' and inserting ''Except as provided in subsection (d)(3), the amendments''.

(7) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking ''a bone fracture related to''; and

(ii) in paragraph (1), by striking ''patient'' and inserting ''individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual''.

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking ''if'' and inserting ''by a home health agency if''.

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking ''but excluding'' and inserting ''and a covered osteoporosis drug (as defined in subsection (kk), but excluding other''.

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding ''and'' at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking ''health services'' and inserting ''health services (other than covered osteoporosis drug (as defined in section 1861(kk)))'';

(ii) by striking ''and'' at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting ''; and''; and

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

''(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);''.

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C.

1395l(b)(2)) is amended by striking ''services'' and inserting ''services (other than covered osteoporosis drug (as defined in section 1861(kk)))''.

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking ''(jj) The term'' and inserting ''(kk) The term''.

(8) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking ''of the Social Security Act''.

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking ''paragraph'' and inserting ''paragraphs''.

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking ''publish'' and inserting ''publish, and shall periodically update,''.

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

CHAPTER 2—PROVISIONS RELATING TO PARTS A AND B

SEC. 5071. ELIMINATION OF ADD-ON FOR OVERHEAD OF HOSPITAL-BASED HOME HEALTH AGENCIES.

(a) GENERAL RULE.—The first sentence of section 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by striking ‘‘, with appropriate adjustment for administrative and general costs of hospital-based agencies’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning after fiscal year 1993.

SEC. 5072. STUDY AND REPORT ON MEDICARE GME PAYMENTS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the methodology used to determine payments to hospitals under the medicare program for the costs of medical residency training programs and shall include in the study an analysis of the causes of variation among such programs in the per resident costs of direct graduate medical education, including

1 the extent of support for such programs from non-hospital
2 sources.

3 (b) REPORT.—Not later than 1 year after the date
4 of the enactment of this Act, the Secretary shall submit
5 a report to Congress on the study conducted under sub-
6 section (a), and shall include in the report any rec-
7 ommendations considered appropriate by the Secretary for
8 modifications to the methodology used to determine pay-
9 ments to hospitals under the medicare program for the
10 costs of medical residency training programs that will en-
11 courage greater uniformity among medical residency train-
12 ing programs in the per resident costs of direct graduate
13 medical education.

14 **SEC. 5073. MEDICARE AS SECONDARY PAYER.**

15 (a) EXTENSION OF DATA MATCH PROGRAM.—Sec-
16 tion 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is
17 amended by striking ''1995'' and inserting ''1998''.

18 (b) PERMANENT APPLICATION TO DISABLED INDI-
19 VIDUALS.—Section 1862(b)(1)(B) (42 U.S.C.
20 1395y(b)(1)(B)) is amended by striking clause (iii).

21 (c) APPLICATION OF ESRD RULES TO CERTAIN
22 AGED AND DISABLED BENEFICIARIES AND EXTENSION
23 OF APPLICATION OF 18-MONTH RULE.—

(1) Subparagraphs (A)(iv) and (B)(ii) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each amended—

(A) by striking ''Clause (i) shall not apply'' and inserting ''Subparagraph (C) shall apply instead of clause (i)'', and

(B) by inserting ''(without regard to entitlement under section 226)'' after ''or'' the second place it appears.

(2) The second sentence of section 1862(b)(1)(C) is amended by striking ''on or before January 1, 1996'' and inserting ''before October 1, 1998''.

(d) UNIFORM RULES FOR SIZE OF EMPLOYER.—

(1) IN GENERAL.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following:

''(E) GENERAL PROVISIONS.—

''(i) EXCLUSION OF GROUP HEALTH PLAN OF A SMALL EMPLOYER.—Subparagraphs (A) through (C) do not apply to a group health plan unless the plan is a plan of, or contributed to by, an employer or employee organization that has 20 or more individuals in current employment status

for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

"(ii) EXCEPTION FOR SMALL EMPLOYERS IN MULTIEMPLOYER OR MULTIPLE EMPLOYER GROUP HEALTH PLANS.—Subparagraphs (A) through (C) also do not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of current employment status with an employer that does not have 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year and the preceding calendar year; but the exception provided in this clause applies only if the plan elects treatment under this clause.

"(iii) APPLICATION OF CONTROLLED GROUP RULES.—For purposes of clauses (i) and (ii)—

"(I) all employees of corporations which are members of a controlled

group of corporations (within the meaning of section 1563(a) of the Internal Revenue Code of 1986, determined without regard to subsection (a)(4) or (e)(3)(C)), shall be treated as employed by a single employer,

''(II) all employees of trades or businesses (whether or not incorporated) which are under common control (under regulations prescribed by the Secretary of the Treasury under section 414(c) of that Code) shall be treated as employed by a single employer,

''(III) all employees of the members of an affiliated service group (as defined in section 414(m) of that Code) shall be treated as employed by a single employer, and

''(IV) leased employees (as defined in section 414(n)(2) of that Code) shall be treated as employees of the person for whom they perform services to the extent they are so

1 treated under section 414(n) of that
2 Code.
3 In applying sections of the Internal Reve-
4 nue Code of 1986 under this clause, the
5 Secretary shall rely upon the regulations
6 and decisions of the Secretary of the
7 Treasury respecting such sections.
8 ''(iv) GROUP HEALTH PLAN DE-
9 FINED.—For purposes of this subsection,
10 the term 'group health plan' has the mean-
11 ing given such term in section 5000(b) of
12 the Internal Revenue Code of 1986, with-
13 out regard to section 5000(d) of such
14 Code.
15 ''(v) CURRENT EMPLOYMENT STATUS
16 DEFINED.—For purposes of this sub-
17 section, an individual has 'current employ-
18 ment status' with an employer if the indi-
19 vidual is an employee, is the employer, or
20 is associated with the employer in a busi-
21 ness relationship.
22 ''(vi) TREATMENT OF SELF-EM-
23 PLOYED PERSONS AS EMPLOYERS.—For
24 purposes of this subsection, the term 'em-
25 ployer' includes a self-employed person.''.

(2) CONFORMING AMENDMENTS FOR WORKING AGED.—Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is amended—

(A) by amending subclauses (I) and (II) of clause (i) to read as follows:

"(I) may not take into account that an individual (or the individual's spouse) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(a), and

"(II) shall provide that any individual age 65 or over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer shall be entitled to the same benefits under the plan under the same conditions as any such individual (or spouse) under age 65.";

(B) by striking clauses (ii), (iii), and (v), and

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

(3) AMENDMENTS FOR DISABLED INDIVIDUALS.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended—

(A) by amending the heading and clause (i) of paragraph (1)(B) to read as follows:

"(B) DISABLED INDIVIDUALS UNDER GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A group health plan may not take into account that an individual (or a member of the individual's family) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(b).";

(B) by striking clause (iv) of paragraph (1)(B); and

(C) in the second sentence of paragraph (2)(A), by striking "or large group health plan".

(4) AMENDMENTS FOR INDIVIDUALS WITH ESRD.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the matter preceding clause (i), by striking ''(as defined in subparagraph (A)(v))'',

(B) by striking ''solely'' each place it appears,

(C) by striking ''by reason of'' and inserting ''under'' each place it appears, and

(D) by inserting ''or eligible for'' after ''entitled to'' each place it appears.

(e) SECONDARY PAYER EXEMPTION FOR MEMBERS OF RELIGIOUS ORDERS.—Effective as if included in the enactment of OBRA–1989, section 6202(e)(2) of such Act is amended by adding at the end the following: ''Such amendment also shall apply to items and services furnished before such date with respect to secondary payer cases which the Secretary of Health and Human Services had not identified as of such date.''.

(f) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

''(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part

B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.''.

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than April 1, 1994, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.''.

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provi-

sions 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).''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 1994.

(g) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (H); and

(B) by inserting after subparagraph (H) the following new subparagraph:

''(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).''.

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—Section 1842(b)(2)

(42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the Secretary shall establish standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with

regulations of the Secretary of the Treasury applicable to charges for late payments).''.

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: ''REPAYMENT REQUIRED.—''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1994.

(h) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA–1990 is amended by striking ''clauses (i) and (ii)'' and inserting ''this subparagraph''.

(2) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting '', without regard to

section 5000(d) of such Code'' before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking ''current calendar year or the preceding calendar year'' and inserting ''current calendar year and the preceding calendar year''; and

(C) in the matter in subparagraph (C) after clause (ii), by striking ''taking into account that'' and inserting ''paying benefits secondary to this title when''.

(3) Section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking ''6103(l)(12)(D)(iii)'' and inserting ''6103(l)(12)(E)(iii)''.

(4) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking ''the application of clause (iii)'' and inserting ''the second sentence'';

(B) by striking ''on individuals'' and all that follows through ''section 226A of such Act'';

(C) in clause (ii), by striking ''clause'' and inserting ''sentence'';

(D) in clause (v), by adding ''and'' at the end; and

(E) in clause (vi)—

(i) by inserting ''of such Act'' after ''1862(b)(1)(C)'', and

(ii) by striking the period at the end and inserting the following: '', without regard to the number of employees covered by such plans.''.

(5) Section 4203(d) of OBRA–1990 is amended by striking ''this subsection'' and inserting ''this section''.

(6) Except as provided in paragraph (2), the amendments made by this subsection shall be effective as if included in the enactment of OBRA–1990 and shall be executed before the amendments made by subsections (a) through (d) of this section.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ESRD AND UNIFORM SIZE RULES.—The amendments made by subsections (c) and (d) apply to items and services furnished on or after January 1, 1994.

SEC. 5074. EXTENSION OF SELF-REFERRAL BAN TO ADDITIONAL SPECIFIED SERVICES.

(a) EXTENSION TO DESIGNATED HEALTH SERVICES.—

(1) IN GENERAL.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by striking ''clinical laboratory services'' and ''CLINICAL LABORATORY SERVICES'' and inserting ''designated health services'' and ''DESIGNATED HEALTH SERVICES'', respectively, each place either appears in subsections (a)(1), (b)(2)(A)(ii), (b)(4), (d)(1), and (d)(3); and

(B) by adding at the end the following new subsection:

''(i) DESIGNATED HEALTH SERVICES DEFINED.—In this section, the term 'designated health services' means—

''(1) clinical laboratory services;

''(2) physical or occupational therapy services;

''(3) radiology or other diagnostic services;

''(4) radiation therapy services;

''(5) the furnishing of durable medical equipment;

''(6) the furnishing of parenteral and enteral nutrition nutrients, supplies, and equipment;

''(7) home health services; and

''(8) home infusion therapy services.''.

(2) CONFORMING AMENDMENTS.—Section 1877 is further amended—

(A) in subsection (g)(1), by striking ''clinical laboratory service'' and inserting ''designated health service'', and

(B) in subsection (h)(7)(B), by striking ''clinical laboratory service'' and inserting ''designated health service''.

(b) MULTIPLE LOCATIONS FOR GROUP PRACTICES.—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C. 1395nn(b)(2)(A)(ii)(II)) is amended by striking ''centralized provision'' and inserting ''provision of some or all''.

(c) TREATMENT OF COMPENSATION ARRANGEMENTS.—

(1) RENTAL OF OFFICE SPACE AND EQUIPMENT.—Paragraph (1) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

''(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

''(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

''(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

1 "(ii) the aggregate space rented or
2 leased is reasonable and necessary for the
3 legitimate business purposes of the lease or
4 rental and is used exclusively by the lessee
5 when being used by the lessee,
6 "(iii) the lease provides for a term of
7 rental or lease for at least one year,
8 "(iv) the rental charges over the term
9 of the lease are set in advance, are consist-
10 ent with fair market value, and are not de-
11 termined in a manner that takes into ac-
12 count the volume or value of any referrals
13 or other business generated between the
14 parties,
15 "(v) the lease would be commercially
16 reasonable even if no referrals were made
17 between the parties,
18 "(vi) the lease covers all of the prem-
19 ises leased between the parties for the pe-
20 riod of the lease, and
21 "(vii) the compensation arrangement
22 meets such other requirements as the Sec-
23 retary may impose by regulation as needed
24 to protect against program or patient
25 abuse.

"(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

"(ii) the equipment rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease of at least one year,

"(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the equipment leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(2) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Section 1877(e)(2) (42 U.S.C. 1395nn(e)(2)) is amended—

(A) by striking "AND SERVICE" and "WITH HOSPITALS";

(B) by striking "An arrangement" and all that follows through "if" and inserting "Any amount paid by an employer to a physician (or immediate family member) who has a bona fide employment relationship with the employer for the provision of services if";

(C) in subparagraphs (A), (B), and (D), by striking "arrangement" and inserting "employment";

(D) in subparagraph (C), by striking "to the hospital"; and

(E) by adding at the end the following:

"Subparagraph (B)(ii) shall not be construed as prohibiting the payment of remuneration in the form of shares of overall profits or in the form of a productivity bonus based on services performed personally by the physician or member, if the amount of the remuneration is not determined in a manner that takes into account directly the volume or value of any referrals by the referring physician.".

(3) PERSONAL SERVICE ARRANGEMENTS.—Section 1877(e) is further amended by adding at the end the following new paragraph:

"(7) PERSONAL SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

"(A) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

"(B) the arrangement covers all of the services to be provided,

"(C) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

"(D) the term of the arrangement is for at least one year,

"(E) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(F) the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement of other activity that violates any State or Federal law, and

"(G) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(4) ADDITIONAL EXCEPTIONS.—Section 1877(e) is further amended by adding at the end the following new paragraphs:

"(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

"(A) to a laboratory in exchange for the provision of clinical laboratory services, or

"(B) to an entity as compensation for other items or services if the items or services

are furnished at a price that is consistent with fair market value.

"(9) PAYMENTS FOR PATHOLOGY SERVICES OF A GROUP PRACTICE.—Payments made to a group practice for pathology services under an agreement if—

"(A) the agreement is set out in writing and specifies the services to be provided by the parties and the compensation for services provided under the agreement,

"(B) the compensation paid over the term of the agreement is consistent with fair market value and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(C) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity, and

"(D) the compensation arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(4) REFERRING PHYSICIANS.—Section 1877(h)(7)(C) (42 U.S.C. 1395nn(h)(7)(C)) is amended—

(A) by inserting ''a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy,'' after ''examination services,'', and

(B) by inserting '', radiologist, or radiation oncologist'' after ''pathologist'' the second place it appears.

(d) TREATMENT OF GROUP PRACTICES.—

(1) USE OF BILLING NUMBERS, ETC.—Section 1877 is amended—

(A) in subsection (b)(2)(B), by inserting ''under a billing number assigned to the group practice'' after ''member'',

(B) in subsection (h)(4)(B), by inserting ''and under a billing number assigned to the group'' after ''in the name of the group'', and

(C) in subsection (h)(4)(C), by striking ''by members of the group''.

(2) TREATMENT OF SERVICES UNDER ARRANGEMENTS BETWEEN HOSPITALS AND GROUP PRACTICES.—

(A) IN GENERAL.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

(i) in subparagraph (B) (as amended by paragraph (1)(B)), by inserting ''(or are billed in the name of a hospital for which the group provides designated health services pursuant to an arrangement that meets the requirements of subparagraph (B))'' after ''assigned to the group'';

(ii) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(iii) by inserting ''(A)'' after ''.—''; and

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

''(B) The requirements of this subparagraph, with respect to an arrangement for designated health services provided by the group and billed in the name of a hospital, are that—

''(i) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3);

"(ii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

"(iii) the group provides substantially all of the designated health services to the hospital's patients;

"(iv) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement;

"(v) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;

"(vi) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(vii) the arrangement between the parties meets such other requirements as the Secretary

may impose by regulation as needed to protect against program or patient abuse.''.

(B) CONFORMING AMENDMENT.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by inserting ''(or by a hospital for which such a group practice provides designated health services pursuant to an arrangement that meets the requirements of subsection (h)(4)(B))'' before '', or by an entity''.

(3) TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.—The last sentence of section 1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as redesignated by paragraph (2)(A), is amended by inserting '', institution of higher education, or medical school'' after ''hospital''.

(e) EXPANDING RURAL PROVIDER EXCEPTION TO COVER COMPENSATION ARRANGEMENTS.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(A) by redesignating paragraph (5) as paragraph (7), and

(B) by inserting after paragraph (4) the following new paragraph:

''(5) RURAL PROVIDERS.—In the case of designated services if—

"(A) the entity furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)), and

"(B) substantially all of the services furnished by the entity to individuals entitled to benefits under this title are furnished to such individuals who reside in such a rural area.".

(2) CONFORMING AMENDMENTS.—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

(f) EXCEPTION FOR SHARED FACILITY LABORATORY SERVICES.—

(1) IN GENERAL.—Section 1877 is amended—

(A) in subsection (b), as amended by subsection (e)(1), by inserting after paragraph (5) the following new paragraph:

"(6) SHARED FACILITY LABORATORY SERVICES.—

"(A) IN GENERAL.—In the case of shared facility laboratory services of a shared facility—

"(i) that are furnished—

"(I) personally by the referring physician who is a shared facility phy-

sician or personally by an individual supervised by such a physician or by another shared facility physician and employed under the shared facility arrangement,

"(II) by a shared facility in a building in which the referring physician furnishes physician's services unrelated to the furnishing of shared facility laboratory services, and

"(III) to a patient of a shared facility physician; and

"(ii) that are billed by the referring physician or by an entity that is wholly owned by such physician.

"(B) LIMITATION.—The exception under this paragraph shall only apply to a shared facility only if the facility and the shared facility arrangement were established as of June 26, 1992."; and

(B) in subsection (h), by adding at the end the following new paragraph:

"(8) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY LABORATORY SERVICES.—The term 'shared facility laboratory services' means, with respect to a shared facility, clinical laboratory services furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility laboratory services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician who has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility laboratory services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility laboratory services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance

with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(2) GAO STUDY OF SHARED FACILITY ARRANGEMENTS.—

(A) IN GENERAL.—The Comptroller General shall analyze the effect on the utilization of health services of shared facility arrangements for which an exception is provided under the amendments made by paragraph (1). The analysis shall include a review of the effect of the limitation, described in section 1877(b)(6)(B) of the Social Security Act (as added by paragraph (1)), with respect to such exception and on the availability of services (including hematology services).

(B) REPORT.—Not later than January 1, 1995, the Comptroller General shall submit a report to Congress on the analysis conducted under subparagraph (A). The report shall include recommendations with respect to changing the limitation.

(g) EXEMPTION OF COMPENSATION ARRANGEMENTS INVOLVING CERTAIN TYPES OF REMUNERATION.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) by striking subparagraph (B);

(2) in subparagraph (A), by inserting before the period the following: ''(other than an arrangement involving only remuneration described in subparagraph (B))''; and

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

''(B) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

''(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly performed tests or procedures, or the correction of minor billing errors.

''(ii) The provision of items, devices, or supplies that are used solely to—

''(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

''(II) communicate the results of tests or procedures for such entity.''.

(h) EXCEPTION FOR PUBLICLY-TRADED SECURITIES.—Section 1877(c)(2) (42 U.S.C. 1395nn(d)(2)) is amended by striking ''total assets exceeding $100,000,000'' and inserting ''stockholder equity exceeding $75,000,000''.

(i) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (b)(2)(A)(i), in subparagraph (A)(i), by striking ''who are employed by such physician or group practice and who are personally'' and inserting ''who are directly'';

(2) in the fourth sentence of subsection (f)—

(A) by striking ''provided'' and inserting ''furnished'', and

(B) by striking ''provides'' and inserting ''furnish'';

(3) in the fifth sentence of subsection (f)—

(A) by striking ''providing'' each place it appears and inserting ''furnishing'',

(B) by striking ''with respect to the providers'' and inserting ''with respect to the entities'', and

(C) by striking ''diagnostic imaging services of any type'' and inserting ''magnetic reso-

nance imaging, computerized axial tomography scans, and ultrasound services''; and

(4) in subsection (a)(2)(B), by striking ''subsection (h)(1)(A)'' and inserting ''subsection (h)(1)''.

(j) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply with respect to a referral by a physician for designated health services (as described in section 1877(i) of the Social Security Act) made after December 31, 1994.

(2) The amendments made by this section (other than subsection (a)) shall apply to referrals made on or after January 1, 1992.

SEC. 5075. REDUCTION IN PAYMENT FOR ERYTHROPOIETIN.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(1) by striking ''1991'' and inserting ''1994'', and

(2) by striking ''$11'' and inserting ''$10''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to erythropoietin furnished after 1993.

SEC. 5076. MEDICARE HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT ORGANIZATIONS.

(a) IN GENERAL.—Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) 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) in the case of a hospital or rural primary care hospital that has in effect an agreement (described in section 371(b)(3)(A) of the Public Health Service Act) with an organ procurement organization, the agreement is with such organization for the service area in which the hospital is located (as established under such section).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to hospitals participating in the programs under titles XVIII and XIX of the Social Security Act as of January 1, 1994.

SEC. 5077. EXTENSION OF WAIVER FOR WATTS HEALTH FOUNDATION.

Section 9312(c)(3)(D) of OBRA–1986, as added by section 4018(d) of OBRA–1987 and as amended by sec-

tion 6212(a)(1) of OBRA–1989, is amended by striking ''1994'' and inserting ''1996''.

SEC. 5078. IMPROVED OUTREACH FOR QUALIFIED MEDICARE BENEFICIARIES.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 5079. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.

(a) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of OBRA–1987, as amended by section 4207(b)(4) of OBRA–1990, is amended—

(1) in paragraph (1) by striking ''December 31, 1995'' and inserting ''December 31, 1997''; and

(2) in paragraph (4) by striking ''March 31, 1996'' and inserting ''March 31, 1998''.

(b) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, is amended—

(1) in the last sentence of subsection (a) by striking ''12 months'' and inserting ''36 months''; and

(2) in subsection (b)(1)(B)—

(A) by striking ''or'' at the end of clause (iii), and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

''(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or''.

(c) EXPANSION OF NUMBER OF MEMBERS PER SITE.—The Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The section following section 4206 of OBRA–1990 is amended by striking ''SEC. 4027.'' and inserting ''SEC. 4207.'', and in this subtitle is referred to as section 4207 of OBRA–1990.

(2) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking ''12907(c)(4)(A)'' and inserting ''4207(b)(4)(B)(i)'', and

(B) by striking ''feasibilitly'' and inserting ''feasibility''.

(3) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(4) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking ''12907(c)(4)(A)'' each place it appears and inserting ''4207(b)(4)(B)''.

(5) Section 4207(c)(2) of OBRA–1990 is amended by striking ''the Committee on Ways and Means'' each place it appears and inserting ''the

Committees on Ways and Means and Energy and Commerce''.

(6) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(7) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking ''residents'' and inserting ''patients''.

(8) Section 4207(j) of OBRA–1990 is amended by striking ''title'' each place it appears and inserting ''subtitle''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

SEC. 5080. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c–13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c–3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking ''(and except as provided in section 1164)''.

(B) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (a)(1)(D)(i), by striking '', or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)'';

(ii) in subsection (a)(1), by striking clause (G);

(iii) in subsection (a)(2)(A), by striking ''to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),'';

(iv) in subsection (a)(2)(D)(i)—

(I) by striking ''related basis,'' and inserting ''related basis or'', and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting "and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding ''or'' at the end of paragraph (14),

(ii) by striking ''; or'' at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking '', with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking ''whehter'' and inserting ''whether''.

(2)(A) Subparagraph (B) of section 1154(a)(9) (42 U.S.C. 1320c–3(a)(9)) is amended to read as follows:

''(B) If the organization finds, after reasonable notice and opportunity for discussion with the physician or practitioner concerned, that the physician or

practitioner has furnished services in violation of section 1156(a), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding.''.

(B) Subparagraph (D) of section 1160(b)(1) (42 U.S.C. 1320c–9(b)(1)) is amended to read as follows:

''(D) to provide notice in accordance with section 1154(a)(9)(B);''.

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking ''amendments'' and inserting ''amendment''.

(4) Section 1160(d) (42 U.S.C. 1320c–9(d)) is amended by striking ''subpena'' and inserting ''subpoena''.

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking ''amendments'' and inserting ''amendment'' and by striking ''all''.

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act.

SEC. 5081. HOSPICE INFORMATION TO HOME HEALTH BENEFICIARIES.

(a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

"(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).".

(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 one year after the date of the enactment of this Act.

SEC. 5082. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN APPLICATION OF SECONDARY PAYER PROVISIONS.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: ''In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the area with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA–1990 is amended to read as follows:

''(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than January 1, 1995, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1996 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal made pursuant to paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after ''contributed to''.

(5) Section 4204(e)(2) of OBRA–1990 is amended by striking ''(which has a risk-sharing contract under section 1876 of the Social Security Act)''.

(6) Section 4204(f)(4) of OBRA–1990 is amended by striking ''final''.

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking ''PLAN'' and inserting ''PLAN OR A LARGE GROUP HEALTH PLAN'';

(B) by striking ''group health plan'' and inserting ''group health plan or a large group health plan'';

(C) by striking '', unless such incentive is also offered to all individuals who are eligible for coverage under the plan''; and

(D) by striking ''the first sentence of subsection (a) and other than subsection (b)'' and inserting ''subsections (a) and (b)''.

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 5083. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking ''title'' and inserting ''title (other than any fee relating to section 353 of the Public Health Service Act)''; and

(B) in the first sentence of subsection (a), by striking ''1861(s) or'' and all that follows through ''Service Act,'' and inserting ''1861(s),''.

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking ''1833(r)'' and inserting ''1833(s)''.

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by

section 5070(f)(7)(B)(iii)(II) of this subtitle, two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking ''1861(s)(2)(Q)'' and inserting ''1861(s)(2)(P)''.

(5) Section 4201(d)(2) of OBRA–1990 is amended by striking ''(B) by striking'', ''(C) by striking'', and ''(3) by adding'' and inserting ''(i) by striking'', ''(ii) by striking'', and ''(B) by adding'', respectively.

(6)(A) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after ''such review.''.

(B) Section 4207(a)(4) of OBRA–1990 is amended by striking ''this subsection'' and inserting ''paragraphs (2) and (3)''.

(C) Section 4207(b)(1) of OBRA–1990 is amended by striking ''section 3(7)'' and inserting ''section 601(a)(1)''.

(7) Section 4202 of OBRA–1990 is amended—

(A) in subsection (b)(1)(A), by striking ''home hemodialysis staff assistant'' and inserting ''qualified home hemodialysis staff assistant (as described in subsection (d))'';

(B) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(C) in subsection (c)(1)(A), by striking "skilled"; and

(D) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

CHAPTER 3—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 5091. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA–1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model

Regulation (described in subsection (m)) to incorporate'',

(ii) by striking ''(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'),'', and

(iii) by striking ''included a reference to the NAIC standards'' and inserting ''were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')'';

(B) in paragraph (1)(B)—

(i) by striking ''promulgate NAIC standards'' and inserting ''make the changes in the revised NAIC Model Regulation'',

(ii) by striking ''limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')'' and inserting ''a regulation'', and

(iii) by striking ''included a reference to the Federal standards'' and inserting ''were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')'';

(C) in paragraph (1)(C)(i), by striking ''NAIC standards or the Federal standards'' and inserting ''1991 NAIC Model Regulation or 1991 Federal Regulation'';

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking ''NAIC or Federal standards'' and inserting ''1991 NAIC Model Regulation or 1991 Federal Regulation'';

(E) in paragraph (2)(C), by striking ''(5)(B)'' and inserting ''(4)(B)'';

(F) in paragraph (4)(A)(i), by inserting ''or paragraph (6)'' after ''(B)'';

(G) in paragraph (4), by striking ''applicable standards'' each place it appears and inserting ''applicable 1991 NAIC Model Regulation or 1991 Federal Regulation'';

(H) in paragraph (6), by striking ''in regard to the limitation of benefits described in

paragraph (4)'' and inserting ''described in clauses (i) through (iii) of paragraph (1)(A)'';

(I) in paragraph (7), by striking ''policyholder'' and inserting ''policyholders'';

(J) in paragraph (8), by striking ''after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection'' and inserting ''on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)'';

(K) in paragraph (9), by adding at the end the following new subparagraph:

''(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).''; and

(L) in paragraph (10), by striking ''this subsection'' and inserting ''paragraph (1)(A)(i)''.

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking ''paragraph (2)'' and inserting ''paragraph (4)'', and

(2) in paragraph (4), by striking ''the succeeding issuer'' and inserting ''issuer of the replacement policy''.

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking ''NAIC standards or the Federal standards'' and inserting ''1991 NAIC Model Regulation or 1991 Federal Regulation'', and

(B) by striking ''after the effective date of the NAIC or Federal standards with respect to the policy'' and inserting ''on and after the effective date specified in subsection (p)(1)(C)''.

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking ''The report'' and inserting ''Each report'',

(B) by inserting ''and requirements'' after ''standards'',

(C) by striking ''and'' after ''compliance,'', and

(D) by striking the comma after ''Commissioners''.

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking ''Panel'' and inserting ''Secretary''.

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking ''the the Secretary'' and inserting ''the Secretary''.

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

''(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

''(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

''(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

''(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that

the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.'';

(B) by designating the second sentence as clause (ii) and, in such clause, by striking ''the previous sentence'' and inserting ''clause (i)'';

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking ''the previous sentence'' and inserting ''clause (i) with respect to the sale of a medicare supplemental policy'', and

(ii) by striking ''and the statement'' and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking ''65 years of age or older'',

(B) in clause (iii)(I), by striking ''another medicare'' and inserting ''a medicare'',

(C) in clause (iii)(I), by striking ''such a policy'' and inserting ''a medicare supplemental policy'',

(D) in clause (iii)(II), by striking ''another policy'' and inserting ''a medicare supplemental policy'', and

(E) by amending subclause (III) of clause (iii) to read as follows:

''(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the full amount of medicare cost-sharing as described in subparagraphs (B), (C), and (D) of section 1905(p)(3) for such individual.''.

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking ''the selling'' and inserting ''(i) the sale or issuance'', and

(ii) by inserting before the period at the end the following: '', (ii) the sale or issuance of

a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual''.

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

''(D)(i) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted with-

in the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.''.

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date of the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) (42 U.S.C. 1395ss(q)(5)(A)) are amended by striking ''of the Social Security Act''.

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking ''or sold'' and inserting ''or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))'';

(B) in paragraph (1)(A), by inserting ''for periods after the effective date of these provisions'' after ''the policy can be expected'';

(C) in paragraph (1)(A), by striking ''Commissioners,'' and inserting ''Commissioners)'';

(D) in paragraph (1)(B), by inserting before the period at the end the following: '', treating policies of the same type as a single policy for each standard package'';

(E) by adding at the end of paragraph (1) the following: ''For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies)

and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 5091(m)(4) of the Omnibus Budget Reconciliation Act of 1993.'';

(F) in the first sentence of paragraph (2)(A), by striking ''by policy number'' and inserting ''by standard package'';

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: ''Paragraph (1)(B) shall not apply to a policy until 12 months following issue.'';

(H) in the last sentence of paragraph (2)(A), by striking ''in order'' and all that follows through ''are effective'';

(I) by adding at the end of paragraph (2)(A), the following new sentence: ''In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 5091(m)(4) of the Omnibus Budget Reconciliation Act of 1993.'';

(J) in paragraph (2), by striking ''policy year'' each place it appears and inserting ''calendar year'';

(K) in paragraph (4), by striking ''February'', ''disllowance'', ''loss-ratios'' each place it appears, and ''loss-ratio'' and inserting ''October'', ''disallowance'', ''loss ratios'', and ''loss ratio'', respectively;

(L) in paragraph (6)(A), by striking ''issues a policy in violation of the loss ratio requirements of this subsection'' and ''such violation'' and inserting ''fails to provide refunds or credits as required in paragraph (1)(B)'' and ''policy issued for which such failure occurred'', respectively; and

(M) in paragraph (6)(B), by striking ''to policyholders'' and inserting ''to the policyholder or, in the case of a group policy, to the certificate holder''.

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking ''subsection (F)'' and inserting ''subparagraph (F)''.

(3) Section 4355(d) of OBRA–1990 is amended by striking ''sold or issued'' and all that follows and inserting ''issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after

the date specified in section 1882(p)(1)(C) of such Act.''.

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking ''a health maintenance organization or other direct service organization'' and all that follows through ''1833'' and inserting ''an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1994, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)''.

(2) Section 4356(b) of OBRA–1990 is amended by striking ''on the date of the enactment of this Act'' and inserting ''on the date specified in section 1882(p)(1)(C) of the Social Security Act''.

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking ''for which an application is submitted'' and inserting ''in the case of an individual for whom an application is submitted prior to or'',

(2) in paragraph (2)(A), by striking ''in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B'' and inserting ''as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B'', and

(3) in paragraph (2)(B), by striking ''before it'' and inserting ''before the policy''.

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting ''medicare supplemental'' after ''If a'',

(B) in paragraph (1), by striking ''NAIC Model Standards'' and inserting ''1991 NAIC Model Regulation or 1991 Federal Regulation'',

(C) in paragraph (1)(A), by inserting ''or agreements'' after ''contracts'',

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking ''NAIC standards'' and inserting ''standards in the 1991 NAIC

Model Regulation or 1991 Federal Regulation'', and

(E) in paragraph (2), by inserting ''the issuer'' before ''is subject to a civil money penalty''.

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c–3(a)(4)(B)) is amended—

(A) by inserting ''that is'' after ''(or'', and

(B) by striking ''1882(t)'' and inserting ''1882(t)(3)''.

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking ''Act'' and inserting ''Act)'';

(2) in subsection (b)(2)(D), by striking ''services'' and inserting ''counseling'';

(3) in subsection (b)(2)(I), by striking ''assistance'' and inserting ''referrals'';

(4) in subsection (c)(1), by striking ''and that such activities will continue to be maintained at such level'';

(5) in subsection (d)(3), by striking ''to the rural areas'' and inserting ''eligible individuals residing in rural areas'';

(6) in subsection (e)—

(A) by striking ''subsection (c) or (d)'' and inserting ''this section'',

(B) by striking ''and annually thereafter, issue an annual report'' and inserting ''and annually thereafter during the period of the grant, issue a report'', and

(C) in paragraph (1), by striking ''Statewide;'',

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: ''; MEDICARE AND MEDIGAP INFORMATION'',

(B) by inserting ''(a)'' after ''1804.'', and

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

1 "(b) The Secretary shall provide information via a
2 toll-free telephone number on the programs under this
3 title.".

4 (2) Section 1882(f) (42 U.S.C. 1395ss(f)) is
5 amended by adding at the end the following new
6 paragraph:

7 "(3) The Secretary shall provide information via a
8 toll-free telephone number on medicare supplemental poli-
9 cies (including the relationship of State programs under
10 title XIX to such policies).".

11 (3) Section 1889 (42 U.S.C. 1395zz) is re-
12 pealed.

13 (k) MAILING OF POLICIES.—Section 1882(d)(4) (42
14 U.S.C. 1395ss(d)(4)) is amended—

15 (1) in subparagraph (D), by striking ", if such
16 policy" and all that follows up to the period at the
17 end, and

18 (2) by adding at the end the following new sub-
19 paragraph:

20 "(E) Subparagraph (A) shall not apply in the case
21 of an issuer who mails or causes to be mailed a policy,
22 certificate, or other matter solely to comply with the re-
23 quirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1994, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1994, and who were not covered under such section before January 1,

1994, the 6-month period specified in that section shall begin January 1, 1994).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with ''unless'', such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such para-

graph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1994 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 on or after January 1, 1994. 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.

Subtitle B—Medicaid Program and Other Health Care Provisions

SEC. 5100. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment 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 that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", and "OBRA–1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omni-

1 bus Budget Reconciliation Act of 1987 (Public Law 100–
2 203), the Omnibus Budget Reconciliation Act of 1989
3 (Public Law 101–239), and the Omnibus Budget Rec-
4 onciliation Act of 1990 (Public Law 101–508), respec-
5 tively.

6 (c) TABLE OF CONTENTS OF SUBTITLE.—The table
7 of contents of this subtitle is as follows:

Subtitle B—Medicaid Program and Other Health Care Provisions

Sec. 5100. References in subtitle; table of contents of subtitle.

CHAPTER 1—MEDICAID PROGRAM

SUBCHAPTER A—PROGRAM SAVINGS PROVISIONS

PART I—REPEAL OF MANDATE

Sec. 5101. Personal care services furnished outside the home as optional benefit.

PART II—OUTPATIENT PRESCRIPTION DRUGS

Sec. 5106. Permitting prescription drug formularies under State plans.
Sec. 5107. Elimination of special exemption from prior authorization for new drugs.
Sec. 5108. Technical corrections relating to section 4401 of OBRA–1990.

PART III—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

Sec. 5111. Transfer of assets.
Sec. 5112. Medicaid estate recoveries.
Sec. 5113. Closing loophole permitting wealthy individuals to qualify for medicaid.

PART IV—IMPROVEMENT IN IDENTIFICATION AND COLLECTION OF THIRD PARTY PAYMENTS

Sec. 5116. Liability of third parties to pay for care and services.
Sec. 5117. Health Coverage Clearinghouse.

"TITLE XXI—HEALTH COVERAGE CLEARINGHOUSE

"Sec. 2101. Establishment of clearinghouse.
"Sec. 2102. Provision of information.
"Sec. 2103. Requirement that employers furnish information.
"Sec. 2104. Data bank.".

Sec. 5118. Medical child support.

PART V—ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS

Sec. 5121. Assuring proper payments to disproportionate share hospitals.

SUBCHAPTER B—MISCELLANEOUS PROVISIONS

PART I—ANTI-FRAUD AND ABUSE PROVISIONS

Sec. 5131. Application of medicare rules limiting certain physician referrals.
Sec. 5132. Intermediate sanctions for kickback violations.
Sec. 5133. Requiring maintenance of effort for State medicaid fraud control units.

PART II—MANAGED CARE PROVISIONS

Sec. 5135. Medicaid managed care anti-fraud provisions.
Sec. 5136. Clarification of treatment of HMO enrollees in computing the medicaid inpatient utilization rate in qualifying hospitals as disproportionate share hospitals.
Sec. 5137. Extension of period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.
Sec. 5138. Extension of medicaid waiver for Tennessee Primary Care Network.
Sec. 5139. Waiver of application of medicaid enrollment mix requirement to District of Columbia Chartered Health Plan, Inc.
Sec. 5140. Extension of Minnesota Prepaid Medicaid Demonstration Project.

PART III—EMERGENCY SERVICES TO UNDOCUMENTED ALIENS

Sec. 5141. Increase in Federal financial participation for emergency medical assistance to undocumented aliens.
Sec. 5142. Limiting Federal medicaid matching payment to bona fide emergency services for undocumented aliens.

PART IV—MISCELLANEOUS PROVISIONS

Sec. 5144. Increase in limit on Federal medicaid matching payments to Puerto Rico and other territories.
Sec. 5145. Criteria for making determinations of denial of Federal medicaid matching payments to States.
Sec. 5146. Renewal of unfunded demonstration project for low-income pregnant women and children.
Sec. 5147. Optional medicaid coverage of TB-related services for certain TB-infected individuals.
Sec. 5148. Application of mammography certification requirements under the medicaid program.
Sec. 5149. Removal of sunset on extension of eligibility for working families.
Sec. 5150. Extension of moratorium on treatment of certain facilities as institutions for mental diseases.
Sec. 5150A. Treatment of certain clinics as federally-qualified health centers.
Sec. 5150B. Nursing home reform.

SUBCHAPTER C—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA–1990

Sec. 5151. Effective date.

Sec. 5152. Corrections relating to section 4402 (enrollment under group health plans).
Sec. 5153. Corrections relating to section 4501 (low-income medicare beneficiaries).
Sec. 5154. Corrections relating to section 4601 (child health).
Sec. 5155. Corrections relating to section 4602 (outreach locations).
Sec. 5156. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).
Sec. 5157. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).
Sec. 5158. Corrections relating to section 4704 (Federally-qualified health centers).
Sec. 5159. Corrections relating to section 4708 (substitute physicians).
Sec. 5160. Corrections relating to section 4711 (home and community care for frail elderly).
Sec. 5161. Corrections relating to section 4712 (community supported living arrangements services).
Sec. 5162. Correction relating to section 4713 (COBRA continuation coverage).
Sec. 5163. Correction relating to section 4716 (medicaid transition for family assistance).
Sec. 5164. Corrections relating to section 4723 (medicaid spenddown option).
Sec. 5165. Corrections relating to section 4724 (optional State disability determinations).
Sec. 5166. Correction relating to section 4732 (special rules for health maintenance organizations).
Sec. 5167. Corrections relating to section 4741 (home and community-based waivers).
Sec. 5168. Corrections relating to section 4744 (frail elderly waivers).
Sec. 5169. Corrections relating to section 4747 (coverage of HIV-positive individuals).
Sec. 5170. Correction relating to section 4751 (advance directives).
Sec. 5171. Corrections relating to section 4752 (physicians' services).
Sec. 5172. Corrections relating to section 4801 (nursing home reform).
Sec. 5173. Other technical corrections.
Sec. 5174. Corrections to designations of new provisions.

CHAPTER 2—UNIVERSAL ACCESS TO CHILDHOOD IMMUNIZATIONS

Sec. 5181. Establishment of entitlement and monitoring programs with respect to childhood immunizations.

"Subtitle 3—Entitlement and Monitoring Programs With Respect to Childhood Immunizations

"PART A—ENTITLEMENT PROGRAM

"Sec. 2151. Delivery to States of sufficient quantities of pediatric vaccines.
"Sec. 2152. Entitlements.
"Sec. 2153. Voluntary participation of health care providers.
"Sec. 2154. Intrastate distribution of pediatric vaccines.
"Sec. 2155. General provisions.
"Sec. 2156. State option regarding immunization of additional categories of children.
"Sec. 2157. State application for vaccines.
"Sec. 2158. Contracts with manufacturers of pediatric vaccines.
"Sec. 2159. Certain administrative variations.

"Sec. 2160. List of pediatric vaccines; schedule for administration.
"Sec. 2161. Childhood Immunization Trust Fund.
"Sec. 2162. Definitions.
"Sec. 2163. Termination of program.

"PART B—NATIONAL SYSTEM FOR MONITORING IMMUNIZATION STATUS OF CHILDREN

"Sec. 2171. Formula grants for State registries with respect to monitoring.
"Sec. 2172. Registry data.
"Sec. 2173. General provisions.
"Sec. 2174. Application for grant.
"Sec. 2175. Determination of amount of allotment.
"Sec. 2176. Definitions.
"Sec. 2177. Authorization of appropriations.

"PART C—FUNDING FOR OTHER PURPOSES REGARDING CHILDHOOD IMMUNIZATIONS

"Sec. 2181. Grants regarding Year 2000 health objectives.

Sec. 5182. National Vaccine Injury Compensation Program amendments.
Sec. 5183. Medicaid immunization provisions.
Sec. 5184. Availability of medicaid payments for childhood vaccine replacement programs.
Sec. 5185. Healthy start for infants.
Sec. 5186. Increase in authorization of appropriations for the Maternal and Child Health Services Block Grant Program.
Sec. 5187. Miscellaneous technical corrections to Public Health Service Act provisions.

CHAPTER 1—MEDICAID PROGRAM

Subchapter A—Program Savings Provisions

PART I—REPEAL OF MANDATE

SEC. 5101. PERSONAL CARE SERVICES FURNISHED OUTSIDE THE HOME AS OPTIONAL BENEFIT.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 5174(c)(1), is further amended—

(1) in paragraph (7), by striking "including personal care services" and all that follows through "nursing facility";

(2) in paragraph (23), by striking ''and'' at the end;

(3) by redesignating paragraph (24) as paragraph (25); and

(4) by inserting after paragraph (23) the following new paragraph:

''(24) personal care services furnished to an individual who is not an inpatient or resident of a nursing facility that are (A) authorized by a physician for the individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; and''.

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 5174(c)(2)(A), is amended by striking ''through (23)'' and inserting ''through (24)''.

(2) Section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 5174(c)(2)(B), is amended by striking ''through (24)'' and inserting ''through (25)''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 4721(a) of OBRA–90.

PART II—OUTPATIENT PRESCRIPTION DRUGS

SEC. 5106. PERMITTING PRESCRIPTION DRUG FORMULARIES UNDER STATE PLANS.

(a) ELIMINATION OF PROHIBITION AGAINST USE OF FORMULARIES.—Paragraph (54) of section 1902(a)(54) (42 U.S.C. 1396a(a)(54)) is amended to read as follows:

"(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;".

(b) STANDARDS FOR FORMULARIES.—Section 1927(d) (42 U.S.C. 1396r–8(d)), as amended by sections 5107(a) and 5108(b)(4)(A)(iii), is amended—

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

"(C) In the case of a State that establishes a formulary in accordance with paragraph (5), the State may exclude coverage of a covered outpatient drug that is not included in the formulary."; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary only if the following requirements are met:

"(A) The formulary is established by a committee consisting of physicians, phar-

1 macists, and other appropriate individuals ap-
2 pointed by the Governor of the State (or, at the
3 option of the State, the State's drug use review
4 board established under subsection (g)(3)).
5 "(B) Except as provided in subparagraph
6 (C), the formulary includes the covered out-
7 patient drugs of any manufacturer which has
8 entered into and complies with an agreement
9 under subsection (a).
10 "(C) The committee may exclude a covered
11 outpatient drug with respect to the treatment of
12 a specific disease or condition for an identified
13 population (if any) only if the committee finds,
14 based on the drug's labeling (or, in the case of
15 a drug whose prescribed use is not approved
16 under the Federal Food, Drug, and Cosmetic
17 Act but is a medically accepted indication,
18 based on information from the appropriate com-
19 pendia described in subsection (k)(6)), that the
20 excluded drug does not have a significant, clini-
21 cally meaningful therapeutic advantage in terms
22 of safety, effectiveness, or clinical outcome of
23 such treatment for such population over other
24 drugs included in the formulary.

"(D) With respect to a decision to exclude a covered outpatient drug from the formulary or a prescribed use of such a drug, the committee issues a written explanation of its decision that is available to the public, unless the decision was made at a meeting of the committee which was open to the public.

"(E) The manufacturer of the drug, and any person affected by the decision, may obtain a reversal of the committee's decision to exclude a covered outpatient drug from the formulary under subparagraph (C) on the ground that the decision was arbitrary and capricious, in accordance with an appeals process that is established by the State and that provides an opportunity for judicial review of such decision.

"(F) The State plan permits coverage of a drug excluded from the formulary pursuant to a prior authorization program that is consistent with paragraph (4).

"(G) The formulary meets such other requirements as the Secretary may impose.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or

not regulations to carry out such amendments have been promulgated by such date.

SEC. 5107. ELIMINATION OF SPECIAL EXEMPTION FROM PRIOR AUTHORIZATION FOR NEW DRUGS.

(a) IN GENERAL.—Section 1927(d) (42 U.S.C. 1396r–8(d)), as amended by section 5108(b)(4)(A)(iii), is amended by striking paragraph (5).

(b) CONFORMING AMENDMENT.—Section 1927(d)(3) (42 U.S.C. 1396r–8(d)(3)) is amended by striking ''(except with respect'' and all that follows through ''of this paragraph)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 5108. TECHNICAL CORRECTIONS RELATING TO SECTION 4401 OF OBRA–1990.

(a) SECTION 1903, SSA.—Paragraph (10) of section 1903(i), as inserted by section 4401(a)(1)(B) of OBRA–1990, is amended to read as follows:

''(10) with respect to covered outpatient drugs unless there is a rebate agreement in effect under section 1927 with respect to such drugs or unless section 1927(a)(3) applies;''.

(b) SECTION 1927, SSA.—(1) Section 1927(a) (42 U.S.C. 1396r–8(a)) is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows: ''Any such agreement entered into prior to April 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.'', and

(ii) in the third sentence, by striking ''March'' and inserting ''April'';

(B) in paragraph (2)—

(i) by striking ''first'', and

(ii) by striking the period at the end and inserting the following: '', except that such paragraph (and section 1903(i)(10)(A)) shall not apply to the dispensing of such a drug before April 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.'';

(C) in paragraph (3), by striking ''single source'' and all that follows and inserting the following: ''covered outpatient drugs if—

"(A) based on information provided by a beneficiary's physician, the State has made a determination that the availability of the drug is essential to the health of the beneficiary under the State plan, and the Secretary has reviewed and approved such determination; and

"(B) the drug has been given a rating of 1–A by the Food and Drug Administration.";

(D) in paragraph (4)—

(i) by striking "in compliance with" and inserting "in effect under", and

(ii) by striking "coverage of the manufacturer's drugs" and inserting "ingredient costs of the manufacturer's covered outpatient drugs covered"; and

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

"(5) 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 requirements 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.".

(2) Section 1927(b) (42 U.S.C. 1396r–8(b)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "(or periodically in accordance with a schedule specified by the Secretary)" and inserting "(or other period specified by the Secretary)", and

(ii) by inserting "after December 31, 1990, for which payment was made" after "dispensed";

(B) in paragraph (2)(A)—

(i) by striking "calendar quarter" and "the quarter" and inserting "rebate period" and "the period", respectively,

(ii) by striking ''dosage units'' and inserting ''units of each dosage form and strength'', and

(iii) by inserting ''after December 31, 1990, for which payment was made'' after ''dispensed'';

(C) in paragraph (3)(A)—

(i) in clause (i), by striking ''quarter'' each place it appears and inserting ''calendar quarter or other rebate period under the agreement'',

(ii) in clause (i), by striking the open parenthesis before ''for'' and the close parenthesis after ''drugs'',

(iii) in clause (i), by striking ''subsection (c)(2)(B)) for covered outpatient drugs'' and inserting ''subsection (c)(1)(C) for each covered outpatient drug'', and

(iv) in clause (ii), by inserting a comma after ''this section'' and after ''1990'';

(D) in paragraph (3)(B)—

(i) by striking ''$100,000'' and inserting ''$10,000'',

(ii) by striking ''if the wholesaler'' and inserting ''for each instance in which the wholesaler'',

(iii) by inserting ''in response to such a request'' after ''false information'', and

(iv) by striking ''(with respect to amounts of penalties or additional assessments)'';

(E) in paragraph (3)(C)—

(i) in clause (i), by striking ''the penalty'' and inserting ''the rebate next required to be paid'',

(ii) in clause (i), by striking ''and such amount shall be paid to the Treasury, and, if'' and inserting ''. If'',

(iii) in clause (ii), by inserting ''under subparagraph (A)'' after ''provides false information'', and

(iv) in clause (ii), by striking ''Such civil money penalties are'' and inserting ''Any such civil money penalty shall be'';

(F) in paragraph (3)(D), by striking ''wholesaler,'' the first place it appears and inserting ''wholesaler or the''; and

(G) in paragraph (4)(B)(iii), by adding at the end the following: ''In the case of such a termination, a State may terminate coverage of the drugs affected by such termination as of the effective date

of such termination without providing any advance notice otherwise required by regulation.''.

(3) Section 1927(c) (42 U.S.C. 1396r–8(c)) is amended—

(A) in paragraph (1) in the matter preceding subparagraph (A)—

(i) by striking the first sentence,

(ii) in the second sentence, by striking ''Except as otherwise provided'' and all that follows through ''the Secretary)'' and inserting the following: ''For purposes of this section, the amount of the rebate under this subsection for a rebate period'', and

(iii) by inserting ''(except as provided in subsection (b)(3)(C) and paragraph (2))'' after ''drugs shall'';

(B) in paragraph (1)(A), by striking ''the quarter (or other period)'' and inserting ''the rebate period'';

(C) in subparagraph (C)—

(i) by striking ''For purposes of this paragraph'' and inserting ''BEST PRICE DEFINED.—For purposes of this section'',

(ii) by inserting ''provider,'' after ''retailer,'', and

(iii) by striking the semicolon at the end and inserting a period; and

(D) by striking subparagraph (D) and inserting the following:

"(D) USE OF ESTIMATED BEST PRICES DURING INITIAL YEAR OF AVAILABILITY OF DRUG.—If the Secretary determines that a manufacturer cannot determine the best price for rebate periods during the first year in which an agreement is in effect until after the end of the year, as part of the agreement the Secretary may require the manufacturer to estimate the best price for rebate periods during the year and provide an adjustment to the rebate paid to the State to take into account the difference (if any) between the best price and the estimated best price.".

(4)(A) Section 1927(d) (42 U.S.C. 1396r–8(d)) is amended—

(i) in paragraph (2)—

(I) in subparagraph (A), by inserting "or loss" after "gain",

(II) by striking subparagraph (I), and

(III) by redesignating subparagraphs (J) and (K) as subparagraphs (I) and (J);

(ii) in paragraph (3)—

(I) by striking ''described in paragraph (2)'', and

(II) by inserting ''described in paragraph (2)'' after ''classes of drugs,'';

(iii) by striking paragraph (4) and by redesignating paragraphs (5) through (7) as paragraphs (4) through (6);

(iv) in paragraph (6), as so redesignated, by striking ''provided'' and inserting ''if''; and

(v) by striking the second sentence of paragraph (6), as so redesignated, and paragraph (8) and inserting the following:

''(7) CONSTRUCTION WITH RESPECT TO FRAUD AND ABUSE.—Nothing in this section shall be construed to restrict the authority of a State to apply sanctions under this Act against any person for fraud or abuse.''.

(B) Section 1927(d)(4), as redesignated by subparagraph (A)(iii), shall first apply to drugs dispensed on or after July 1, 1991.

(5)(A) Section 1927(f) (42 U.S.C. 1396r–8(f)) is amended to read as follows:

''(f) NO REDUCTIONS IN PHARMACY REIMBURSEMENT LIMITS.—

"(1) IN GENERAL.—During the period beginning on November 5, 1990, and ending on December 31, 1994—

"(A) a State may not reduce the amount paid by the State under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug below the amount in effect as of November 5, 1990, and

"(B) the Secretary may not change the regulations in effect on November 5, 1990, governing the amounts described in subparagraph (A) which are eligible for Federal financial participation, to reduce the reimbursement limits described in such regulations.

"(2) CONSTRUCTION.—If the Secretary notified a State before November 5, 1990, that its payment amounts under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug were in excess of those permitted under regulations in effect on such date, paragraph (1)(B) shall not be construed as preventing a State from reducing payment amounts or dispensing fee in order to comply with such regulations.".

(B) Not later than April 1, 1994, the Secretary of Health and Human Services shall establish an upper limit on the amount of payment which is eligible for Federal financial participation under title XIX of the Social Security Act for each multiple source drug (as defined in section 1927(k)(7)(A)(i) of such Act) for which the Food and Drug Administration has rated at least 3 formulations of such drug as therapeutically and pharmaceutically equivalent, regardless of whether all the formulations of such drug are rated as so equivalent. In establishing such a limit for a drug, the Secretary shall take into account only those formulations of the drug which the Food and Drug Administration has rated as therapeutically and pharmaceutically equivalent.

(6) Section 1927(g) (42 U.S.C. 1396r–8(g)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) REQUIREMENT FOR DRUG USE REVIEW PROGRAM.—Each State shall provide, by not later than January 1, 1993, for a drug use review program for covered outpatient drugs (other than drugs dispensed to residents of nursing facilities) that—

"(A) meets the requirements of paragraph (2), and

"(B) is intended to assure that prescriptions for such drugs are appropriate, medically necessary, and not likely to lead to adverse medical results.";

(B) in paragraph (2)—

(i) by amending the matter before subparagraph (A) to read as follows:

"(2) REQUIREMENTS.—",

(ii) by amending subparagraph (A) to read as follows:

"(A) PROSPECTIVE DRUG USE REVIEW.—Each drug use review program shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title (including counseling by pharmacists) consistent with standards established by the Secretary. Nothing in this paragraph shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.",

(iii) in subparagraph (C)—

(I) by striking ''APPLICATION OF STANDARDS.—'' and inserting ''STANDARDS.—(i)'',

(II) by striking ''and literature referred to in subsection (1)(B)'' and inserting ''described in clause (ii)'',

(III) by striking ''including but not limited to'' and inserting ''. Such assessment shall include'',

(IV) by striking ''abuse/misuse and, as necessary, introduce remedial strategies,'' and inserting ''abuse or misuse and introduce remedial strategies'', and

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

''(ii) The compendia described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, and the American Medical Association Drug Evaluations.'', and

(iv) by amending subparagraph (D) to read as follows:

''(D) EDUCATIONAL PROGRAM.—The program shall educate (directly or by contract)

pharmacists, physicians, and other individuals prescribing or dispensing covered outpatient drugs under the State plan on common drug therapy problems in order to improve prescribing or dispensing practices.'';

(C) in paragraph (3)—

(i) in subparagraph (A), by striking ''(hereinafter'' and all that follows and inserting ''(in this paragraph referred to as the 'DUR Board').'',

(ii) in subparagraph (B), by striking ''51 percent'' and all that follows and inserting ''50 percent licensed and actively practicing physicians and at least 1/3 but not more than 50 percent licensed and actively practicing pharmacists.'',

(iii) by amending subparagraph (C) to read as follows:

''(C) RESPONSIBILITIES.—The responsibilities of the DUR Board shall include the following:

''(i) Carrying out retrospective drug use review pursuant to paragraph (2)(B).

"(ii) Establishing and applying standards for drug use review described in paragraph (2)(C).

"(iii) Implementing educational programs described in paragraph (2)(D).

"(iv) Conducting ongoing evaluations of the effectiveness of its programs and activities in improving the quality and safety of drug therapy for individuals receiving benefits under the State plan."; and

(D) by amending subparagraph (D) to read as follows:

"(4) ANNUAL REPORT.—Each State shall submit a report each year to the Secretary on the nature and scope of the drug use review program under this subsection. Such report shall include an estimate of cost savings resulting from operation of such program.".

(7) Section 1927(h) (42 U.S.C. 1396r–8(h)) is amended to read as follows:

"(h) ENCOURAGING ELECTRONIC CLAIMS MANAGEMENT.—The Secretary shall encourage each single State agency under this title to establish, as its principal means of processing claims for covered outpatient drugs, a point-of-sale electronic claims management system for the pur-

pose of verifying eligibility, transmitting data on claims, and assisting pharmacists and other authorized persons in applying for and receiving payment under the State plan.''.

(8) Section 1927(i) (42 U.S.C. 1396r–8(i)) is amended to read as follows:

''(i) ANNUAL REPORT ON REBATE PROGRAM.—Not later than May 1 of each year, the Secretary shall submit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Aging of the Senate a report on the operation of the rebate agreements required for covered outpatient drugs under this section in the preceding fiscal year, and shall include in the report such information in addition to the information required to be reported under section 601(d) of the Veterans Health Care Act of 1992 as the Secretary considers appropriate.''.

(9) Section 1927(j) (42 U.S.C. 1396r–8(j)) is amended to read as follows:

''(j) EXEMPTION FROM CERTAIN REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—

''(1) CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND PHARMACIES.—The requirements of

1 subsections (g) and (h) shall not apply with respect
2 to covered outpatient drugs dispensed by—
3 "(A) an entity which receives payment
4 under a prepaid capitation basis or under any
5 other risk basis in accordance with section
6 1903(m)(2)(A) for services provided under the
7 State plan; or
8 "(B) a pharmacy that is owned or operated
9 by a qualified health maintenance organization
10 (as defined in section 1310(d) of the Public
11 Health Service Act) that operates its own pro-
12 spective drug use review program.
13 "(2) HOSPITALS WITH INDEPENDENT FOR-
14 MULARY SYSTEMS.—
15 "(A) IN GENERAL.—The requirements of
16 subsections (g) and (h) shall not apply with re-
17 spect to covered outpatient drugs dispensed by
18 a hospital providing medical assistance under
19 the State plan that dispenses such drugs under
20 a drug formulary system.
21 "(B) APPLICATION OF STATE FOR-
22 MULARY.—Nothing in subparagraph (A) shall
23 be construed to permit payment to be made
24 under the State plan for a covered outpatient
25 drug that is included in a drug formulary but

that is not included in the State formulary under subsection (d)(5).

"(3) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in this subsection shall be construed to exclude any covered outpatient drugs subject to the provisions of this subsection from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.".

(10) Section 1927(k) (42 U.S.C. 1396r–8(k)) is amended—

(A) in paragraph (1), by striking "calendar quarter" and inserting "rebate period";

(B) in paragraph (2)—

(i) in the matter before clause (i) of subparagraph (A), by striking "paragraph (5)" and inserting "subparagraph (D)",

(ii) by striking ", and" at the end of subparagraph (A),

(iii) by striking the period at the end of subparagraph (C) and inserting "; and", and

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

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by

a physician (or other person authorized to prescribe under State law).'';

(C) in paragraph (3)—

(i) in subparagraph (E), by striking ''**** emergency room visits'',

(ii) in subparagraph (F), by striking ''sevices'' and inserting ''services'', and

(iii) in subparagraph (H), by inserting ''services'' after ''dialysis'';

(D) by striking paragraph (4);

(E) by amending paragraph (5) to read as follows:

''(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 that does not hold a National Drug Code number for the drug or a retail pharmacy licensed under State law.'';

(F) in paragraph (6), by striking '', which appears'' and all that follows and inserting ''which is

accepted by any of the compendia described in subsection (g)(2)(C)(ii).'';

(G) in paragraph (7)—

(i) in subparagraph (A)(i), by striking ''calendar quarter'' and inserting ''rebate period'',

(ii) in subparagraph (A)(i), by striking ''paragraph (5)'' and inserting ''paragraph (2)(D)'',

(iii) in subparagraph (A)(ii), by inserting ''or product licensing application'' after ''application'',

(iv) in subparagraph (C)(i), by striking ''pharmaceuutically'' and inserting ''pharmaceutically'', and

(v) in subparagraph (C)(iii), by striking '', provided that'' and inserting ''and''; and

(H) by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified with respect to the agreement under subsection (b)(1)(A) for the payment of rebates.''.

(d) FUNDING.—Section 4401(b)(2) of OBRA–1990 is amended by striking ''75 percent,'' and all that follows and inserting ''75 percent.''.

(e) DEMONSTRATION PROJECTS.—Section 4401(c)(1) of OBRA–1990 is amended—

(A) in subparagraph (A), by striking ''10'' and inserting ''5''; and

(B) in subparagraph (C), by striking ''regiment'' and inserting ''regimen''.

(f) STUDIES.—Section 4401(d) of OBRA–1990 is amended—

(1) in paragraph (1)(A), by striking ''other institutional facilities, and managed care plans'' and inserting ''nursing facilities, intermediate care facilities for the mentally retarded, and health maintenance organizations'';

(2) in paragraph (1)(B), by striking ''under this subsection'' and inserting ''under this paragraph'';

(3) in paragraph (1)(B)(i), by striking ''under this section'' and inserting ''under section 1927 of the Social Security Act'';

(4) in paragraph (1)(B)(ii)—

(A) by striking ''drug use review'' the second place it appears and inserting ''the type of drug use review that is'', and

(B) by striking ''under this section'' and inserting ''under such section'';

(5) in paragraph (1)(B)(iii), by striking ''under this title'' and inserting ''under title XIX of the Social Security Act'';

(6) in paragraph (1)(C)—

(A) by striking ''May 1, 1991'' and inserting ''May 1, 1992'', and

(B) by striking ''hereafter'';

(7) in paragraph (2), by striking ''the Committees on Aging of the Senate and House of Representatives an annual report'' and inserting ''the Committee on Aging of the Senate a report'';

(8) in paragraph (3)—

(A) in subparagraph (A), by striking '', acting in consultation with the Comptroller General,'', and

(B) in subparagraph (B)—

(i) by striking ''December 31, 1991, the Secretary and the Comptroller General'' and inserting ''June 1, 1993, the Secretary'', and

(ii) by striking ''the Committees on Aging of the Senate and the House of Representatives'' and inserting ''the Committee on Aging of the Senate'';

(9) in paragraph (4)(A), by striking ''each'' and by striking the semicolon and inserting a comma; and

(10) by striking paragraphs (5) and (6).

PART III—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

SEC. 5111. TRANSFER OF ASSETS.

(a) PERIOD OF INELIGIBILITY.—

(1) EXTENDING LOOK-BACK PERIOD TO 36 MONTHS.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended by striking ''30-month period'' and inserting ''36-month period''.

(2) ELIMINATING 30-MONTH LIMIT ON PERIOD OF INELIGIBILITY.—The second sentence of such section is amended by striking ''equal to'' and all that follows and inserting the following: ''equal to—

''(A) the total uncompensated value of the resources so transferred; divided by

''(B) the average monthly cost, to a private patient at the time of the application, of nursing facility services in the State or, at State option, in the

community in which the individual is institutionalized.''.

(3) CUMULATIVE PERIODS OF INELIGIBILITY IN THE CASE OF MULTIPLE TRANSFERS.—Such sentence is further amended by inserting ''(or, in the case of a transfer which occurs during a period of ineligibility attributable to a previous transfer, the first month after the end of all periods of ineligibility attributable to any previous transfer)'' after ''shall begin with the month in which such resources were transferred''.

(b) CRITERIA FOR UNDUE HARDSHIP EXCEPTION.—Section 1917(c)(2)(D) (42 U.S.C. 1396p(c)(2)(D)) is amended to read as follows:

''(D) the State agency determines, under procedures established by the State (in accordance with standards specified by the Secretary) that the denial of eligibility would work an undue hardship (in accordance with criteria established by the Secretary).''.

(c) TREATMENT OF JOINTLY HELD ASSETS.—Section 1917(c) (42 U.S.C. 1936p(c)) is further amended by adding at the end the following new paragraph:

''(6) For purposes of this subsection, in the case of an asset held by an individual in common with another

1 person or persons in a joint tenancy or a similar arrange-
2 ment, the asset (or the affected portion thereof) shall be
3 considered to be transferred by such individual when any
4 action is taken, either by such individual or by any other
5 person, that reduces or eliminates such individual's owner-
6 ship or control of such asset.''.

7 (d) MEDICAID QUALIFYING TRUSTS.—Section
8 1902(k) (42 U.S.C. 1396a(k)) is amended to read as fol-
9 lows:

10 ''(k) TREATMENT OF TRUST AMOUNTS.—

11 ''(1) IN GENERAL.—For purposes of determin-
12 ing an individual's eligibility for or amount of bene-
13 fits under a State plan under this title, subject to
14 paragraph (4), the following rules shall apply to a
15 trust (which term includes, for purposes of this sub-
16 section, any similar legal instrument or device, such
17 as an annuity) established by such individual:

18 ''(A) REVOCABLE TRUSTS.—In the case of
19 a revocable trust—

20 ''(i) the corpus of the trust shall be
21 considered resources available to the indi-
22 vidual,

23 ''(ii) payments from the trust to or
24 for the benefit of the individual shall be
25 considered income of the individual, and

"(iii) any other payments from the trust shall be considered a transfer of assets by the individual subject to section 1917(c).

"(B) IRREVOCABLE TRUSTS WHICH MAY BENEFIT GRANTOR.—In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual—

"(i) the corpus of the trust (or that portion of the corpus from which, or from the increase whereof, payment to the individual could be made) shall be considered resources available to the individual, and payments from that portion of the corpus (or increase)—

"(I) to or for the benefit of the individual, shall be considered income of the individual, and

"(II) for any other purpose, shall be considered a transfer of assets by the individual subject to the provisions of section 1917(c); and

"(ii) any portion of the trust from which (or from the income whereof) no

payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed), a transfer of assets by the individual subject to section 1917(c), and payments from such portion of the trust after such date shall be disregarded.

''(C) IRREVOCABLE TRUSTS WHICH CANNOT BENEFIT GRANTOR.—In the case of an irrevocable trust, if no payment may be made from the trust under any circumstances to or for the benefit of the individual—

''(i) the corpus of the trust shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed), a transfer of assets subject to section 1917(c), and

''(ii) payments from the trust after the date specified in clause (i) shall be disregarded.

''(2) DETERMINATION OF GRANTOR.—

"(A) TREATMENT OF ACTS BY INDIVIDUAL AND OTHERS.—For purposes of this subsection, an individual shall be considered to have established a trust if—

"(i) the individual (or the individual's spouse), or a person (including a court or administrative body) with legal authority to act in place of or on behalf of such individual (or spouse), or any person (including any court or administrative body) acting at the direction or upon the request of such individual (or spouse), established (other than by will) such a trust, and

"(ii) assets of the individual (as defined in subparagraph (B)) were used to form all or part of the corpus of such trust.

"(B) ASSETS.—For purposes of this paragraph, assets of an individual include all income and resources of the individual and of the individual's spouse, including any income or resources which the individual (or spouse) is entitled to but does not receive because of action by the individual (or spouse), by a person (including a court or administrative body) with legal

authority to act in place of or on behalf of such individual (or spouse), or by any person (including any court or administrative body) acting at the direction or upon the request of such individual (or spouse).

"(C) TRUSTS CONTAINING ASSETS OF MORE THAN ONE INDIVIDUAL.—In the case of a trust whose corpus includes assets of an individual (as determined pursuant to subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(3) APPLICATION; RELATION TO OTHER PROVISIONS.—Subject to paragraph (4), this subsection shall apply without regard to—

"(A) the purposes for which the trust is established,

"(B) whether the trustees have or exercise any discretion under the trust,

"(C) any restrictions on when or whether distributions may be made from the trust, or

"(D) any restrictions on the use of distributions from the trust.

"(4) EXCEPTIONS AND HARDSHIP WAIVER.—

"(A) EXCEPTION FOR CERTAIN TRUSTS.—This subsection shall not apply to any of the following trusts:

"(i) A trust established for the benefit of a disabled individual (as determined under section 1614(a)(3)) by a parent, grandparent, or other representative payee of the individual.

"(ii) A trust established in a State for the benefit of an individual if—

"(I) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),

"(II) the State will receive any amounts remaining in the trust upon the death of the individual, and

"(III) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V), but does not make such assistance available to any group of individuals under section 1902(a)(10)(C).

"(B) SPECIAL TREATMENT OF ANNUITIES.—In this subsection, the term 'trust' includes an annuity only to such extent and in such manner as the Secretary specifies.

"(C) HARDSHIP WAIVER.—The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection with respect to an individual if the individual establishes (under criteria established by the Secretary) that such application would work an undue hardship on the individual.".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall apply, except as provided in this subsection, to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before October 1, 1993,

(B) with respect to resources disposed of before May 11, 1993,

(C) with respect to trusts established before May 11, 1993, or

(D) with respect to inter-spousal transfers.

SEC. 5112. MEDICAID ESTATE RECOVERIES.

(a) REQUIRING ESTABLISHMENT OF ESTATE RECOVERY PROGRAMS.—

(1) IN GENERAL.—Section 1902(a)(51) (42 U.S.C. 1396a(a)(51)) is amended by striking ''and (B)'' and inserting ''(B) provide for an estate recovery program that meets the requirements of section 1917(b)(1), and (C)''.

(2) REQUIREMENTS FOR ESTATE RECOVERY PROGRAMS.—Section 1917(b) (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1)—

(i) by striking ''(b)(1)'' and inserting ''(2)'', and

(ii) by striking ''(a)(1)(B)'' and inserting ''(a)(1)(B)(i)'';

(B) in paragraph (2), by striking ''(2) Any adjustment or recovery under'' and inserting ''(3) Any adjustment or recovery under an estate recovery program under''; and

(C) by inserting before paragraph (2), as designated by subparagraph (A), the following:

"(b)(1) For purposes of section 1902(a)(51)(B), the requirements for an estate recovery program of a State are as follows:

"(A) The program provides for identifying and tracking (and, at the option of the State, preserving) resources (whether excluded or not) of individuals who are furnished any of the following long-term care services for which medical assistance is provided under this title:

"(i) Nursing facility services.

"(ii) Home and community-based services (as defined in section 1915(d)(5)(C)(i)).

"(iii) Services described in section 1905(a)(14) (relating to services in an institution for mental diseases).

"(iv) Home and community care provided under section 1929.

"(v) Community supported living arrangements services provided under section 1930.

"(B) The program provides for promptly ascertaining—

"(i) when such an individual dies;

"(ii) in the case of such an individual who was married at the time of death, when the surviving spouse dies; and

"(iii) at the option of the State, cases in which adjustment or recovery may not be made at the time of death because of the application of paragraph (3)(A) or paragraph (3)(B).

"(C)(i) The program provides for the collection consistent with paragraph (3) of an amount (not to exceed the amount described in clause (ii)) from—

"(I) the estate of the individual;

"(II) in the case of an individual described in subparagraph (B)(ii), from the estate of the surviving spouse; or

"(III) at the option of the State, in a case described in subparagraph (B)(iii), from the appropriate person.

"(ii) The amount described in this clause is the amount of medical assistance correctly paid under this title for long-term care services described in subparagraph (A) furnished on behalf of the individual.".

(b) HARDSHIP WAIVER.—Section 1917(b) (42 U.S.C. 1396p(b)) is further amended by adding at the end the following new paragraph:

1 ''(4) The State agency shall establish procedures (in
2 accordance with standards specified by the Secretary)
3 under which the agency waives the application of this sub-
4 section if such application would work an undue hardship
5 (in accordance with criteria established by the Sec-
6 retary).''.

7 (c) DEFINITION OF ESTATE.—Section 1917(b) (42
8 U.S.C. 1396(b)) is further amended by adding at the end
9 the following new paragraph:

10 ''(5) For purposes of this section, the term 'estate',
11 with respect to a deceased individual, includes all real and
12 personal property and other assets in which the individual
13 had any legally cognizable title or interest at the time of
14 his death, including such assets conveyed to a survivor,
15 heir, or assign of the deceased individual through joint
16 tenancy, survivorship, life estate, living trust, or other ar-
17 rangement.''.

18 (d) EFFECTIVE DATE.—

19 (1)(A) The amendments made by subsections
20 (a) and (b) apply (except as provided under subpara-
21 graph (B)) to payments under title XIX of the So-
22 cial Security Act for calendar quarters beginning on
23 or after October 1, 1993, without regard to whether
24 or not final regulations or standards to carry out

1 such amendments have been promulgated by such
2 date.
3 (B) In the case of a State plan for medical as-
4 sistance under title XIX of the Social Security Act
5 which the Secretary of Health and Human Services
6 determines requires State legislation (other than leg-
7 islation appropriating funds) in order for the plan to
8 meet the additional requirements imposed by the
9 amendments made by subsections (a) and (b), the
10 State plan shall not be regarded as failing to comply
11 with the requirements of such title solely on the
12 basis of its failure to meet these additional require-
13 ments before the first day of the first calendar quar-
14 ter beginning after the close of the first regular ses-
15 sion of the State legislature that begins after the
16 date of the enactment of this Act. For purposes of
17 the previous sentence, in the case of a State that has
18 a 2-year legislative session, each year of such session
19 shall be deemed to be a separate regular session of
20 the State legislature.
21 (2) The amendments made by this section shall
22 not apply to individuals who died before October 1,
23 1993.

SEC. 5113. CLOSING LOOPHOLE PERMITTING WEALTHY INDIVIDUALS TO QUALIFY FOR MEDICAID.

(a) IN GENERAL.—Section 1902(r)(2) (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following:

''(C)(i) Notwithstanding subparagraph (A), except as provided in clause (ii), a State plan may not provide pursuant to this paragraph for disregarding any assets—

''(I) to the extent that payments are made under a long-term care insurance policy; or

''(II) because an individual has received (or is entitled to receive) benefits for a specified period of time under a long-term care insurance policy.

''(ii) Clause (i) shall not apply to State plan provisions that are approved as of May 14, 1993.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART IV—IMPROVEMENT IN IDENTIFICATION AND COLLECTION OF THIRD PARTY PAYMENTS

SEC. 5116. LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES.

(a) LIABILITY OF ERISA PLANS.—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking ''insurers)'' and inserting ''insurers and group health plans (as defined in section 607(1) of the Employee

1 Retirement Income Security Act of 1974) and including
2 a service benefit plan and a health maintenance organiza-
3 tion)''.

4 (2) Section 1903(o) of such Act (42 U.S.C. 1396b(o))
5 is amended by striking ''regulation)'' and inserting ''regu-
6 lation and including a group health plan (as defined in
7 section 607(1) of the Employee Retirement Income Secu-
8 rity Act of 1974)), a service benefit plan, and a health
9 maintenance organization''.

10 (b) REQUIRING STATE TO PROHIBIT INSURERS
11 FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Sec-
12 tion 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

13 (1) by striking ''and'' at the end of subpara-
14 graph (F);

15 (2) by adding ''and'' at the end of subpara-
16 graph (G); and

17 (3) by adding after subparagraph (G) the fol-
18 lowing new subparagraph:

19 ''(H) that the State prohibits any health
20 insurer (including a group health plan, as de-
21 fined in section 607(1) of the Employee Retire-
22 ment Income Security Act of 1974, a service
23 benefit plan, and a health maintenance organi-
24 zation), in enrolling an individual or in making
25 any payments for benefits to the individual or

on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a State plan;''.

(c) STATE RIGHT TO SUBROGATION.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by subsection (b), is further amended—

(1) by striking ''and'' at the end of subparagraph (G);

(2) by adding ''and'' at the end of subparagraph (H); and

(3) by adding after subparagraph (H) the following new subparagraph:

''(I) that to the extent that payment has been made under the State plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State is subrogated to the right of any other party to payment for such assistance;''.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a)(1), (b), and (c) shall apply to calendar quarters beginning on or after October 1, 1993, 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 appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), 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.

(3) The amendment made by subsection (a)(2) shall apply to items and services furnished on or after October 1, 1993.

SEC. 5117. HEALTH COVERAGE CLEARINGHOUSE.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

1 "TITLE XXI—HEALTH COVERAGE
2 CLEARINGHOUSE
3 "ESTABLISHMENT OF CLEARINGHOUSE
4 "SEC. 2101. (a) IN GENERAL.—The Secretary shall
5 establish and operate a Health Coverage Clearinghouse (in
6 this title referred to as the 'Clearinghouse') for the pur-
7 pose of identifying, for beneficiaries of a covered health
8 program (as defined in subsection (c)), third parties
9 (which may include a covered health program) which may
10 be liable for payment for health care items and services
11 furnished to such beneficiaries under such program.
12 "(b) DIRECTOR.—The Clearinghouse shall be headed
13 by a Director (in this title referred to as the 'Director')
14 appointed by the Secretary.
15 "(c) COVERED HEALTH PROGRAM DEFINED.—In
16 this title, the term 'covered health program' means any
17 of the following under which payment is made for health
18 care items or services furnished to a beneficiary:
19 "(1) The medicare program under title XVIII.
20 "(2) A State plan for medical assistance under
21 title XIX (including a State plan operating under a
22 Statewide waiver under section 1115).
23 "(3) The Indian Health Service and any pro-
24 gram under the Indian Health Care Improvement
25 Act.

"(4) A State program under title V that provides payment for items or services.

"(d) OTHER DEFINITIONS.—In this title:

"(1) The term 'administrator' means, with respect to the covered health program described in—

"(A) subsection (c)(1), the Administrator of the Health Care Financing Administration;

"(B) subsection (c)(2), the single State agency referred to in section 1902(a)(5);

"(C) subsection (c)(3), the Director of the Indian Health Service; and

"(D) subsection (c)(4), the State agency receiving funds under title V.

"(2) The term 'group health plan' has the meaning given such term in section 6103(l)(12)(E)(ii) of such Code.

"(3) The term 'qualified employer' has the meaning given such term in section 6103(l)(12)(E)(iii) of the Internal Revenue Code of 1986.

"PROVISION OF INFORMATION

"SEC. 2102. (a) REQUEST FOR INFORMATION.—An administrator of a covered health program may request from the Director information concerning the employment and group health coverage of a program beneficiary, the beneficiary's spouse, and (if the beneficiary is a dependent

child) the beneficiary's parents. The Director shall provide such information if the request—

"(1) is in such form and manner and at such a time as the Director may require, and

"(2) specifies the name and tax identification number of the beneficiary.

"(b) DATA MATCHING PROGRAM.—

"(1) REQUEST BY DIRECTOR.—The Director shall, at such intervals as the Director finds appropriate, transmit to the Secretary of the Treasury the names and tax identification numbers of beneficiaries with respect to whom a request has been made pursuant to subsection (a), and request that such Secretary disclose to the Commissioner of Social Security the following information:

"(A) Whether the beneficiary is married and, if so, the name of the spouse and such spouse's tax identification number.

"(B) If the beneficiary is a dependent child, the name of and tax identification numbers of the beneficiary's parents.

"(2) INFORMATION FROM COMMISSIONER OF SOCIAL SECURITY.—The Secretary, acting through the Commissioner of Social Security, shall, upon

1 written request from the Director, disclose to the Di-
2 rector, the following information:
3 "(A) For each individual who is identified
4 as having received wages (as defined in section
5 3401(a) of the Internal Revenue Code of 1986)
6 from, and as having available coverage under a
7 group health plan of, an employer in a previous
8 year—
9 "(i) the name and taxpayer identifica-
10 tion number of the individual;
11 "(ii) the name, address, and taxpayer
12 identification number of the employer, and
13 whether such employer is a qualified em-
14 ployer; and
15 "(iii) whether the employer has made
16 available a group health plan to the em-
17 ployee and the plan coverage provided (if
18 any) with respect to the employee and fam-
19 ily members of the employee under the
20 group health plan.
21 "(B) For each individual who is identified
22 as married and whose spouse is identified as
23 having received wages (as defined in section
24 3401(a) of the Internal Revenue Code of 1986)
25 from, and as having available coverage under a

group health plan of, an employer in a previous year—

"(i) the name and taxpayer identification number of the individual and of the individual's spouse;

"(ii) the name, address, and taxpayer identification number of the spouse's employer, and whether such employer is a qualified employer; and

"(iii) whether the spouse's employer has made available a group health plan to the spouse and the plan coverage provided (if any) with respect to the spouse and family members of the spouse under the group health plan.

"(C) For each individual who is identified as a dependent child and whose parent is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from, and as having available coverage under a group health plan of, an employer in a previous year—

"(i) the name and taxpayer identification number of the individual and of the individual's parent;

"(ii) the name, address, and taxpayer identification number of the parent's employer, and whether such employer is a qualified employer; and

"(iii) whether the parent's employer has made available a group health plan to the parent and the plan coverage provided (if any) with respect to the parent and dependent children of the parent under the group health plan.

"(3) INFORMATION FROM EMPLOYERS.—The Director shall—

"(A) request, from the employer of each individual (including each spouse) with respect to whom information was received from the Commissioner of Social Security pursuant to paragraph (2), specific information concerning coverage of such individual (and of the individual's spouse and dependent children) under the employer's group health plan (including the period and nature of the coverage, and the name, address, and identifying number of the plan), and

"(B) furnish the information received in response to such request with respect to an in-

dividual (or such individual's spouse or dependent children) to the administrator requesting such information pursuant to subsection (a).

"REQUIREMENT THAT EMPLOYERS FURNISH INFORMATION

"SEC. 2103. (a) IN GENERAL.—An employer shall furnish to the Director the information requested pursuant to section 2102(b)(3) within 30 days after receipt of such a request.

"(b) SUNSET ON REQUIREMENT.—Subsection (a) shall not apply to inquiries made after September 30, 1998.

"(c) CIVIL MONEY PENALTY FOR FAILURE TO COOPERATE.—

"(1) IN GENERAL.—An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate response to a request for information pursuant to section 2102(b)(3) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $1,000 for each individual with respect to whom such a request is made.

"(2) ENFORCEMENT AUTHORITY.—In cases of failure to respond to the Director in accordance with subsection (a) to inquiries relating to requests pur-

suant to section 2102, the provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under paragraph (1) in the same manner as such provisions apply to penalties or proceedings under section 1128A(a).

"DATA BANK

"SEC. 2104. (a) MAINTENANCE OF INFORMATION.—The Clearinghouse shall maintain a data bank, containing information on individuals obtained pursuant to this title. Individual information in the data bank shall be retained for not less than one year after the date the information was obtained.

"(b) DISCLOSURE OF INFORMATION IN DATA BANK.—

"(1) IN GENERAL.—The Director is authorized (subject to paragraph (2)) to disclose any information in the data bank established pursuant to subsection (a) with respect to an individual (or an individual's spouse or parent)—

"(A) to the Commissioner of Social Security, the Secretary of the Treasury, administrators, employers, and insurers, to the extent necessary to assist such administrators;

"(B) to Federal and State law enforcement officials responsible for enforcement of civil or criminal laws, in connection with investigations

or administrative or judicial law enforcement proceedings relating to a covered health program; and

"(C) for research or statistical purposes.

"(2) RESTRICTIONS ON DISCLOSURE.—Information in the data bank may be disclosed under this subsection only for purposes of, and to the extent necessary in, determining the extent to which an individual is covered under any group health plan.

"(c) USE OF CONTRACTORS.—The responsibilities of the Clearinghouse under this section may be carried out by contract.

"(d) FEES.—The Clearinghouse shall—

"(1) establish fees for services under this section designed to cover the full costs to the Clearinghouse of providing such services, and

"(2) require the payment of such fees to provide such services.".

(b) CONFORMING MEDICARE AMENDMENTS.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(1) in subparagraph (A)(i)—

(A) by striking "Secretary of the Treasury" and inserting "Director of the Health Coverage Clearinghouse",

(B) by striking ''(as defined in section 6103(l)(12) of the Internal Revenue Code of 1986)'' and inserting ''(as defined in clause (iii))'', and

(C) by striking ''and request'' and all that follows and inserting a period;

(2) in subparagraph (A)(ii)—

(A) by striking ''the Commissioner of the Social Security Administration'' and all that follows and inserting ''the Director of the Health Coverage Clearinghouse to obtain and disclose to the Administrator, pursuant to section 2102(b) and to subparagraph (C) of section 6103(l)(12) of the Internal Revenue Code of 1986, the information described in section 2102(b) and subparagraph (B) of such section 6103(l)(12).'', and

(B) by inserting '', pursuant to section 1144(c),'' after ''disclose to the Administrator''; and

(3) by striking subparagraph (C).

(c) MEDICAID USE OF CLEARINGHOUSE.—Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by inserting ''(including making appropriate requests to

the Director of the Health Coverage Clearinghouse under section 2102)'' after ''all reasonable measures''.

(d) COLLECTION OF THIRD PARTY PAYMENTS UNDER MATERNAL AND CHILD HEALTH BLOCK GRANT PROGRAM.—Section 505(a) (42 U.S.C. 705(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting ''; and'', and

(3) by inserting after paragraph (5) the following new paragraph:

''(6) provides for an entity providing health services with assistance from the State under this title taking all reasonable steps—

''(A) to ascertain the legal liability of third parties to pay for such services, and

''(B) where such liability is found to exist, to seek reimbursement for such services.''.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (d) shall take effect on April 1, 1995.

(2) The amendments made by subsection (c) shall apply to allotments for years beginning with fiscal year 1994.

SEC. 5118. MEDICAL CHILD SUPPORT.

(a) STATE PLAN REQUIREMENT.—Section 1902(a)(45) (42 U.S.C. 1396a(a)(45)) is amended by striking ''owed to recipients'' and inserting ''and have in effect laws relating to medical child support''.

(b) MEDICAL CHILD SUPPORT LAWS.—Section 1912 of such Act (42 U.S.C. 1396k) is amended—

(1) by adding at the end of the heading the following: ''; REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT''; and

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

''(c) The laws relating to medical child support, which a State is required to have in effect under section 1902(a)(45), are as follows:

''(1) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that the child was born out of wedlock, on the ground that the child may not be claimed as a dependent on the parent's Federal income tax return, or on the ground that the child does not reside with the parent or in the insurer's service area. In this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance

organization, and an entity offering a service benefit plan.

"(2) A law that requires an insurer, in any case in which a parent is required by court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through the insurer—

"(A) to permit such parent, upon application and without regard to any enrollment season restrictions, to enroll the parent and such child under such family coverage;

"(B) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(C) not to disenroll (or eliminate coverage of) such a child unless the insurer is provided satisfactory written evidence that—

"(i) such court or administrative order is no longer in effect, or

"(ii) the child is or will be enrolled in comparable health coverage through an-

other insurer which will take effect not later than the effective date of such disenrollment.

"(3) A law that requires an employer doing business in the State, in the case of health coverage offered through employment with the employer and providing coverage of a child of an employee pursuant to a court or administrative order, to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (to the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act) and to pay such share of premiums to the insurer.

"(4) A law that prohibits an insurer from imposing requirements upon a State agency, which is acting as an agent or subrogee of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or subrogee of any other individual so covered.

"(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

"(B) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(C) to make payment on claims submitted in accordance with subparagraph (B) directly to the custodial parent or the provider.

"(6) A law that requires the State agency under this title to garnish the wages, salary, or other employment income of, and to withhold amounts from State tax refunds to, any person who—

"(A) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(B) has received payment from a third party for the costs of such services to such child, but

"(C) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.''.

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section apply to calendar quarters beginning on or after April 1, 1994, 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 under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation 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 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.

PART V—ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS

SEC. 5121. ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS.

(a) DISPROPORTIONATE SHARE HOSPITALS REQUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r–4) is amended—

(1) in subsection (a)(1)(A), by striking ''requirement'' and inserting ''requirements'';

(2) in subsection (b)(1), by striking ''requirement'' and inserting ''requirements'';

(3) in the heading to subsection (d), by striking ''REQUIREMENT'' and inserting ''REQUIREMENTS'';

(4) by adding at the end of subsection (d) the following new paragraph:

''(3) No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) or (e) of this section unless the hospital has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of not less than 1 percent.'';

(5) in subsection (e)(1)—

(A) by striking ''and'' before ''(B)'', and

(B) by inserting before the period at the end the following: '', and (C) the plan meets the requirement of subsection (d)(3) and such payment adjustments are made consistent with the fourth sentence of subsection (c)''; and

(6) in subsection (e)(2)—

(A) in subparagraph (A), by inserting ''(other than the fourth sentence of subsection (c))'' after ''(c)'',

(B) by striking ''and'' at the end of subparagraph (A),

(C) by striking the period at the end of subparagraph (B) and inserting '', and'', and

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

''(C) subsection (d)(3) shall apply.''.

(b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS FOR STATE OR COUNTY HOSPITALS TO UNCOVERED COSTS.—Subsection (c) of such section is amended by adding at the end the following: ''A payment adjustment during a year is not considered to be consistent with this subsection with respect to a hospital owned or operated by a State (or by an instrumentality of or a unit of government within a State) if the payment adjustment exceeds

1 the costs of furnishing hospital services (as determined by
2 the Secretary and net of payments under this title, other
3 than under this section, and by uninsured patients) by the
4 hospital to individuals who either are eligible for medical
5 assistance under the State plan or have no health insur-
6 ance (or other source of third party payment) for such
7 services during the year. For purposes of the preceding
8 sentence, payments made to a hospital for services pro-
9 vided to indigent patients made by a State or a unit of
10 local government within a State shall not be considered
11 to be a source of third party payment.''.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to payments to States under sec-
14 tion 1903(a) of the Social Security Act for payments to
15 hospitals made under State plans after—

16 (1) the end of the State fiscal year that ends
17 during 1994, or

18 (2) in the case of a State with a State legisla-
19 ture which is not scheduled to have a regular legisla-
20 tive session in 1994, the end of the State fiscal year
21 that ends during 1995;

22 without regard to whether or not final regulations to carry
23 out such amendments have been promulgated by either
24 such date.

Subchapter B—Miscellaneous Provisions

PART I—ANTI-FRAUD AND ABUSE PROVISIONS

SEC. 5131. APPLICATION OF MEDICARE RULES LIMITING CERTAIN PHYSICIAN REFERRALS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 5174(b), is amended—

(A) in paragraph (12), by striking or at the end,

(B) in paragraph (13), by striking the period at the end and inserting ''; or'', and

(C) by inserting after paragraph (13) the following new paragraph:

''(14) with respect to any amount expended for an item or service for which payment would be denied under section 1877(g)(1) if the item or service were furnished to an individual entitled to benefits under title XVIII.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after October 1, 1993.

SEC. 5132. INTERMEDIATE SANCTIONS FOR KICKBACK VIOLATIONS.

(a) PENALTY FOR KICKBACKS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking ''or'' at the end of paragraphs (1) and (2);

(2) by adding ''or'' at the end of paragraph (3);

(3) by inserting after paragraph (3) the following new paragraph:

''(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);'';

(4) by striking ''given).'' at the end of the first sentence and inserting ''given or, in cases under paragraph (4), $50,000 for each such violation).'';

(5) in the second sentence, by inserting ''in cases under paragraphs (1), (2), and (3),'' after ''In addition,''; and

(6) by inserting after the second sentence, the following new sentence: ''In cases under paragraph (4), such a person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b), determined without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.''.

(b) AUTHORIZATION TO ACT.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is amended by striking all that follows ''(b)'' and inserting

the following: "unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to remuneration offered, paid, solicited, or received before, on, or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

SEC. 5133. REQUIRING MAINTENANCE OF EFFORT FOR STATE MEDICAID FRAUD CONTROL UNITS.

(a) IN GENERAL.—Section 1902(a)(49) (42 U.S.C. 1396a(a)(49)) is amended—

(1) by inserting "(A)" after "(49)", and

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

"(B) provide that the State will expend for its medicaid fraud and abuse control unit (as defined in section 1903(q)), for each State fiscal year, an amount that is not less than the amount expended for such unit in the State fiscal year that ended in

1992 adjusted to reflect the percentage increase in total expenditures under the State plan between such State fiscal year and the State fiscal year involved;''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to State fiscal years ending after 1993.

PART II—MANAGED CARE PROVISIONS

SEC. 5135. MEDICAID MANAGED CARE ANTI-FRAUD PROVISIONS.

(a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking ''and'' at the end of clause (x),

(ii) by striking the period at the end of clause (xi) and inserting ''; and'', and

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

''(xii) the entity complies with the requirements of paragraph (3) (relating to certain protections against fraud and abuse).'';

(B) in paragraph (2)(B), as amended by section 5158(b), by striking ''clause (ix)'' and inserting ''clauses (ix) and (xii)''; and

(C) by inserting after paragraph (2) the following new paragraph:

''(3)(A)(i) A health maintenance organization may not have a person described in clause (iv) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of organization's equity.

''(ii) A health maintenance organization may not have an employment, consulting, or other agreement with a person described in clause (iv) for the provision of goods and services that are significant and material to the organization's obligations under its contract with the State described in paragraph (2)(A)(iii).

''(iii) If a health maintenance organization is not in compliance with clause (i) or clause (ii)—

''(I) a State may continue an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

''(II) a State may not renew or otherwise extend the duration of an existing agreement with the organization unless the Secretary (in consultation

with the Inspector General of the Department of Health and Human Services) provides a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(iv) A person described in this clause is a person that—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting, or

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in subclause (I).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to agreements between a State and an entity under section 1903(m) of the Social Security Act entered into or renewed on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date.

(b) REQUIREMENT FOR STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a)(1)(C), is amended—

(A) by striking ''and'' at the end of clause (xi),

(B) by striking the period at the end of clause (xii) and inserting ''; and'', and

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

''(xiii) the State certifies to the Secretary that it has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibility with respect to contracts with organizations under this subsection that are at least as effective as the Federal safeguards, provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply as of July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(c) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1)(C), is amended by adding at the end the following new subparagraph:

"(B) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that—

"(i) the entity agrees to report to the State such financial information as the Secretary or the State may require to demonstrate that the entity has a fiscally sound operation; and

"(ii) the entity agrees to make available to its enrollees upon reasonable request—

"(I) the information reported under paragraph (1),

"(II) the information required to be disclosed under sections 1124 and 1126, and

"(III) a description of each transaction, described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act, between the entity and a party in interest (as defined in section 1318(b) of such Act).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date, with respect to infor-

mation reported or required to be disclosed, or transactions occurring, before, on, or after such date.

(d) PROHIBITING MARKETING FRAUD.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsection (c)(1), is amended by adding at the end the following new subparagraph:

''(C) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity agrees to comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the entity, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years that begin on or after October 1, 1993, without regard to whether regulations to carry out such amendment are promulgated by such date.

(e) REQUIRING ADEQUATE EQUITY FOR FOR-PROFIT ENTITIES.—

(1) IN GENERAL.—Section 1903(m)(3), as previously amended by this section, is further amended

by adding at the end the following new subparagraph:

"(D)(i) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall require, in the case of a for-profit entity, that the entity shall maintain an average ratio of—

"(I) equity capital to

"(II) payments made by the State to the entity under the contract on a capitation basis or any other risk basis,

of not less than such minimum ratio as the Secretary shall specify.

"(ii) The contract between the State and a non-profit entity referred to in paragraph (2)(A)(iii) shall require that no payment shall be made directly or indirectly under an agreement between the non-profit entity and a related for-profit entity (as defined by the Secretary) unless the for-profit entity maintains an average ratio of equity capital to payments under such agreement of not less than such ratio as the Secretary shall specify.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after July 1, 1994, without regard to whether regulations to carry out such amendment are promulgated by such date.

(f) REQUIRING ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

(1) IN GENERAL.—Section 1903(m)(1)(A)(ii) (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by inserting ", which meets such standards as the Secretary shall prescribe" after "satisfactory to the State".

(2) EFFECTIVE DATE AND TRANSITION.—(A) The amendment made by paragraph (1) shall apply to contract years beginning on or after July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(B) If the Secretary of Health and Human Services has not promulgated standards to carry out the amendment made by paragraph (1) by July 1, 1994, until such standards have been promulgated a provision of a health maintenance organization against the risk of insolvency shall not be considered to meet standards prescribed by the Secretary, for purposes of section 1903(m)(1)(A)(ii) of the Social Security Act, unless such provision has been found satisfactory by the Secretary under section 1876(b)(2)(E) of such Act.

(g) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—

(1) IN GENERAL.—Section 1903(m)(3), as previously amended by this section, is amended by adding at the end the following new subparagraph:

''(E) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

''(i) a financial statement of the entity's net earnings under the contract during the contract year, which statement has been audited using auditing standards established by the Secretary in consultation with the States; and

''(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the entity and entitled to medical assistance under the plan.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date.

(h) REPORT ON NET EARNINGS OF CONTRACTORS.—Not later than 6 months after the date of the enactment

of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the earnings of organizations with contracts to receive payment for providing medical assistance under title XIX of the Social Security Act on a prepaid capitation or any other risk basis. The report shall include the Secretary's recommendations on options for requiring such organizations, as a condition of participation under such title, to dedicate a portion of such earnings to the provision of additional benefits to individuals enrolled with the organization.

SEC. 5136. CLARIFICATION OF TREATMENT OF HMO ENROLLEES IN COMPUTING THE MEDICAID INPATIENT UTILIZATION RATE IN QUALIFYING HOSPITALS AS DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL.—Section 1923(b)(2) (42 U.S.C. 1396r–4(b)(2)) is amended by inserting before the period at the end the following: "and whether or not the individual is enrolled with an entity contracting with the State on a prepaid capitation basis or other risk basis under section 1903(m)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans on and after the first

day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 5137. EXTENSION OF PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO CERTAIN HEALTH MAINTENANCE ORGANIZATIONS PROVIDING SERVICES UNDER DAYTON AREA HEALTH PLAN.

Section 2 of Public Law 102–276 is amended by striking ''January 31, 1994'' and inserting ''December 31, 1995''.

SEC. 5138. EXTENSION OF MEDICAID WAIVER FOR TENNESSEE PRIMARY CARE NETWORK.

Section 6411(f) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 1 of Public Law 102–317, is amended by striking ''January 31, 1994'' and inserting ''December 31, 1995''.

SEC. 5139. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO DISTRICT OF COLUMBIA CHARTERED HEALTH PLAN, INC.

(a) IN GENERAL.—The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act to the entity known as the District of Columbia Chartered Health Plan, Inc., for the period described

in subsection (b), if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is the period that begins on October 1, 1992, and ends on December 31, 1995.

SEC. 5140. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 507 of the Family Support Act of 1988, as amended by section 6411(j) of OBRA–1989 and by section 4733 of OBRA–1990, is amended by striking ''1996'' and inserting ''1998''.

(b) AUTHORITY TO IMPOSE PREMIUM.—

(1) IN GENERAL.—Notwithstanding section 1916 of the Social Security Act and subject to paragraph (2), the State of Minnesota may impose a premium on individuals receiving medical assistance under the Minnesota Prepaid Demonstration Project operated under a waiver granted by the Secretary of Health and Human Services under section 1115(a) of the Social Security Act and other individuals eligible under the State's plan for medical assistance under title XIX of such Act.

(2) LIMITATION ON AMOUNT OF PREMIUM.—In no case may the amount of any premium imposed on

an individual receiving medical assistance under the State plan or under the Demonstration Project described in paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of the individual exceeds 110 percent of the income 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.

PART III—EMERGENCY SERVICES TO UNDOCUMENTED ALIENS

SEC. 5141. INCREASE IN FEDERAL FINANCIAL PARTICIPATION FOR EMERGENCY MEDICAL ASSISTANCE TO UNDOCUMENTED ALIENS.

(a) IN GENERAL.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by adding at the end the following: ''Notwithstanding the first sentence of this section, subject to 1903(v)(4), the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended by an eligible State in a covered fiscal year (as defined in section 1903(v)(4)(C)) as medical assistance for care and services described in section 1903(v)(2) to aliens described in section 1903(v)(1).''.

1 (b) LIMITATION.—Section 1903(v) (42 U.S.C.
2 1396b(v)) is amended by adding at the end the following
3 new paragraphs:

4 ''(4)(A) With respect to any eligible State (as defined
5 in subparagraph (C)(i)), the amount of the increase in
6 payments to a State under subsection (a) in a covered fis-
7 cal year (as defined in subparagraph (C)(ii)), resulting
8 from the increase in the Federal medical assistance per-
9 centage under the fourth sentence of section 1905(b), shall
10 not exceed the State's allotment determined under sub-
11 paragraph (B).

12 ''(B)(i) The total of the allotments to all States for
13 a covered fiscal year under this paragraph shall be
14 $300,000,000.

15 ''(ii) From the total allotment under clause (i) for
16 a covered fiscal year, the Secretary shall determine the
17 amount of the allotment for each eligible State. Subject
18 to clause (iii), the amount of such allotment for such a
19 fiscal year shall bear the same ratio to the total amount
20 specified in clause (i) for the fiscal year as the ratio of—

21 ''(I) the allotment to the State for fiscal year
22 1993 under section 204 of the Immigration Reform
23 and Control Act of 1986, to

24 ''(II) the total of such allotments for all such el-
25 igible States for fiscal year 1993.

"(iii) In the case of an eligible State which notifies the Secretary that an amount of its allotment will not be used by the State under this paragraph, the State's allotment shall be reduced by such amount and such amount shall be redistributed among the other eligible States in proportion to the amount otherwise allotted to such State under clause (ii).

"(C) For purposes of this paragraph and the fourth sentence of section 1905(b):

"(i) The term 'eligible State' means a State—

"(I) with a plan approved under this title (including a State which is providing medical assistance to its residents under a statewide waiver granted under section 1115), and

"(II) for which its allotment for fiscal year 1993 under section 204 of the Immigration Reform and Control Act of 1986 is at least 1 percent of the total of such allotments for all the States for fiscal year 1993.

"(ii) The term 'covered fiscal year' means only fiscal year 1994.

"(D) Nothing in this paragraph or the fourth sentence of section 1905(b) shall be construed as establishing entitlement authority (within the meaning of section 3(9)

of the Congressional Budget Act of 1974) for any fiscal year other than a covered fiscal year.''.

SEC. 5142. LIMITING FEDERAL MEDICAID MATCHING PAYMENT TO BONA FIDE EMERGENCY SERVICES FOR UNDOCUMENTED ALIENS.

(a) IN GENERAL.—Section 1903(v)(2) (42 U.S.C. 1396b(v)(2)) 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) such care and services are not related to an organ transplant procedure.''.

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by subsection (a) shall apply as if included in the enactment of OBRA–1986.

(2) The Secretary of Health and Human Services shall not disallow expenditures made for the care and services described in section 1903(v)(2)(C) of the Social Security Act, as added by subsection (a), furnished before the date of the enactment of this Act.

PART IV—MISCELLANEOUS PROVISIONS

SEC. 5144. INCREASE IN LIMIT ON FEDERAL MEDICAID MATCHING PAYMENTS TO PUERTO RICO AND OTHER TERRITORIES.

(a) IN GENERAL.—Paragraphs (1) through (5) of section 1108(c) (42 U.S.C. 1308(c)) are amended to read as follows:

"(1) Puerto Rico shall not exceed (A) $104,000,000 for fiscal year 1994 and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the twelve-month period ending in March preceding the beginning of the fiscal year, rounded to the nearest $100,000;

"(2) the Virgin Islands shall not exceed (A) $3,425,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000;

"(3) Guam shall not exceed (A) $3,290,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the

preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000;

"(4) Northern Mariana Islands shall not exceed (A) $990,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000; and

"(5) American Samoa shall not exceed (A) $1,910,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with fiscal year 1994.

SEC. 5145. CRITERIA FOR MAKING DETERMINATIONS OF DENIAL OF FEDERAL MEDICAID MATCHING PAYMENTS TO STATES.

(a) IN GENERAL.—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x)(1) In any case in which the Secretary proposes to disallow under section 1116(d) a claim by a State under

this section and the State exercises its right of reconsideration under section 1116(d), the Departmental Appeals Board established in the Department of Health and Human Services shall, if such Board upholds the basis for the disallowance, determine whether the amount of the disallowance should be reduced. In making this determination, the Board shall take into account (to the extent the State makes a showing) factors which shall include—

"(A) the nature of the basis for the disallowance;

"(B) whether the amount of the disallowance is proportionate to the error or deficiency on which the disallowance is based;

"(C) whether the basis of the disallowance constitutes noncompliance that prevented or materially affected the provision of appropriate services to individuals eligible under this title; or

"(D) whether Federal guidance with respect to the action that is the basis for the proposed disallowance was insufficient and the State made good faith efforts to conform its action to the intent of the applicable Federal statute or regulation.

"(2) No disallowance shall be taken or upheld if the action of the State on which the disallowance would be based is consistent with its approved State plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

SEC. 5146. RENEWAL OF UNFUNDED DEMONSTRATION PROJECT FOR LOW-INCOME PREGNANT WOMEN AND CHILDREN.

(a) IN GENERAL.—Section 6407 of OBRA–89 is amended—

(1) in subsection (d), by striking ''3 years'' and inserting ''5 years'';

(2) in subsection (f), by striking ''$10,000,000 in each of fiscal years 1990, 1991, and 1992'' and inserting ''$30,000,000''; and

(3) in subsection (g)(2), by striking ''January 1, 1994'' and inserting ''one year after the termination of the demonstration projects''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–89.

SEC. 5147. OPTIONAL MEDICAID COVERAGE OF TB-RELATED SERVICES FOR CERTAIN TB-INFECTED INDIVIDUALS.

(a) COVERAGE AS OPTIONAL, CATEGORICALLY NEEDY GROUP.—Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking ''or'' at the end of subclause (X),

(2) by adding ''or'' at the end of subclause (XI), and

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

''(XII) who are described in subsection (z)(1) (relating to certain TB-infected individuals);''.

(b) GROUP AND BENEFIT DESCRIBED.—Section 1902 is amended by adding at the end the following new subsection:

''(z)(1) Individuals described in this paragraph are individuals not described in subsection (a)(10)(A)(i)—

''(A) who have tested positively to be infected with tuberculosis;

''(B) whose income (as determined under the State plan under this title with respect to disabled individuals) does not exceed the maximum amount of income a disabled individual described in sub-

1 section (a)(10)(A)(i) may have and obtain medical
2 assistance under the plan; and
3 ''(C) whose resources (as determined under the
4 State plan under this title with respect to disabled
5 individuals) do not exceed the maximum amount of
6 resources a disabled individual described in sub-
7 section (a)(10)(A)(i) may have and obtain medical
8 assistance under the plan.
9 ''(2) For purposes of subsection (a)(10), the term
10 'TB-related services' means each of the following services
11 relating to treatment of infection with tuberculosis:
12 ''(A) Prescribed drugs.
13 ''(B) Physicians' services and services described
14 in section 1905(a)(2).
15 ''(C) Laboratory and X-ray services.
16 ''(D) Clinic services and Federally-qualified
17 health center services.
18 ''(E) Case management services (as defined in
19 section 1915(g)(2)).
20 ''(F) Services (other than room and board) de-
21 signed to encourage completion of regimens of pre-
22 scribed drugs by outpatients, including services to
23 observe directly the intake of prescribed drugs.''.

(c) LIMITATION ON BENEFITS.—Section 1902(a)(10), as amended by section 5162(a), is amended, in the matter following subparagraph (F)—

(1) by striking ", and (XII)" and inserting ", (XII)", and

(2) by inserting before the semicolon at the end the following: ", and (XIII) the medical assistance made available to an individual described in subsection (z)(1) who is eligible for medical assistance only because of subparagraph (A)(ii)(XII) shall be limited to medical assistance for TB-related services (as defined in subsection (z)(2))".

(d) CONFORMING EXPANSION OF CASE MANAGEMENT SERVICES OPTION.—Section 1915(g)(1) (42 U.S.C. 1396n(g)(1)) is amended by inserting "or to individuals described in section 1902(z)(1)(A)," after "or with either,".

(e) CONFORMING AMENDMENT.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) by striking "or" at the end of clause (ix),

(2) by adding "or" at the end of clause (x),

(3) by inserting after clause (x) the following new clause:

"(xi) individuals described in section 1902(z)(1),", and

(4) by amending paragraph (19) to read as follows:

"(19) case management services (as defined in section 1915(g)(2)) and TB-related services described in section 1902(z)(2)(F);".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 5148. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(a)(9) (42 U.S.C. 1396a(a)(9)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and", and

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

"(D) that any mammography paid for under such plan must be conducted by a facility that has a certificate (or provisional certificate)

1 issued under section 354 of the Public Health
2 Service Act;''.
3 (b) EFFECTIVE DATE.—(1) Except as provided in
4 paragraph (2), the amendments made by subsection (a)
5 shall apply to mammography furnished by a facility during
6 calendar quarters beginning on or after the first date that
7 the certificate requirements of section 354(b) of the Public
8 Health Service Act apply to such mammography con-
9 ducted by such facility, without regard to whether or not
10 final regulations to carry out such amendments have been
11 promulgated by such date.
12 (2) In the case of a State plan for medical assistance
13 under title XIX of the Social Security Act which the Sec-
14 retary of Health and Human Services determines requires
15 State legislation (other than legislation appropriating
16 funds) in order for the plan to meet the additional require-
17 ment imposed by the amendment made by subsection
18 (a)(3), the State plan shall not be regarded as failing to
19 comply with the requirements of such title solely on the
20 basis of its failure to meet this additional requirement be-
21 fore the first day of the first calendar quarter beginning
22 after the close of the first regular session of the State leg-
23 islature that begins after the date of the enactment of this
24 Act. For purposes of the previous sentence, in the case
25 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. 5149. REMOVAL OF SUNSET ON EXTENSION OF ELIGIBILITY FOR WORKING FAMILIES.

Subsection (f) of section 1925 (42 U.S.C. 1396r–6) is repealed.

SEC. 5150. EXTENSION OF MORATORIUM ON TREATMENT OF CERTAIN FACILITIES AS INSTITUTIONS FOR MENTAL DISEASES.

Effective as if included in the enactment of OBRA–1989, section 6408(a)(3) of such Act is amended by striking ''180 days'' and all that follows and inserting ''December 31, 1995.''.

SEC. 5150A. TREATMENT OF CERTAIN CLINICS AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)), as amended by section 5158(c), is amended—

(1) by striking ''or'' at the end of clause (ii)(II),

(2) by adding ''or'' at the end of clause (iii), and

(3) by inserting after clause (iii) the following new clause:

"(iv) was treated by the Secretary, for purposes of part B of title XVIII, as a comprehensive Federally funded health center as of January 1, 1990;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after July 1, 1993.

SEC. 5150B. NURSING HOME REFORM.

(a) SUSPENSION OF DECERTIFICATION OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—

(1) IN GENERAL.—Section 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as included in the enactment of OBRA–1990.

(b) REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS OF USE OF DRUGS.—

(1) IN GENERAL.—Section 1919(c)(1)(D) (42 U.S.C. 1396r(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether

such a consultant is qualified to conduct reviews under the previous sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as included in the enactment of OBRA–1987.

(c) INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

(1) IN GENERAL.—Section 1919(c)(6)(B)(i) (42 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking ''$50'' and inserting ''$100''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1993.

(d) DUE PROCESS PROTECTIONS FOR NURSE AIDES.—

(1) PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSE AIDE REGISTRY.—Section 1919(e)(2)(B) (42 U.S.C. 1396r(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: '', but shall not include any allegations of resident abuse or neglect or misappropriation of

resident property that are not specifically documented by the State under such subsection.''.

(2) DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.—Section 1919(g)(1)(C) (42 U.S.C. 1396r(g)(1)(C)) is amended by striking the second sentence and inserting the following: ''The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1993.

Subchapter C—Miscellaneous and Technical Corrections Relating to OBRA–1990

SEC. 5151. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subchapter shall take effect as if included in the enactment of OBRA–1990.

SEC. 5152. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).

Section 4402(b) of OBRA–1990 is amended by striking ''1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))''

and inserting "1903(u)(1)(D)(iv) (42 U.S.C. 1396b(u)(1)(D)(iv))".

SEC. 5153. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).

(a) Section 1902(a)(10)(E)(iii), as added by section 4501(b)(3) of OBRA–1990, is amended by striking "cost sharing" and inserting "cost-sharing".

(b) Section 1905(p)(4)(B), as amended by section 4501(c)(1) of OBRA–1990, is amended by striking "1902(a)(10)(E)(iii)" and inserting "section 1902(a)(10)(E)(iii)".

SEC. 5154. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).

(a) Section 1902(a)(10)(A)(i)(VII), as added by section 4601(a)(10)(A)(iii) of OBRA–1990, is amended by striking "family;" and inserting "family; and".

(b) Section 1902(l), as amended by section 4601(a)(1)(C) of OBRA–1990, is amended—

(1) in paragraph (1)(C), by striking "children" after "(C)";

(2) in paragraph (3), by striking "(a)(10)(A)(i)(VII),," and inserting "(a)(10)(A)(i)(VII),"; and

(3) in paragraph (4)(B), by inserting a comma before "(a)(10)(A)(i)(VI),".

(c) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925, as amended by section 4601(a) of OBRA–1990, are each amended by striking ''(i)(VI)'' and inserting ''(i)(VI),''.

SEC. 5155. CORRECTIONS RELATING TO SECTION 4602 (OUTREACH LOCATIONS).

(a) Section 1902(a)(55), as added by section 4602(a)(3) of OBRA–1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking ''subsection'' and inserting ''paragraph'', and

(B) by striking ''(a)'' each place it appears; and

(2) in subparagraph (A), by striking ''1905(1)(2)(B)'' and inserting ''1905(l)(2)(B)''.

(b) Section 1902(l)(1) is amended by striking ''who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and''.

SEC. 5156. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).

(a) Section 1902(a)(10) is amended in clause (X) in the matter following subparagraph (F) by striking ''under one year of age'' and inserting ''under 6 years of age''.

(b) Section 1902(s), as added by section 4604(a) of OBRA–1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1)).".

(c) Section 1923(a)(2)(C) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—

"(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

"(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.".

SEC. 5157. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) is amended—

(1) in paragraph (2), by striking "paragraph (b)(3)" and inserting "subsection (b)(3)";

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking "the payment adjustment described in paragraph (2)" and inserting "a payment adjustment described in paragraph (2) or (3)".

(b) Effective December 22, 1987, section 1923(d)(2)(A)(ii) is amended by striking "the date of the enactment of this Act" and inserting "December 22, 1987".

(c) Section 4703(d) of OBRA–1990 is amended by striking "412(a)(2)" and inserting "4112(a)(2)".

SEC. 5158. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).

(a) Clause (ix) of section 1903(m)(2)(A), as added by section 4704(b)(1)(C) of OBRA–1990, is amended—

(1) by striking ''of such center'' the first place it appears;

(2) by striking ''federally qualified'' and inserting ''Federally-qualified'';

(3) by inserting ''section'' before ''1905(a)(2)(C)''; and

(4) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B), as amended by section 4704(b)(2) of OBRA–1990, is amended by striking ''except with respect to clause (ix) of subparagraph (A),'' and inserting ''(except with respect to clause (ix) of such subparagraph)''.

(c) Section 1905(l)(2), as amended by section 4704(c) of OBRA–1990, is amended—

(1) in subparagraph (A)—

(A) by striking ''Federally-qualififed'' and inserting ''Federally-qualified'', and

(B) by striking ''an patient'' and inserting ''a patient''; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking ''a entity'' and inserting ''an entity'',

(B) by striking ''or'' at the end of clause (i),

(C) by striking the semicolon at the end of clause (ii)(II) and inserting '', or'',

(D) by moving clause (ii) 4 ems to the left, and

(E) in the last sentence, by striking ''clause (ii)'' and inserting ''clause (iii)''.

SEC. 5159. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).

Section 1902(a)(32)(C), as added by section 4708(a)(3) of OBRA–1990, is amended to read as follows:

''(C) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such

services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this clause for payment to the first physician.''.

SEC. 5160. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAIL ELDERLY).

(a) Section 1929, as added by section 4711(b) of OBRA–1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking ''they manage'' and inserting ''it manages'';

(3) in subsection (d)(2)(F)(iii), by inserting ''the agency or organization'' after ''(iii)'';

(4) in subsection (e)(2)(B), by striking ''fiscal year 1989'' and inserting ''fiscal year 1990'';

(5) in subsection (f)(1), by striking ''Community care'' and inserting ''community care'';

(6) in subsection (g)(1)—

(A) by striking ''SETTINGS'' and inserting ''SETTING'', and

(B) in subparagraph (B), by striking ''setting.'' and inserting ''setting in which home and

community care under this section is provided.'';

(7) in subsection (g)(2), by striking ''community care'' the second, third, and fourth places it appears and inserting ''home and community care'';

(8) in subsection (h)(1)—

(A) by striking ''more than 8'' each place it appears and inserting ''8 or more'', and

(B) in subparagraph (B), by inserting ''(other than merely board)'' after ''personal services'';

(9) in subsection (h)(2), by striking ''community care'' the second and third places it appears and inserting ''home and community care'';

(10) in subsection (j)(1)—

(A) in subparagraph (B)(ii), by striking ''1990'' and inserting ''1991'', and

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

''(C) APPLICABILITY TO COMMUNITY CARE SETTINGS.—Subparagraphs (A) and (B) shall apply to community care settings in the same manner as such subparagraphs apply to providers of home or community care.'';

(11) in subsection (j)(2), by adding at the end the following new subparagraph:

"(D) APPLICABILITY TO COMMUNITY CARE SETTINGS.—Subparagraphs (A), (B), and (C) shall apply to community care settings in the same manner as such subparagraphs apply to providers of home or community care.";

(12) in subsection (k)(1)(A)(i)—

(A) by striking "(d)(2)(E)" and inserting "(d)(2)", and

(B) by striking "settings," and inserting "settings),";

(13) in subsection (l), by striking "State wideness" and inserting "Statewideness";

(14) in subsection (m)—

(A) in paragraph (2), by striking "Individual Community Care Plan" and inserting "individual community care plan",

(B) in paragraph (3), by striking "and need for services" and inserting "need for services, and income",

(C) in the second sentence in paragraph (4), by striking "elderly individuals" and all that follows and inserting "individuals receiving home and community care under this section

who reside in such State in relation to the total number of individuals receiving home and community care under this section.'', and

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

''(5) NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.—

''(A) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for a fiscal year (beginning with fiscal year 1994), a State shall submit a notice to the Secretary of its intention to provide such care under this section not later than 3 months before the beginning of the fiscal year.

''(B) NOTICE TO STATES.—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under subparagraph (A) for the fiscal year of the amount of Federal medical assistance that will be available to the State for the fiscal year (as established under paragraph (4)).''; and

(15) by adding at the end the following new subsection:

"(n) COMMUNITY CARE SETTING DEFINED.—In this section, the term 'community care setting' means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1)).".

(b) Section 1905(r)(5) is amended by striking "1905(a)" and inserting "subsection (a) (other than services described in paragraph (22) or (23) of such subsection)".

(c) Section 4711(f) of OBRA–1990 is amended by striking "Act" each place it appears and inserting "section".

SEC. 5161. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES).

(a) Section 1930, as added by section 4712(b)(2) of OBRA–1990, is amended—

(1) in subsection (b)—

(A) by striking "title the term," and inserting "title, the term",

(B) by striking "guardian" and inserting "guardian or", and

(C) by striking ''3 other'' and inserting ''3'';

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''program,'' and inserting ''program'', and

(B) in the second sentence, by striking ''plan'' each place it appears and inserting ''program''; and

(3) in subsection (i), by striking ''FUNDS'' and inserting ''FUNDS''.

(b) Section 4712(c) of OBRA–1990 is amended—

(1) in paragraph (1), by inserting ''of section 1930 of the Social Security Act'' after ''subsection (h)''; and

(2) in paragraph (2), by striking ''this section'' and inserting ''such section''.

SEC. 5162. CORRECTION RELATING TO SECTION 4713 (COBRA CONTINUATION COVERAGE).

(a) Section 1902(a)(10) is amended in the matter following subparagraph (F)—

(1) by striking ''; and (XI)'' and inserting '', (XI)'';

(2) by striking ''individuals, and (XI)'' and inserting ''individuals, and (XII)''; and

(3) by striking ''COBRA continuation premiums'' and inserting ''COBRA premiums''.

(b) Section 1902(u)(3), as added by section 4713(a)(2) of OBRA–1990, is amended by striking ''title VI'' and inserting ''part 6 of subtitle B of title I''.

SEC. 5163. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).

Section 4716(a) of OBRA–1990 is amended by striking ''AMENDMENTS.—Subsection (f) of section'' and inserting ''IN GENERAL.—Section''.

SEC. 5164. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPENDDOWN OPTION).

Section 1903(f)(2), as amended by section 4723(a) of OBRA–1990, is amended—

(1) by striking ''(A)'' after ''(2)'';

(2) by striking ''or, (B)'' and inserting ''. There shall also be excluded,'';

(3) by striking ''to the State, provided that'' and inserting ''to the State if''; and

(4) by striking ''pursuant to this subparagraph.'' and inserting ''pursuant to the previous sentence''.

SEC. 5165. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).

Section 1902(v), as added by section 4724 of OBRA–1990, is amended—

(1) by striking ''(v)(1)'' and inserting ''(v)''; and

(2) by striking ''of the Social Security Act''.

SEC. 5166. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).

Section 1903(m)(2)(F)(i), as amended by section 4732(b)(2)(B) of OBRA–1990, is amended by striking ''or'' before ''with an eligible organization''.

SEC. 5167. CORRECTIONS RELATING TO SECTION 4741 (HOME AND COMMUNITY-BASED WAIVERS).

The first sentence of section 1915(d)(3) is amended by striking the period at the end and inserting the following: '', and a waiver of the requirements of section 1902(a)(23) (relating to choice of providers) insofar as such requirements relate to the provision of case management services and the State provides assurances satisfactory to the Secretary that a waiver of such requirements will not substantially limit access to such services).''

SEC. 5168. CORRECTIONS RELATING TO SECTION 4744 (FRAIL ELDERLY WAIVERS).

(a) Section 1924(a)(5), as added by section 4744(b)(1) of OBRA–1990, is amended by striking ''1986.'' and inserting ''1986 or a waiver under section 603(c) of the Social Security Amendments of 1983.''.

(b) Section 603(c) of the Social Security Amendments of 1983 is amended—

(1) by striking ''(c)'' and inserting ''(c)(1)'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

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

''(2) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.''.

SEC. 5169. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).

Section 4747 of OBRA–1990 is amended—

(1) in subsection (a), by striking ''subsection (c)'' and inserting ''subsection (b)'';

(2) in subsection (b)(2)—

(A) by striking ''preventative'' each place it appears and inserting ''preventive'', and

(B) by adding a period at the end of subparagraph (J);

(3) in subsection (c)(1)—

(A) by striking ''subsection (c)'' and inserting ''subsection (b)'', and

(B) by striking ''paragraphs (1) and (2) of''; and

(4) in subsection (d)—

(A) by striking ''paragraph (3)'' and inserting ''subsection (b)'', and

(B) by striking ''paragraph (1)'' and inserting ''subsection (a)''.

SEC. 5170. CORRECTION RELATING TO SECTION 4751 (ADVANCE DIRECTIVES).

Section 1903(m)(1)(A), as amended by section 4751(b)(1) of OBRA–1990, is amended—

(1) by striking ''1902(w)'' and inserting ''1902(w) and''; and

(2) by striking ''1902(a)'' and inserting ''1902(w)''.

SEC. 5171. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS' SERVICES).

(a) The paragraph (58) of section 1902(a) added by section 4752(c)(1)(C) of OBRA–1990 is amended by striking ''subsection (v)'' and inserting ''subsection (x)''.

(b) Subparagraphs (A) and (B) of the paragraph (14) of section 1903(i) added by section 4752(e)(2) of OBRA–1990 are each amended—

(1) by striking ''or'' at the end of clause (v);

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) delivers such services in the emergency department of a hospital participating in the state plan approved under this title, or''.

SEC. 5172. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).

(a) Section 1919(b)(3)(C)(i)(I), as amended by section 4801(e)(3) of OBRA–1990, is amended by striking ''no later than'' before ''not to exceed 14 days''.

(b) Section 1919(b)(5)(D), as amended by section 4801(a)(4) of OBRA–1990, is amended by striking the comma before ''or a new competency evaluation program.''.

(c) Section 1919(b)(5)(G) is amended by striking ''or licensed or certified social worker'' and inserting ''licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician''.

(d) Section 1919(f)(2)(B)(i) is amended by striking ''facilities,'' and inserting ''facilities (subject to clause (iii)),''.

(e) Section 1919(f)(2)(B)(iii)(I)(c) is amended by striking ''clauses'' each place it appears and inserting ''clause''.

(f) Section 1919(g)(5)(B) is amended by striking ''paragraphs'' and inserting ''paragraph''.

(g) Section 4801(a)(6)(B) of OBRA–1990 is amended—

(1) by striking ''The amendments'' and inserting ''(i) The amendments'';

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

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

''(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility.''.

SEC. 5173. OTHER TECHNICAL CORRECTIONS.

(a) Section 1905(o)(1)(A) is amended—

(1) in the first sentence, by striking ''intermediate care facility services'' and inserting ''for nursing facility services or intermediate care facility services for the mentally retarded''; and

(2) in the second sentence, by striking ''or intermediate care facility'' and inserting ''(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded''.

(b) Section 1915(d) is amended—

(1) by striking ''skilled nursing facility or intermediate care facility'' each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting ''nursing facility'';

(2) in paragraph (2)(B)(i), by striking ''skilled nursing or intermediate care facility'' and inserting ''nursing facility'';

(3) in paragraph (5)(A), by striking ''under'' the second place it appears and inserting ''(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under''; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking ''furnished'' and inserting ''(or, with respect to waiver years

beginning on or after October 1, 1990, for nursing facility services) furnished''; and

(B) in clause (iii)(I), by striking ''(regardless'' and inserting ''(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless''.

SEC. 5174. CORRECTIONS TO DESIGNATIONS OF NEW PROVISIONS.

(a) PARAGRAPHS ADDED TO SECTION 1902(a).—Section 1902(a) is amended—

(1) by striking ''and'' at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA–1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA–1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA–1990, im-

mediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA–1990, by striking the period at the end and inserting "; and"; and

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA–1990 as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act.

(b) PARAGRAPHS ADDED TO SECTION 1903(i).—Section 1903(i), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) in the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, by striking all that follows "1927(g)" and inserting a semicolon;

(2) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA–1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, and by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA–1990 as para-

graph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting "; or"; and

(4) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA–1990 as paragraph (13) and by transferring and inserting it after paragraph (12), as redesignated by paragraph (3).

(c) PARAGRAPHS ADDED TO SECTION 1905(a).—

(1) IN GENERAL.—Section 1905(a) is amended—

(A) by striking "and" at the end of paragraph (21);

(B) in paragraph (24), by striking the period at the end and inserting "; and"; and

(C) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24) after paragraph (23), as so redesignated.

(2) CONFORMING AMENDMENTS.—(A) Effective July 1, 1991, section 1902(a)(10)(C)(iv), as amended by section 4755(c)(1)(A) of OBRA–1990, is

amended by striking ''through (21)'' and inserting ''through (23)''.

(B) Effective July 1, 1991, section 1902(j), as amended by section 4711(d)(1) of OBRA–1990, is amended by striking ''through (22)'' and inserting ''through (24)''.

(d) FINAL SECTIONS.—Section 1928, as redesignated by section 4401(a)(3) of OBRA–1990, is amended—

(1) by transferring such section to the end of title XIX of the Social Security Act; and

(2) by redesignating such section as section 1931.

CHAPTER 2—UNIVERSAL ACCESS TO CHILDHOOD IMMUNIZATIONS

SEC. 5181. ESTABLISHMENT OF ENTITLEMENT AND MONITORING PROGRAMS WITH RESPECT TO CHILDHOOD IMMUNIZATIONS.

(a) IN GENERAL.—Title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) is amended by adding at the end the following subtitle:

"Subtitle 3—Entitlement and Monitoring Programs With Respect to Childhood Immunizations

"PART A—ENTITLEMENT PROGRAM

"SEC. 2151. DELIVERY TO STATES OF SUFFICIENT QUANTITIES OF PEDIATRIC VACCINES.

''(a) IN GENERAL.—In the case of any State that submits to the Secretary an application in accordance with section 2157, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall provide for the purchase and delivery on behalf of the State of such quantities of pediatric vaccines as may be necessary for the immunization of each eligible child in the State. The preceding sentence is subject to sections 2152(d) and 2159(a).

''(b) ELIGIBLE CHILDREN.—For purposes of this part, the term 'eligible child' means an individual 18 years of age or younger who—

''(1) with respect to the State involved, is entitled to medical assistance under the plan approved for the State under title XIX of the Social Security Act (including a State operating under a statewide waiver under section 1115 of such Act);

''(2)(A) is uninsured with respect to health insurance policies or plans (including group health

plans or prepaid health plans and including employee welfare benefit plans under the Employee Retirement Income Security Act of 1974); or

"(B) is covered under such a policy or plan, but under the policy or plan benefits are not available with respect to immunizations; or

"(3) is an Indian.

"SEC. 2152. ENTITLEMENTS.

"(a) ENTITLEMENT OF STATES.—Subject to subsection (d), in the case of any State that submits to the Secretary an application in accordance with section 2157, the State is entitled to have the Secretary provide for the purchase and delivery on behalf of the State of pediatric vaccines under section 2151. The preceding sentence constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the purchase and delivery to the State of the vaccines.

"(b) ENTITLEMENTS OF CHILDREN AND HEALTH CARE PROVIDERS.—Subject to subsection (d), the Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees as follows:

"(1) Each eligible child in the State, in receiving an immunization with a pediatric vaccine from

a program-registered provider (as defined in section 2153(a)), is entitled to receive the immunization without charge for the cost of such vaccine.

"(2) Each program-registered provider in the State who administers a pediatric vaccine to an eligible child in the State is entitled to receive such vaccine from the State without charge.

"(3) The State will carry out a program to administer the entitlements established pursuant to paragraphs (1) and (2).

"(c) ENFORCEMENT OF PROVIDER RIGHTS BY ELIGIBLE CHILDREN.—With respect to the obligation of a State under the entitlement established in subsection (b)(2), an eligible child (or representative of the child) may enforce the rights of the provider under such paragraph if—

"(1) the provider administered a pediatric vaccine to the child notwithstanding the failure of the State to carry out such obligation with respect to the vaccine; or

"(2) an immunization with the vaccine was sought for the child by a parent of the child, but the provider, on the basis of such failure of the State, did not administer the vaccine to the child.

"(d) CERTAIN CONDITIONS.—

"(1) IN GENERAL.—This part does not apply with respect to any vaccine administered before October 1, 1994.

"(2) RELATIONSHIP TO PURCHASE CONTRACTS WITH MANUFACTURERS.—With respect to a pediatric vaccine, the obligation of the Federal Government pursuant to subsection (a), and the obligations of the State pursuant to subsection (b), are effective only to the extent that there is in effect a contract under section 2158 for the purchase and delivery of the vaccine.

"(3) SUBMISSION OF APPLICATION.—

"(A) Subject to subparagraph (C), the entitlements established pursuant to subsections (a) and (b) are established with respect to a State upon the State submitting to the Secretary an application in accordance with section 2157.

"(B) An application submitted to the Secretary under section 2157 is deemed to have been submitted in accordance with such section unless the Secretary, not later than 30 days after the date on which the application is submitted, notifies the State that the application is not in accordance with such section.

"(C) In the case of a State whose application submitted under section 2157 is not submitted in accordance with such section, the Secretary may, upon the submission by the State of an application that is in accordance with such section, provide that the entitlements established pursuant to such submission are deemed to have been established on the date on which the State first submitted the application.

"SEC. 2153. VOLUNTARY PARTICIPATION OF HEALTH CARE PROVIDERS.

"(a) IN GENERAL.—

"(1) REQUEST FOR PARTICIPATION; REQUIRED APPROVAL.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees that federally-supplied pediatric vaccines will not be distributed to a health care provider unless—

"(A) the provider submits to the State a written request to participate in the program established by the State pursuant to section 2152(b)(3);

"(B) the request is in such form and is made in such manner as the Secretary may require; and

"(C) the provider makes the agreements described in this section.

"(2) PROGRAM-REGISTERED PROVIDERS.—For purposes of this part, the term 'program-registered provider' means a health care provider that meets the conditions specified in subparagraphs (A) through (C) of paragraph (1).

"(b) ELIGIBILITY OF CHILDREN.—

"(1) IN GENERAL.—An agreement for a health care provider under subsection (a) is that the provider—

"(A) before administering a pediatric vaccine to a child, will ask a parent of the child such questions as are necessary to determine whether the child is an eligible child;

"(B) will, for a period of time specified by the Secretary, maintain records of responses made to the questions; and

"(C) will, upon request, make such records available to the State involved and to the Secretary, subject to paragraph (2).

"(2) RESTRICTION ON USE OF INFORMATION.—Records provided to a State or to the Secretary under paragraph (1)(C) may be used only for pur-

poses of audit of the program carried out under section 2152(b)(3) by the State.

"(c) CHARGES FOR VACCINES.—

"(1) VACCINES PER SE.—An agreement for a health care provider under subsection (a) is that, in administering a federally-supplied pediatric vaccine to an eligible child, the provider will not impose a charge for the cost of the vaccine.

"(2) ADMINISTRATION OF VACCINES.—With respect to compliance with an agreement under paragraph (1), a program-registered provider may impose a charge for the administration of a federally-supplied pediatric vaccine, subject to an agreement by the provider that the provider will not impose such charge with respect to a child if a parent of the child certifies to the provider that the parent is unable to pay the charge.

"(d) RULES OF CONSTRUCTION.—

"(1) EXTENT OF PARTICIPATION.—This section may not be construed as requiring that a program-registered provider administer a federally-supplied pediatric vaccine to each eligible child for whom an immunization with the vaccine is sought from the provider.

1 "(2) VERIFICATION OF INFORMATION.—With
2 respect to compliance with agreements under sub-
3 sections (b) and (c), such agreements may not be
4 construed as requiring a program-registered provider
5 to verify independently the information provided to
6 the provider by a parent pursuant to such sub-
7 sections.

8 **"SEC. 2154. INTRASTATE DISTRIBUTION OF PEDIATRIC VAC-**
9 **CINES.**

10 "(a) IN GENERAL.—Not later than 180 days after
11 the date of the enactment of the Omnibus Budget Rec-
12 onciliation Act of 1993, the Secretary shall, through publi-
13 cation in the Federal Register, establish criteria for the
14 delivery on behalf of the States of federally-supplied pedi-
15 atric vaccines to program-registered providers in the
16 State.

17 "(b) INVOLVEMENT OF CERTAIN PROVIDERS.—

18 "(1) IN GENERAL.—In establishing criteria
19 under subsection (a), the Secretary shall establish
20 criteria with respect to encouraging the entities de-
21 scribed in paragraph (2) to become program-reg-
22 istered providers.

23 "(2) RELEVANT PROVIDERS.—The entities re-
24 ferred to in paragraph (1) are—

25 "(A) private health care providers; and

"(B)(i) health care providers that receive funds under title V of the Indian Health Care Improvement Act;

"(ii) the Indian Health Service; and

"(iii) health programs or facilities operated by Indian tribes or tribal organizations.

"(c) CULTURAL CONTEXT OF SERVICES.—In establishing criteria under subsection (a), the Secretary shall require that, in providing a federally-supplied pediatric vaccine to any population of eligible children a substantial portion of whose parents have a limited ability to speak the English language, a State have in effect a reasonable plan to administer the vaccines through program-registered providers who are able to communicate with the population involved in the language and cultural context that is most appropriate.

"(d) COMPLIANCE BY STATES.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees to maintain compliance with the criteria established under subsection (a).

"SEC. 2155. GENERAL PROVISIONS.

"(a) FEDERAL STANDARDS ON ACCOUNTABILITY.—

"(1) ESTABLISHMENT OF STANDARDS.—Not later than 180 days after the date of the enactment

of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall, through publication in the Federal Register, establish standards with respect to determining the extent to which States and program-registered providers are in compliance with the agreements made under this part.

"(2) COMPLIANCE BY STATES.— The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees to maintain compliance with the standards established under subsection (a).

"(b) STATE MAINTENANCE OF IMMUNIZATION LAWS.—The Secretary may provide for the purchase and delivery of vaccines under section 2151 on behalf of a State only if the State certifies to the Secretary that, if it had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

"(c) PARTICIPATION IN NATIONAL MONITORING SYSTEM.—On and after January 1, 1998, the Secretary may provide for the purchase and delivery of vaccines under section 2151 on behalf of a State only if the State certifies

to the Secretary that the State is operating a registry in accordance with part B.

"SEC. 2156. STATE OPTION REGARDING IMMUNIZATION OF ADDITIONAL CATEGORIES OF CHILDREN.

"(a) STATE PURCHASES.—Subject to subsections (b) and (c), for the purpose of administering a pediatric vaccine to children in addition to eligible children, any participating State under section 2151 may, pursuant to section 2158(a)(2), purchase the vaccine from a manufacturer of the vaccine at the price in effect under section 2158.

"(b) REQUIREMENTS.—A State may purchase pediatric vaccines pursuant to subsection (a) only if the following conditions are met:

"(1) The State agrees that the vaccines will be used to provide immunizations for children who are not eligible children.

"(2) The State designates the particular categories of children who are to receive the immunizations, and submits to the Secretary a description of the categories so designated.

"(3) The State provides to the Secretary such information as the Secretary determines to be necessary to provide for quantities of pediatric vaccines for the State to purchase pursuant to section 2158(a)(2).

"(4) The State agrees, subject to subsection (c), that the program established by the State pursuant to section 2152(b)(3) applies to children designated under paragraph (2) to the same extent and in the same manner as the program applies to eligible children (except for the State being the purchaser of the pediatric vaccines involved).

"(c) CERTAIN LIMITATIONS.—A State may purchase pediatric vaccines pursuant to subsection (a) only if the State agrees as follows:

"(1) The authorization established in such subsection with respect to a pediatric vaccine is subject to the quantity of the vaccine that, on behalf of the State, the Secretary provides for under section 2158(a)(2).

"(2) In any case in which multiple contracts are in effect under section 2158 with respect to such a vaccine and the State elects to purchase the vaccine pursuant to subsection (a), the Secretary will determine which of such contracts will be applicable to the purchase.

"SEC. 2157. STATE APPLICATION FOR VACCINES.

"(a) IN GENERAL.—An application by a State for pediatric vaccines under section 2151(a) is in accordance with this section if the application—

1 "(1) is submitted not later than the date speci-
2 fied by the Secretary;
3 "(2) contains each agreement required in this
4 part (including the agreements required in section
5 2156, if the State is electing to purchase pediatric
6 vaccines pursuant to such section);
7 "(3) contains any information required in this
8 part to be submitted to the Secretary (including the
9 information required in section 2156, if the State is
10 electing to purchase pediatric vaccines pursuant to
11 such section);
12 "(4) contains the certification required in sub-
13 section (b) of section 2155 and, as applicable, the
14 certification required in subsection (c) of such sec-
15 tion; and
16 "(5) is in such form, is made in such manner,
17 and contains such agreements, assurances, and in-
18 formation as the Secretary determines to be nec-
19 essary to carry out this part.
20 "(b) FAILURE TO APPLY.—
21 "(1) IN GENERAL.—If, as of January 1, 1998,
22 a State is not receiving pediatric vaccines under sec-
23 tion 2151 and carrying out a program pursuant to
24 section 2152(b)(3), the Secretary shall, subject to

paragraph (2), terminate payments to the State under part A of title XIX.

"(2) EXCEPTIONS.—Paragraph (1) does not apply in the case of a State described in such paragraph that—

"(A) is, through all willing health care providers, providing for the immunization of eligible children with pediatric vaccines, and is not imposing a charge on such providers or children for the costs of the vaccines; or

"(B) meets or exceeds the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States who are 2 years of age.

"SEC. 2158. CONTRACTS WITH MANUFACTURERS OF PEDIATRIC VACCINES.

"(a) IN GENERAL.—Subject to the provisions of this section, the Secretary shall periodically enter into negotiations with manufacturers of pediatric vaccines for the purpose of maintaining contracts under which—

"(1) the Secretary provides for the purchase of quantities of pediatric vaccines necessary for carrying out section 2151, and provides for the delivery of the vaccines to participating States under such section; and

"(2) each participating State, at the option of the State under section 2156, is permitted to obtain additional quantities of pediatric vaccines (subject to limits in such contracts regarding quantities) through purchasing the vaccines from the manufacturers at the price negotiated by the Secretary for the quantities specified in paragraph (1).

The Secretary shall enter into the initial negotiations under the preceding sentence not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.

"(b) NEGOTIATION OF PURCHASE PRICE.—

"(1) IN GENERAL.—In negotiating the prices at which pediatric vaccines will be purchased from a manufacturer under subsection (a), the Secretary shall negotiate a price that provides a reasonable profit for the manufacturer.

"(2) CERTAIN FACTORS.—

"(A) In determining a reasonable profit for a manufacturer under paragraph (1), the Secretary shall consider the following factors:

"(i) The costs of the manufacturer in researching, developing, and producing the pediatric vaccine involved.

"(ii) The costs of the manufacturer in researching and developing new or improved vaccines (pediatric or otherwise).

"(iii) The costs of shipping and handling pediatric vaccines in compliance with the agreement under subsection (c).

"(iv) Such other factors as the Secretary determines to be appropriate.

"(B) With respect to factors considered under subparagraph (A), the Secretary may enter into a contract under subsection (a) only if the manufacturer involved provides to the Secretary such information regarding the factors as the Secretary determines to be appropriate.

"(3) CONFIDENTIALITY.—With respect to information provided to the Secretary by a manufacturer under paragraph (2), the following applies:

"(A) The Secretary shall maintain the confidentiality of the information, with provision for reasonable disclosures.

"(B) For purposes of section 552(b)(4) of title 5, United States Code, the information shall be considered to be trade secrets and com-

1 mercial or financial information obtained from
2 a person and privileged or confidential.
3 "(C) Section 1905 of title 18, United
4 States Code, applies to information maintained
5 confidentially under subparagraph (A).
6 "(c) CHARGES FOR SHIPPING AND HANDLING.—The
7 Secretary may enter into a contract under subsection (a)
8 only if the manufacturer involved agrees that the manu-
9 facturer will provide for delivering the vaccines on behalf
10 of the States in accordance with the programs established
11 by the States pursuant to section 2152(b)(3), and will not
12 impose any charges for the costs of such delivery (except
13 to the extent such costs are provided for in the price nego-
14 tiated under subsection (b)).
15 "(d) QUANTITY OF VACCINES.—For the purpose of
16 ensuring that the Federal Government has the ability to
17 carry out section 2151, the Secretary, in negotiations
18 under subsection (a), shall negotiate for maintaining a
19 supply of pediatric vaccines to meet unanticipated needs
20 for the vaccines. For purposes of the preceding sentence,
21 the Secretary shall negotiate for a 6-month supply of vac-
22 cines in addition to the quantity that the Secretary other-
23 wise would provide for in such negotiations. In carrying
24 out this paragraph, the Secretary shall consider the poten-

1 tial for outbreaks of the diseases with respect to which
2 the vaccines have been developed.

3 "(e) NEGOTIATING AUTHORITY OF SECRETARY.—In
4 carrying out subsection (a), the Secretary, to the extent
5 determined by the Secretary to be appropriate, may enter
6 into contracts described in such subsection, may decline
7 to enter into such contracts, and with the consent of the
8 manufacturers involved, may modify such agreements and
9 may extend such agreements.

10 "(f) CERTAIN CONTRACT PROVISIONS.—

11 "(1) DURATION.—A contract entered into by
12 the Secretary under subsection (a) is effective for
13 such period as the Secretary and the manufacturer
14 involved may agree in the contract.

15 "(2) ADVANCE FUNDING.—The Secretary may,
16 pursuant to section 2152(a), enter into contracts
17 under subsection (a) under which the Federal Gov-
18 ernment is obligated to make outlays, the budget au-
19 thority for which is not provided for in advance in
20 appropriations Acts.

21 "(g) REPORTS TO SECRETARY.—The Secretary may
22 enter into a contract under subsection (a) only if the man-
23 ufacturer involved agrees to submit to the Secretary such
24 reports as the Secretary determines to be appropriate with
25 respect to compliance with the contract. For purposes of

paragraph (3) of subsection (b), such reports shall be considered to be information provided by the manufacturer to the Secretary under paragraph (2) of such subsection.

"(h) MULTIPLE SUPPLIERS.—

"(1) IN GENERAL.—In the case of the pediatric vaccine involved, the Secretary shall, as appropriate, enter into a contract under subsection (a) with each manufacturer of the vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety, quality, and price).

"(2) RULE OF CONSTRUCTION.—With respect to multiple contracts entered into pursuant to paragraph (1), such paragraph may not be construed as prohibiting the Secretary from having in effect different prices under each of such contracts.

"SEC. 2159. CERTAIN ADMINISTRATIVE VARIATIONS.

"(a) TRIBES AND TRIBAL ORGANIZATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for the purchase and delivery on behalf of each Indian tribe and each tribal organization of such quantities of pediatric vaccines as may be necessary for the immunization of each Indian child in the State in which the tribe or organization (as the case may be) is located.

1 "(2) ENTITLEMENTS; ADMINISTERING PRO-
2 GRAM.—The Secretary may provide for the purchase
3 and delivery of pediatric vaccines under paragraph
4 (1) on behalf of an Indian tribe or tribal organiza-
5 tion only if the tribe or organization (as the case
6 may be) agrees that this part applies to the tribe or
7 organization (in relation to Indian children) to the
8 same extent and in the manner as such part applies
9 to States (in relation to eligible children).
10 "(b) STATE AS MANUFACTURER.—
11 "(1) PAYMENTS IN LIEU OF VACCINES.—In the
12 case of a participating State under section 2151 that
13 manufactures a pediatric vaccine and is not receiv-
14 ing the vaccine under such section, if the Secretary
15 determines that the program of the State under
16 2152(b)(3) is carried out with respect to the vaccine,
17 the Secretary shall provide to the State an amount
18 equal to the value of the quantity of such vaccine
19 that otherwise would have been delivered to the
20 State under section 2151, subject to the provisions
21 of this subsection.
22 "(2) DETERMINATION OF VALUE.—In deter-
23 mining the amount to pay a State under paragraph
24 (1) with respect to a pediatric vaccine, the value of
25 the quantity of vaccine shall be determined on the

basis of the price in effect for the vaccine under contracts under section 2158. If more than 1 such contract is in effect, the Secretary shall determine such value on the basis of the average of the prices under the contracts, after weighting each such price in relation to the quantity of vaccine under the contract involved.

"(3) USE OF PAYMENTS.—A State may expend payments received under paragraph (1) only for purposes relating to pediatric vaccines.

"SEC. 2160. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR ADMINISTRATION.

"(a) RECOMMENDED PEDIATRIC VACCINES.—

"(1) IN GENERAL.—The Secretary shall establish a list of the vaccines that the Secretary recommends for administration to all children for the purpose of immunizing the children, subject to such contraindications for particular medical categories of children as the Secretary may establish under subsection (b)(1)(D). The Secretary shall periodically review the list, and shall revise the list as appropriate.

"(2) RULE OF CONSTRUCTION.—

"(A) The list of vaccines specified in subparagraph (B) is deemed to be the list of vaccines maintained under paragraph (1).

"(B) The list of vaccines specified in this subparagraph is the list of vaccines that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices, an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

"(b) RECOMMENDED SCHEDULE FOR ADMINISTRATION.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a pediatric vaccine, the Secretary shall establish (and periodically review and as appropriate revise) a schedule of nonbinding recommendations for the following:

"(A) The number of immunizations with the vaccine that children should receive.

"(B) The ages at which children should receive the immunizations.

"(C) The dosage of vaccine that should be administered in the immunizations.

1 "(D) Any contraindications regarding ad-
2 ministration of the vaccine to particular medical
3 categories of children.
4 "(E) Such other guidelines as the Sec-
5 retary determines to be appropriate with re-
6 spect to administering the vaccine to children.
7 "(2) VARIATIONS IN MEDICAL PRACTICE.—In
8 establishing and revising a schedule under para-
9 graph (1), the Secretary shall ensure that, in the
10 case of the pediatric vaccine involved, the schedule
11 provides for the full range of variations in medical
12 judgment regarding the administration of the vac-
13 cine, subject to remaining within medical norms.
14 "(3) RULE OF CONSTRUCTION.—
15 "(A) The schedule specified in subpara-
16 graph (B) is deemed to be the schedule main-
17 tained under paragraph (1).
18 "(B) The schedule specified in this sub-
19 paragraph is the schedule that, for purposes of
20 paragraph (1), is established (and periodically
21 reviewed and as appropriate revised) by the ad-
22 visory committee specified in subsection
23 (a)(2)(B).
24 "(c) GENERALLY APPLICABLE RULES OF CONSTRUC-
25 TION.—

"(1) IN GENERAL.—The list established under subsection (a) and the schedules established under subsection (b) do not constitute guidelines, standards, performance measures, or review criteria for purposes of the program carried out by the Administrator for Health Care Policy and Research under part B of title IX or under section 1142 of the Social Security Act.

"(2) STATE LAWS.—This section does not supersede any State law on requirements with respect to receiving immunizations (including any such law relating to religious exemptions or medical exemptions).

"(d) ISSUANCE OF LIST AND SCHEDULES.—Not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall establish the initial list required in subsection (a) and the schedule required in subsection (b).

"SEC. 2161. CHILDHOOD IMMUNIZATION TRUST FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the National Childhood Immunization Trust Fund (in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated to the Fund in appropriations Acts, in the Internal Revenue

Code of 1986, or in subsection (c)(3). Amounts appropriated to the Fund shall remain available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for the purpose of carrying out this part. Payments under the program under this part, and the costs of carrying out such program, shall be exempt from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and

proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"SEC. 2162. DEFINITIONS.

''For purposes of this subtitle:

''(1) The term 'eligible child' has the meaning given such term in section 2151(b).

''(2) The term 'federally-supplied', with respect to a pediatric vaccine, means that such vaccine is purchased and delivered on behalf of a State under section 2151(a).

''(3) The term 'health care provider', with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such administration under the law of the State in which the entity administers the vaccine, subject to section 333(e).

''(4) The term 'immunization' means an immunization against a vaccine-preventable disease.

''(5) Each of the terms 'Indian', 'Indian tribe', and 'tribal organization' has the meaning given such term in section 4 of the Indian Health Care Improvement Act.

''(6) The term 'Indian child' means an Indian who is 18 years of age or younger.

"(7) The term 'manufacturer' means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any pediatric vaccine. The term 'manufacture' means to manufacture, import, process, or distribute a vaccine.

"(8) The term 'parent', with respect to a child, means a legal guardian of the child.

"(9) The term 'participating State under section 2151' means a State that has submitted to the Secretary an application in accordance with section 2157.

"(10) The term 'pediatric vaccine' means a vaccine included on the list established under section 2160(a).

"(11) The term 'program-registered provider' has the meaning given such term in 2153(a)(2).

"SEC. 2163. TERMINATION OF PROGRAM.

This part shall cease to be in effect beginning on such date as may be prescribed in Federal law providing for immunization services for all children as part of a broad-based reform of the national health care system.

1 "PART B—NATIONAL SYSTEM FOR MONITORING
2 IMMUNIZATION STATUS OF CHILDREN

3 **"SEC. 2171. FORMULA GRANTS FOR STATE REGISTRIES**
4 **WITH RESPECT TO MONITORING.**

5 "(a) IN GENERAL.—For the purpose described in
6 subsection (b), the Secretary, acting through the Director
7 of the Centers for Disease Control and Prevention, shall
8 make an allotment each fiscal year for each State in an
9 amount determined in accordance with section 2175. The
10 Secretary shall make a grant to the State of the allotment
11 made for the State for the fiscal year if the State submits
12 to the Secretary an application in accordance with section
13 2174.

14 "(b) AUTHORIZED ACTIVITIES.—The Secretary may
15 make a grant under subsection (a) only if the State agrees
16 to expend the grant for the purpose of—

17 "(1) collecting the data described in section
18 2172;

19 "(2) operating registries to maintain the data
20 (and establishing such registries, in the case of a
21 State that is not operating such a registry);

22 "(3) utilizing the data to monitor the extent to
23 which children have received immunizations in ac-
24 cordance with the schedule established under section
25 2160(b);

"(4) notifying parents if children have not received immunizations in accordance with such schedule; and

"(5) such other activities as the Secretary may authorize with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

"(c) REQUIREMENT REGARDING STATE LAWS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved—

"(A) provides assurances satisfactory to the Secretary that, not later than October 1, 1996, the State will be operating a registry in accordance with this part, including having in effect such laws and regulations as may be necessary to so operate such a registry; and

"(B) agrees that, prior to such date, the State will make such efforts to operate a registry in accordance with this part as may be authorized in the law and regulations of the State.

"(2) RULES OF CONSTRUCTION.—

"(A) With respect to the agreements made by a State under this part, other than the

agreement under paragraph (1)(B), the Secretary may require compliance with the agreements only to the extent consistent with such paragraph.

"(B) This part does not authorize the Secretary, as a condition of the receipt of a grant under subsection (a) by a State, to prohibit the State from providing any parent, upon the request of the parent, with an exemption from the requirements established by the State pursuant to this part for the collection of data regarding any child of the parent.

"SEC. 2172. REGISTRY DATA.

"(a) IN GENERAL.—For purposes of section 2171(b)(1), the data described in this section are the data described in subsection (b) and the data described in subsection (c). This section applies to data regarding a child without regard to whether the child is an eligible child as defined in section 2162.

"(b) DATA REGARDING BIRTH OF CHILD.—With respect to the birth of a child, the data described in this subsection is as follows:

"(1) The name of each child born in the State involved on or after October 1, 1993.

"(2) Demographic data on the child.

1 "(3) The name of one or both of the parents of
2 the child.
3 "(4) The address, as of the date of the birth of
4 the child, of each parent whose name is received in
5 the registry pursuant to paragraph (3).
6 "(c) DATA REGARDING INDIVIDUAL IMMUNIZA-
7 TIONS.—With respect to a child to whom a pediatric vac-
8 cine is administered in the State involved, the data de-
9 scribed in this subsection is as follows:
10 "(1) The name, age, and address of the child.
11 "(2) The date on which the vaccine was admin-
12 istered to the child.
13 "(3) The name and business address of the
14 health care provider that administered the vaccine.
15 "(4) The address of the facility at which the
16 vaccine was administered.
17 "(5) The name and address of one or both par-
18 ents of the child as of the date on which the vaccine
19 was administered, if such information is available to
20 the health care provider.
21 "(6) The type of vaccine.
22 "(7) The number or other information identify-
23 ing the particular manufacturing batch of the vac-
24 cine, if such information appears on the container or

1 packaging for the vaccine or is otherwise readily ac-
2 cessible to the health care provider.
3 "(8) The dosage of vaccine that was adminis-
4 tered.
5 "(9) A description of any adverse medical reac-
6 tions that the child experienced in relation to the
7 vaccine and of which the health care provider is
8 aware.
9 "(10) Any other contraindications noted by the
10 health care provider with respect to administration
11 of the vaccine to the child.
12 "(11) Such other data regarding immunizations
13 for the child, including identifying data, as the Sec-
14 retary may require consistent with applicable law
15 (including social security account numbers furnished
16 pursuant to section 205(c)(2)(E) of the Social
17 Security Act).
18 "(d) DATE CERTAIN FOR SUBMISSION TO REG-
19 ISTRY.—The Secretary may make a grant under section
20 2171 only if the State involved agrees to ensure that, with
21 respect to a child—
22 "(1) the data described in subsection (b) are
23 submitted to the registry under such section not
24 later than 6 weeks after the date on which the child
25 is born; and

"(2) the data described in subsection (c) with respect to a vaccine are submitted to such registry not later than 6 weeks after the date on which the vaccine is administered to the child.

"SEC. 2173. GENERAL PROVISIONS.

"(a) FEDERAL STANDARDS ON CONFIDENTIALITY.—The Secretary shall by regulation establish standards providing for maintaining the confidentiality of the identity of individuals with respect to whom data are maintained in registries under section 2171. Such standards shall, with respect to a State, provide that the State is to have in effect laws regarding such confidentiality, including appropriate penalties for violation of the laws. The Secretary may make a grant under such section only if the State involved agrees to comply with the standards.

"(b) USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Any usage or disclosure of data in registries under section 2171 that consists of social security account numbers and related information which is otherwise permitted under this part may be exercised only to the extent permitted under section 205(c)(2)(E) of the Social Security Act. For purposes of the preceding sentence, the term 'related information' has the meaning given such term in clause (iv)(II) of such section.

"(c) UNIFORMITY IN METHODOLOGIES.—The Secretary shall establish standards regarding the methodologies used in establishing and operating registries under section 2171, and may make a grant under such section only if the State agrees to comply with the standards. The Secretary shall provide for a reasonable degree of uniformity among the States in such methodologies for the purpose of ensuring the utility, comparability, and exchange of the data maintained in such registries.

"(d) COORDINATION AMONG STATES.—The Secretary may make a grant under section 2171 to a State only if, with respect to the operation of the registry of the State under such section, the State agrees to cooperate with the Secretary and with other States in carrying out activities with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

"(e) REPORTS TO SECRETARY.—The Secretary may make a grant under section 2171 only if the State involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to the activities of the State under this part.

"SEC. 2174. APPLICATION FOR GRANT.

"An application by a State for a grant under section 2171 is in accordance with this section if the application—

"(1) is submitted not later than the date specified by the Secretary;

"(2) contains each agreement required in this part;

"(3) contains any information required in this part to be submitted to the Secretary; and

"(4) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 2175. DETERMINATION OF AMOUNT OF ALLOTMENT.

"The Secretary shall determine the amount of the allotments required in section 2171 for States for a fiscal year in accordance with a formula established by the Secretary that allots the amounts appropriated under section 2177 for the fiscal year on the basis of the costs of the States in establishing and operating registries under section 2171.

"SEC. 2176. DEFINITIONS.

"For purposes of this part, each of the terms 'health care provider, 'pediatric vaccine' and 'parent' has the meaning given the term in section 2162.

"SEC. 2177. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000, for fiscal year

1994, $152,000,000 for fiscal year 1995, $125,000,000 for fiscal year 1996, and $35,000,000 for each of the fiscal years 1997 through 1999.

"PART C—FUNDING FOR OTHER PURPOSES REGARDING CHILDHOOD IMMUNIZATIONS

"SEC. 2181. GRANTS REGARDING YEAR 2000 HEALTH OBJECTIVES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States for the purpose of carrying out activities with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States, other than providing for the purchase and delivery on behalf of the State of any pediatric vaccine (as defined in section 2162).

"(b) CERTAIN ACTIVITIES.—Subject to subsection (a), the purposes for which a grant under such subsection may be expended include the following:

"(1) Research into the prevention and control of diseases that may be prevented through vaccination.

"(2) Demonstration projects for the prevention and control of such diseases.

"(3) Public information and education programs for the prevention and control of such diseases.

"(4) Education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel).

"(5) Such other activities as the Secretary determines to be appropriate.

"(c) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d) SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.— The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the grant re-

cipient and the amount of any other costs incurred in connection with the detail of such officer or employee.

When the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $580,000,000 for fiscal year 1993, $680,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.".

(b) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

1 (2) by inserting after subparagraph (D) the fol-
2 lowing new subparagraph:
3 ''(E)(i) The Secretary and each State receiving
4 grants under section 2171(a) of the Public Health Service
5 Act may utilize social security account numbers issued by
6 the Secretary under this subsection for purposes of—
7 ''(I) operating registries under such section to
8 maintain information including such numbers (and
9 establishing such registries, in the case of a State
10 that is not operating such a registry),
11 ''(II) utilizing such numbers to monitor the ex-
12 tent to which children have received immunizations
13 in accordance with the schedule established under
14 section 2160(b) of the Public Health Service Act,
15 and
16 ''(III) notifying parents if children have not re-
17 ceived immunizations in accordance with such sched-
18 ule.
19 ''(ii) Disclosure by individuals of social security ac-
20 count numbers may be required by a State for purposes
21 of identification of children in a registry operated pursu-
22 ant to a grant referred to in clause (i), except that such
23 disclosure may be required to be made only to persons spe-
24 cifically authorized in regulations of the Secretary pre-
25 scribed under part B of subtitle 3 of title XXI of the Pub-

lic Health Service Act. The Secretary shall take such actions as are necessary to restrict access to information consisting of such numbers and related information only to such authorized persons whose duties or responsibilities require access for the purposes described in clause (i). The Secretary shall issue regulations governing the use, maintenance, and disclosure by any holder of such information, including appropriate administrative, technical, and physical safeguards, to ensure that only such authorized persons have access to such information. Any use or disclosure of such information in violation of such regulations shall be deemed a disclosure in violation of subparagraph (C)(vii).

''(iii) The Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than January 1, 1996, and biennially thereafter, on the operation of this subparagraph.

''(iv) For purposes of this subparagraph—

''(I) the term 'State' has the meaning provided such term under section 2(f) of the Public Health Service Act, and

''(II) the term 'related information' means any record, list, or compilation which indicates, directly or indirectly, the identity of any individual with re-

spect to whom a social security account number is maintained pursuant to this subparagraph and part B of subtitle 3 of title XXI of the Public Health Service Act.''.

(c) RELATIONSHIP OF NEW PROGRAM OF IMMUNIZATION GRANTS TO CURRENT PROGRAM.—

(1) STRIKING OF CURRENT PROGRAM.—Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended—

(A) in subsection (j)—

(i) by striking paragraph (1); and

(ii) by striking the remaining paragraph designation; and

(B) in subsection (k)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) TRANSITIONAL AUTHORITY UNDER NEW PROGRAM.—With respect to activities that the Secretary of Health and Human Services was authorized to carry out pursuant to section 317(j)(1) of the Public Health Service Act (as in effect on the day before the date of the enactment of this Act), the Secretary may, for fiscal year 1994, carry out

any such activity under section 2181 of the Public Health Service Act (as added by subsection (a) of this section), notwithstanding the provisions of such section 2181. The authority established in the preceding sentence includes the authority to purchase vaccines.

(d) CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.—

(1) REQUIREMENT.—The requirement of this paragraph, with respect to a group health plan for plan years beginning after the date of the enactment of this Act, is that the group health plan not reduce its coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.

(2) ENFORCEMENT.—

(A) For purposes of section 2207 of the Public Health Service Act, the requirement of paragraph (1) is deemed a requirement of title XXII of such Act.

(B) For purposes of subsections (a) through (e) of section 4980B of the Internal Revenue Code of 1986, paragraph (1) is

deemed a requirement of subsection (f) of such section.

SEC. 5182. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) USE OF VACCINE INJURY COMPENSATION TRUST FUND.—Section 6601(r) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking ''$2,500,000 for each of fiscal years 1991 and 1992'' each place it appears and inserting ''$3,000,000 for fiscal year 1994 and each fiscal year thereafter'' (in three places).

(b) AMENDMENT OF VACCINE INJURY TABLE.—Section 2116(b) of the Public Health Service Act (42 U.S.C. 300aa–16(b)) is amended by striking ''such person may file'' and inserting ''or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file''.

(c) EXTENSION OF TIME FOR DECISION.—Section 2112(d)(3)(D) of such Act (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking ''540 days'' and inserting ''30 months (but for no more than 6 months at a time)''.

(d) SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.—

(1) Section 2126(b) of such Act (42 U.S.C. 300aa–26(b)) is amended—

(A) by striking ''by rule'' in the matter preceding paragraph (1);

(B) by striking, in paragraph (1), '', opportunity for a public hearing, and 90'' and inserting ''and 30''; and

(C) by striking, in paragraph (2), '', appropriate health care providers and parent organizations''.

(2) Section 2126(c) of such Act (42 U.S.C. 300aa–26(c)) is amended—

(A) by inserting ''shall be based on available data and information,'' after ''such materials'' in the matter preceding paragraph (1), and

(B) by striking paragraphs (1) through (10) and inserting the following:

''(1) a concise description of the benefits of the vaccine,

''(2) a concise description of the risks associated with the vaccine,

''(3) a statement of the availability of the National Vaccine Injury Compensation Program, and

''(4) such other relevant information as may be determined by the Secretary.''.

(3) Subsections (a) and (d) of section 2126 of such Act (42 U.S.C. 300aa–26) are each amended by inserting ''or to any other individual'' after ''to the legal representatives of any child''.

(4) Subsection (d) of section 2126 of such Act (42 U.S.C. 300aa–26) is amended—

(A) by striking all after ''subsection (a),'' the second place it appears in the first sentence and inserting ''supplemented with visual presentations or oral explanations, in appropriate cases.'', and

(B) by striking ''or other information'' in the last sentence.

SEC. 5183. MEDICAID IMMUNIZATION PROVISIONS.

(a) OUTREACH AND EDUCATION.—

(1) IMMUNIZATION OUTREACH THROUGH EPSDT PROGRAM.—Section 1902(a)(43)(A) (42 U.S.C. 1396a(a)(43)(A)) is amended by inserting before the comma at the end the following: ''and the need for age-appropriate immunizations against vaccine-preventable diseases''.

(2) COORDINATION WITH MATERNAL AND CHILD HEALTH BLOCK GRANT PROGRAMS AND WIC PROGRAMS.—Section 1902(a)(11) (42 U.S.C. 1396a(a)(11)) is amended—

(A) in clause (B)—

(i) by striking ''effective July 1, 1969,'',

(ii) by striking ''and'' before ''(ii)'', and

(iii) by striking ''to him under section 1903'' and inserting ''to the individual under section 1903, and (iii) providing for coordination of information and education on childhood vaccinations and delivery of immunization services''; and

(B) in clause (C), by inserting ''(including the provision of information and education on childhood vaccinations and the delivery of immunization services)'' after ''operations under this title''.

(3) COVERAGE OF PUBLIC HOUSING HEALTH CENTERS AS FEDERALLY-QUALIFIED HEALTH CENTERS.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended by striking ''or 340'' each place it appears and inserting ''340, or 340A''.

(4) EFFECTIVE DATE.—(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply to calendar quarters beginning on or after October 1, 1993, without regard to

whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) 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 appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, 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) SCHEDULE OF IMMUNIZATIONS UNDER EPSDT.—

(1) IN GENERAL.—Section 1905(r)(1) (42 U.S.C. 1396d(r)(1)) is amended—

(A) in subparagraph (A)(i), by inserting ''and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule recommended by the Secretary under section 2160 of the Public Health Service Act'' after ''child health care''; and

(B) in subparagraph (B)(iii), by inserting ''(according to the schedule recommended by the Secretary under section 2160 of the Public Health Service Act)'' after ''appropriate immunizations''.

(2) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (B) of paragraph (1) shall first apply 90 days after the date the Secretary of Health and Human Services first issues the recommended schedule referred to in subparagraphs (A)(i) and subparagraph (B)(iii) of section 1905(r)(1) of the Social Security Act (as amended by such respective subparagraphs).

(c) ASSURING ADEQUATE PAYMENT RATES FOR ADMINISTRATION OF VACCINES TO CHILDREN.—

(1) PAYMENT RATES.—Section 1926(a)(4)(B) (42 U.S.C. 1396r–7(a)(4)(B)) is amended by inserting ''(including the administration of vaccines)'' after ''means services''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the plan amendment required to be submitted under section 1926(a)(2) of the Social Security Act by not later than April 1, 1994.

(d) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR INAPPROPRIATE ADMINISTRATION OF SINGLE–ANTIGEN VACCINE.—

(1) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by sections 5174(b) and 5131(a), is amended—

(A) in paragraph (13), by striking ''or'' at the end,

(B) in paragraph (14), by striking the period at the end and inserting ''; or'', and

(C) by inserting after paragraph (14) the following new paragraph:

''(15) with respect to any amount expended for a single-antigen vaccine and its administration in any case in which the administration of a combined-antigen vaccine was medically appropriate (as determined by the Secretary).''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to amounts expended

for vaccines administered on or after October 1, 1993.

(e) REQUIRING MEDICAID MANAGED CARE PLANS TO COMPLY WITH IMMUNIZATION AND OTHER EPSDT REQUIREMENTS.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A), as amended by subsections (a)(1) and (b)(1) of section 5135—

(i) by striking ''and'' at the end of clause (xii),

(ii) by striking the period at the end of clause (xiii) and inserting ''; and'', and

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

''(xiv) the entity complies with the requirements of paragraph (7) (relating to EPSDT compliance).''; and

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

''(7) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall—

''(A) specify which early and periodic screening, diagnostic, and treatment services are to be provided

under the contract to individuals under age 21 enrolled with the entity;

"(B) in the case of such services which are not to be so provided, specify the steps the entity will take (through referrals or other arrangements) to assure that such individuals will receive such services; and

"(C) require the entity to submit such periodic reports as may be necessary to enable the State to prepare and submit timely reports under section 1902(a)(43)(D) and section 506(a)(2).".

(2) APPLICATION OF INTERMEDIATE SANCTIONS FOR FAILURE TO PROVIDE IMMUNIZATIONS AND OTHER EPSDT SERVICES.—Section 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is amended—

(A) by striking ", or" at the end of clause (iv) and inserting a semicolon,

(B) by striking the comma at the end of clause (v) and inserting "; or", and

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

"(vi) fails substantially to provide early and periodic screening, diagnostic, and treatment serv-

ices to the extent specified in the contract under paragraph (7)(A);''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contract years beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(f) TRANSITION RULE.—

(1) MEDICAID USE OF CDC CONTRACT PRICE.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, enter into a contract for the purchase by the Centers for Disease Control and Prevention of pediatric vaccines for distribution (as provided for in section 317 or section 2181 of the Public Health Service Act) unless such contract provides that the charge for such vaccines, for which medical assistance is provided under a State plan under title XIX of the Social Security Act, will not exceed the price negotiated under the contract. The previous sentence shall not apply, with respect to a vaccine for which medical assistance is provided by a State, on and after such date as the State becomes entitled to have the Secretary provide for the purchase and delivery

on behalf of the State of that vaccine under section 2151 of the Public Health Service Act.

(2) OPTIONAL USE BY STATES OF CDC CONTRACT PRICE.—Nothing in paragraph (1) shall be construed as limiting the Federal financial participation available to States, under title XIX of the Social Security Act, for the cost of a pediatric vaccine to the contract price described in such paragraph for the vaccine.

SEC. 5184. AVAILABILITY OF MEDICAID PAYMENTS FOR CHILDHOOD VACCINE REPLACEMENT PROGRAMS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)) 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 adding at the end the following new subparagraph:

''(D) in the case of payment for a childhood vaccine administered to individuals entitled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a vol-

untary replacement program agreed to by the State pursuant to which the manufacturer (i) supplies doses of the vaccine to providers administering the vaccine, (ii) periodically replaces the supply of the vaccine, and (iii) charges the State the manufacturer's bid price to the Centers for Disease Control and Prevention for the vaccine so administered plus a reasonable premium to cover shipping and the handling of returns;''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5185. HEALTHY START FOR INFANTS.

(a) IN GENERAL.—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by inserting after section 330 the following section:

''HEALTHY START FOR INFANTS

''SEC. 330A. (a) GRANTS FOR COMPREHENSIVE SERVICES.—

''(1) IN GENERAL.—The Secretary may make grants for the operation of not more than 21 demonstration projects to provide the services described in subsection (b) for the purpose of reducing, in the geographic areas in which the projects are carried out—

"(A) the incidence of infant mortality and morbidity;

"(B) the incidence of fetal deaths;

"(C) the incidence of maternal mortality;

"(D) the incidence of fetal alcohol syndrome; and

"(E) the incidence of low-birthweight births.

"(2) ACHIEVEMENT OF YEAR 2000 HEALTH STATUS OBJECTIVES.—With respect to the objectives established by the Secretary for the health status of the population of the United States for the year 2000, the Secretary shall, in providing for a demonstration project under paragraph (1) in a geographic area, seek to meet the objectives that are applicable to the purpose described in such paragraph and the populations served by the project.

"(b) AUTHORIZED SERVICES.—

"(1) IN GENERAL.—Subject to subsection (h), the services referred to in this subsection are comprehensive services (including preventive and primary health services for pregnant women and infants and childhood immunizations in accordance with the schedule recommended by the Secretary under section 2160) for carrying out the purpose de-

1 scribed in subsection (a), including services other
2 than health services.
3 "(2) CERTAIN PROVIDERS.—The Secretary may
4 make a grant under subsection (a) only if the appli-
5 cant involved agrees that, in making any arrange-
6 ments under which other entities provide authorized
7 services in the demonstration project involved, the
8 applicant will include among the entities with which
9 the arrangements are made grantees under any of
10 sections 329, 330, 340, and 340A, if such grantees
11 are providing services in the service area of such
12 project and the grantees are willing to make such
13 arrangements with the applicant.
14 "(c) ELIGIBLE GEOGRAPHIC AREAS.—The Secretary
15 may make a grant under subsection (a) only if—
16 "(1) the applicant for the grant specifies the
17 geographic area in which the demonstration project
18 under such subsection is to be carried out and
19 agrees that the project will not be carried out in
20 other areas; and
21 "(2) the rate of infant mortality in the geo-
22 graphic area equals or exceeds 150 percent of the
23 national average in the United States of such rates.
24 "(d) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) PUBLIC OR NONPROFIT PRIVATE ENTITIES.—The Secretary may make a grant under subsection (a) only if the applicant for the grant is a State or local department of health, or other public or nonprofit private entity, or a consortium of public or nonprofit private entities.

"(2) APPROVAL OF POLITICAL SUBDIVISIONS.—With respect to a proposed demonstration project under subsection (a), the Secretary may make a grant under such subsection only if—

"(A) the chief executive officer of each political subdivision in the service area of such project approves the applicant for the grant as being qualified to carry out the project; and

"(B) the leadership of any Indian tribe or tribal organization with jurisdiction over any portion of such area so approves the applicant.

"(3) STATUS AS MEDICAID PROVIDER.—

"(A) In the case of any service described in subsection (b) that is available pursuant to the State plan approved under title XIX of the Social Security Act for a State in which a demonstration project under subsection (a) is carried out, the Secretary may make a grant under

1 such subsection for the project only if, subject
2 to subparagraph (B)—
3 "(i) the applicant for the grant will
4 provide the service directly, and the appli-
5 cant has entered into a participation agree-
6 ment under the State plan and is qualified
7 to receive payments under such plan; or
8 "(ii) the applicant will enter into an
9 agreement with a public or private entity
10 under which the entity will provide the
11 service, and the entity has entered into
12 such a participation agreement under the
13 State plan and is qualified to receive such
14 payments.
15 "(B)(i) In the case of an entity making an
16 agreement pursuant to subparagraph (A)(ii) re-
17 garding the provision of services, the require-
18 ment established in such subparagraph regard-
19 ing a participation agreement shall be waived
20 by the Secretary if the entity does not, in pro-
21 viding health care services, impose a charge or
22 accept reimbursement available from any third-
23 party payor, including reimbursement under
24 any insurance policy or under any Federal or
25 State health benefits plan.

"(ii) A determination by the Secretary of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(e) STATE APPROVAL OF PROJECT.—With respect to a proposed demonstration project under subsection (a), the Secretary may make a grant under such subsection to the applicant involved only if—

"(1) the chief executive officer of the State in which the project is to be carried out approves the proposal of the applicant for carrying out the project; and

"(2) the leadership of any Indian tribe or tribal organization with jurisdiction over any portion of the service area of the project so approves the proposal.

"(f) ELIGIBILITY FOR SERVICES PROVIDED WITH GRANT FUNDS.—

"(1) IN GENERAL.—With respect to any authorized service under subsection (b), if the service is a service that States are required or authorized to provide under title XIX of the Social Security Act, the Secretary may make a grant under subsection (a) only if the applicant involved agrees that the

grant will not be expended to provide the service to any individual to whom States are required or authorized under such title to provide the service. The Secretary may not make a grant under subsection (a) unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(A) under a health insurance policy or plan (including a group health plan or a prepaid health plan),

"(B) under any Federal or State health benefits program, including any program under title V, XVIII, or XIX of the Social Security Act, or

"(C) under subpart 2 of part B of title XIX of this Act.

"(2) RULES OF CONSTRUCTION.—For purposes of paragraph (1):

"(A) Individuals to whom States are authorized to provide services under title XIX of the Social Security Act include, pursuant to section 1902(l) of such title, pregnant women, infants, and children with an income level not

less than 133 percent, and not more than 185 percent, of the official poverty line.

"(B) Authorized services under subsection (b) that are authorized to be provided under title XIX of such Act include, pursuant to section 1920 of such title, ambulatory prenatal services during a period of presumptive eligibility.

"(C) Authorized services under subsection (b) that are required to be provided under title XIX of such Act include, pursuant to section 1905(a)(4)(B) of such title, early and periodic screening, diagnostic, and treatment services for children under the age of 21.

"(D) Authorized services under subsection (b) that are authorized to be provided under title XIX of such Act include, pursuant to section 1905(a)(19) of such title, case-management services.

"(g) MAINTENANCE OF EFFORT.—

"(1) GRANTEE.—With respect to authorized services under subsection (b), the Secretary may make a grant under subsection (a) only if the applicant involved agrees to maintain expenditures of non-Federal amounts for such services at a level

that is not less than the level of such expenditures maintained by the applicant for fiscal year 1991.

"(2) RELEVANT POLITICAL SUBDIVISIONS.—With respect to authorized services under subsection (b), the Secretary may make a grant under subsection (a) only if each political subdivision in the service area of the demonstration project involved agrees to maintain expenditures of non-Federal amounts for such services at a level that is not less than the level of such expenditures maintained by the political subdivision for fiscal year 1991.

"(h) RESTRICTIONS ON EXPENDITURE OF GRANT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended—

"(A) to provide inpatient services, except with respect to residential treatment for substance abuse provided in settings other than hospitals;

"(B) to make cash payments to intended recipients of health services or mental health services; or

"(C) to purchase or improve real property (other than minor remodeling of existing im-

provements to real property) or to purchase major medical equipment (other than mobile medical units for providing ambulatory prenatal services).

"(2) ADMINISTRATIVE EXPENSES; DATA COLLECTION.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that not more than an aggregate 10 percent of the grant will be expended for administering the grant and the collection and analysis of data.

"(3) WAIVER.—If the Secretary finds that the purpose described in subsection (a) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified applicant, waive the restriction established in paragraph (1)(C).

"(i) DETERMINATION OF CAUSE OF INFANT DEATHS.—The Secretary may make a grant under subsection (a) only if the applicant involved—

"(1) agrees to provide for a determination of the cause of each infant death in the service area of the demonstration project involved; and

"(2) the applicant has made such arrangements with public entities as may be necessary to carry out paragraph (1).

1 "(j) ANNUAL REPORTS TO SECRETARY.—The Sec-
2 retary may make a grant under subsection (a) only if the
3 applicant involved agrees that, for each fiscal year for
4 which the applicant operates a demonstration project
5 under such subsection the applicant will, not later than
6 April 1 of the subsequent fiscal year, submit to the Sec-
7 retary a report providing the following information with
8 respect to the project:

9 "(1) The number of individuals that received
10 authorized services, and the demographic character-
11 istics of the population of such individuals.

12 "(2) The types of authorized services provided,
13 including the types of ambulatory prenatal services
14 provided and the trimester of the pregnancy in
15 which the services were provided.

16 "(3) The sources of payment for the authorized
17 services provided.

18 "(4) The extent to which children under age 2
19 receiving authorized services have received the ap-
20 propriate number and variety of immunizations
21 against vaccine-preventable diseases.

22 "(5) An analysis of the causes of death deter-
23 mined under subsection (i).

"(6) The extent of progress being made toward meeting the health status objectives specified in subsection (a)(2).

"(7) The extent to which, in the service area involved, progress is being made toward meeting the participation goals established for the State by the Secretary under section 1905(r) of the Social Security Act (relating to early periodic screening, diagnostic, and treatment services for children under the age of 21).

"(k) COMMUNITY PARTICIPATION.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in preparing the proposal of the applicant for the demonstration project involved, and in the operation of the project, the applicant will consult with the residents of the service area for the project and with public and nonprofit private entities that provide authorized services to such residents.

"(l) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

"(m) REPORT TO CONGRESS.—Not later than February 1, 1998, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report—

"(1) summarizing the reports received by the Secretary under subsection (j);

"(2) describing the extent to which demonstration projects under subsection (a) have been cost effective; and

"(3) describing the extent to which the Secretary has, in the service areas of such projects, been successful in meeting the health status objectives specified in subsection (a)(2).

"(n) LIMITATION ON CERTAIN EXPENSES OF SECRETARY.—Of the amounts appropriated under subsection (o) for a fiscal year, the Secretary may not obligate more than an aggregate 5 percent for the administrative costs of the Secretary in carrying out this section, for the provision of technical assistance regarding demonstration projects under subsection (a), and for evaluations of such projects.

"(o) DEFINITIONS.—For purposes of this section:

"(1) The term 'authorized services' means the services specified in subsection (b).

"(2) The terms 'Indian tribe' and 'tribal organization' have the meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(3) The term 'service area', with respect to a demonstration project under subsection (a), means the geographic area specified in subsection (c).

"(p) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated for each of the fiscal years 1994 through 1997 such sums as may be necessary.

"(q) SUNSET.—Effective October 1, 1997, this section is repealed.".

(b) REPORT FOR FISCAL YEAR 1993.—With respect to grants under section 330A of the Public Health Service Act, as added by subsection (a) of this section, the Secretary of Health and Human Services may make a grant under such section for fiscal year 1994 only if the applicant for the grant agrees to submit to the Secretary, not later than April 1 of such year, a report on any federally-supported project of the applicant that is substantially similar to the demonstration projects authorized in such section 330A, which report provides, to the extent practicable, the information described in subsection (j) of such section.

(c) SAVINGS PROVISION.—With respect to grants under section 330A of the Public Health Service Act, as added by subsection (a) of this section and in effect for the fiscal years 1994 through 1997, such grants remain available for obligation and expenditure in accordance with the terms upon which the grants were made, notwithstanding the repeal of such section 330A pursuant to subsection (q) of such section.

(d) USE OF GENERAL AUTHORITY UNDER PUBLIC HEALTH SERVICE ACT.—With respect to the program established in section 330A of the Public Health Service Act, as added by subsection (a) of this section, section 301 of the Public Health Service Act may not be construed as providing to the Secretary of Health and Human Services any authority to carry out, during any fiscal year in which such program is in operation, any demonstration project to provide any of the services specified in subsection (b) of such section 330A.

SEC. 5186. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

Section 501(a) (42 U.S.C. 701(a)) is amended by striking "$686,000,000 for fiscal year 1990" and inserting "$705,000,000 for fiscal year 1994".

SEC. 5187. MISCELLANEOUS TECHNICAL CORRECTIONS TO PUBLIC HEALTH SERVICE ACT PROVISIONS.

(a) COMPENSATION FOR MEMBERS OF NATIONAL ADVISORY COUNCIL ON NATIONAL HEALTH SERVICE CORPS.—

(1) IN GENERAL.—Section 337(b)(2) of the Public Health Service Act (42 U.S.C. 254j(b)(2)) is amended—

(A) by inserting after ''so serving'' the following: ''compensation at a rate fixed by the Secretary (but not to exceed'', and

(B) by striking ''Schedule;'' and inserting ''Schedule);''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) LIABILITY PROTECTIONS FOR INDIVIDUALS PROVIDING SERVICES AT CERTAIN CLINICS.—

(1) CLARIFICATION OF VOLUNTARY PARTICIPATION BY CERTAIN ENTITIES.—(A) Section 224(g) of the Public Health Service Act (42 U.S.C. 133(g)(1)), as added by section 2(a) of the Federally Supported Health Centers Assistance Act of 1992, is amended—

(i) in paragraph (4), by striking ''An entity'' and inserting ''Except as provided in paragraph (6), an entity'', and

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

"(6) An entity may elect not to be treated as being described in paragraph (4) if the entity establishes that on a continuous basis since October 24, 1992, the entity has been a participant in, and partial owner of, a nonprofit risk retention group which offers malpractice and other liability coverage to the entity.".

(B) Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking "entities receiving funds" and all that follows through "subsection (g)" and inserting the following: "entities described in subsection (g)(4) and receiving funds under each of the grant programs described in such subsection".

(2) CLARIFICATION OF COVERAGE OF OFFICERS AND EMPLOYEES OF CLINICS.—The first sentence of section 224(g)(1) of the Public Health Service Act (42 U.S.C. 233(g)(1)) is amended by striking "officer, employee, or contractor" and inserting the following: "officer or employee of such an entity, and any contractor".

(3) COVERAGE FOR SERVICES FURNISHED TO INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—

1 Section 224(g) of such Act (42 U.S.C. 233(g)(1)),
2 as amended by paragraph (1), is amended—
3 (A) in the first sentence of paragraph (1),
4 by inserting after ''Service'' the following: ''with
5 respect to services provided to patients of the
6 entity and (subject to paragraph (7)) to certain
7 other individuals''; and
8 (B) by adding at the end the following new
9 paragraph:
10 ''(7) For purposes of paragraph (1), an officer, em-
11 ployee, or contractor described in such paragraph may be
12 deemed to be an employee of the Public Health Service
13 with respect to services provided to individuals who are
14 not patients of an entity described in paragraph (4) only
15 if the Secretary determines—
16 ''(A) that the provision of the services to such
17 individuals is necessary to assure the treatment of
18 patients of such an entity; or
19 ''(B) that such services are otherwise required
20 to be provided to such individuals under an employ-
21 ment contract (or other similar arrangement) be-
22 tween the individual and the entity.''.
23 (4) DETERMINING COMPLIANCE OF ENTITY
24 WITH REQUIREMENTS FOR COVERAGE.—Section
25 224(h) of such Act (42 U.S.C. 233(h)), as added by

section 2(b) of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking ''the entity—'' and inserting the following: ''the Secretary, after receiving such assurances and conducting such investigation as the Secretary considers necessary, finds that the entity—''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of the Federally Supported Health Centers Assistance Act of 1992.

(c) ELIMINATION OF DUPLICATE WAIVER AUTHORITY FOR PARTICIPANTS IN NATIONAL HEALTH SERVICE CORPS.—Section 338E(c) of the Public Health Service Act (42 U.S.C. 254o(c)) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(d) CLARIFICATION OF PROHIBITION AGAINST RESALE OF DRUGS UNDER DRUG REBATE AGREEMENTS.—Section 340B(a)(5)(B) of the Public Health Service Act (42 U.S.C. 256b(a)(5)(B)), as added by section 602(a) of the Veterans Health Care of 1992, is amended by striking ''entity.'' and inserting ''covered entity.''.

Subtitle C—Communications Licensing Improvement

SEC. 5200. TABLE OF CONTENTS.

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Subtitle C—Communications Licensing Improvement

Sec. 5200. Table of contents.

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CHAPTER 1—COMPETITIVE BIDDING AUTHORITY

SEC. 5201. SHORT TITLE.

This chapter may be cited as the ''Licensing Improvement Act of 1993''.

SEC. 5202. FINDINGS.

The Congress finds that—

(1) current licensing procedures often delay delivery of services to the public and can result in the unjust enrichment of applicants on the basis of the value of the public airwaves;

(2) if licensees are engaged in reselling the use of the public airwaves to subscribers for a fee, the

licensee should pay reasonable compensation to the public for those public resources;

(3) a carefully designed system to obtain competitive bids from competing qualified applicants can speed delivery of services, promote efficient and intensive use of the electromagnetic spectrum, prevent unjust enrichment, and produce revenues to compensate the public for the use of the public airwaves; and

(4) therefore, the Federal Communications Commission should have the authority to differentiate among multiple qualified applicants for a single license using a system of competitive bids.

SEC. 5203. AUTHORITY TO USE COMPETITIVE BIDDING.

Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(j) USE OF COMPETITIVE BIDDING.—

"(1) GENERAL AUTHORITY.—If mutually exclusive applications are filed for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority to grant such license or permit to a qualified applicant

through the use of a system of competitive bidding that meets the requirements of this subsection.

"(2) USES TO WHICH BIDDING MAY APPLY.—A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

"(A) the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return—

"(i) for the licensee enabling those subscribers to receive communications signals that are transmitted utilizing frequencies on which the licensee is licensed to operate; or

"(ii) for the licensee enabling those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and

"(B) a system of competitive bidding will promote the objectives described in paragraph (3).

"(3) DESIGN OF SYSTEMS OF COMPETITIVE BIDDING.—For each license or permit, or class of licenses or permits, that the Commission grants

through the use of a competitive bidding system, the Commission shall, by rule, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. In identifying licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall seek to promote the purposes specified in section 1 of this Act and the following objectives:

"(A) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

"(B) promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women;

"(C) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource; and

"(D) efficient and intensive use of the electromagnetic spectrum.

"(4) CONTENTS OF REGULATIONS.—In prescribing rules pursuant to paragraph (3), the Commission shall—

"(A) consider alternative payment schedules and methods of calculation, including initial lump sums, installment or royalty payments, guaranteed annual minimum payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

"(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services;

"(C) consistent with the public interest, convenience, and necessity, the purposes of this Act, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services; and

"(D) require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits.

"(5) BIDDER AND LICENSEE QUALIFICATION.—No person shall be permitted to participate in a system of competitive bidding pursuant to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless

the Commission determines that the applicant is qualified pursuant to subsection (a) and sections 308(b) and 310. Consistent with the objectives described in paragraph (3), the Commission shall, by rule, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) for the resolution of any substantial and material issues of fact concerning qualifications.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection, or in the use of competitive bidding, shall—

"(A) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 706, or any other provision of this Act (other than subsections (d)(2) and (e) of this section);

"(B) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection; or

"(C) be construed to prohibit the Commission from issuing nationwide licenses or permits.

"(7) LIMITATION OF EFFECT ON ALLOCATION DECISIONS.—In making a decision pursuant to section 303(c) to assign a band of frequencies to a use for which licenses or permits will be issued pursuant to this subsection, and in prescribing regulations pursuant to paragraph (4)(A) and (4)(C) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

"(8) TREATMENT OF REVENUES.—All proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code. A license or permit issued by the Commission under this section shall not be treated as the property of the licensee for tax purposes by any State or local government entity.

"(9) TERMINATION; EVALUATION.—The authority of the Commission to grant a license or permit under this subsection shall expire September 30, 1998. Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

"(A) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

"(B) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

"(C) evaluating the extent to which such methodologies have secured prompt delivery of service to rural areas; and

"(D) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection.".

SEC. 5204. CONFORMING AMENDMENTS.

Section 309 of the Communications Act of 1934 is further amended—

(1) by striking subsection (i)(1) and inserting the following:

"(i) RANDOM SELECTION.—

"(1) GENERAL AUTHORITY.—If—

"(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

"(B) the Commission has determined that the use is not described in subsection (j)(2)(A); then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.";

(2) in paragraph (2)—

(A) by indenting paragraph (2), including subparagraphs (A) through (C), by an additional 2 em spaces; and

(B) by inserting "DETERMINATIONS OF QUALIFICATIONS.—" after "(2)";

(3) in paragraph (3)—

(A) by indenting subparagraphs (A) and (B), and so much of subparagraph (C) as precedes clause (i), by an additional 2 em spaces;

(B) by indenting clauses (i) and (ii) of subparagraph (C) by an additional 4 em spaces; and

(C) by inserting "PREFERENCES; DIVERSITY.—" after "(3)";

(4) in paragraph (4)—

(A) by indenting subparagraphs (A) and (B) of such paragraph by an additional 2 em spaces;

(B) by inserting "RULEMAKING SCHEDULE AND AUTHORITY.—" after "(4)"; and

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

"(C) Not later than 180 days after the date of enactment of this subparagraph, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.".

SEC. 5205. REGULATORY PARITY.

(a) AMENDMENT.—Section 332 of the Communications Act of 1934 (47 U.S.C. 332) is amended—

(1) by striking "PRIVATE LAND" from the heading of the section; and

(2) by amending striking subsection (c) and inserting the following:

"(c) REGULATORY TREATMENT OF MOBILE SERVICES.—

"(1) COMMON CARRIER TREATMENT OF COMMERCIAL MOBILE SERVICES.—(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as

a common carrier for purposes of this Act, except for such provisions of title II as the Commission may, consistent with the public interest, specify as inapplicable by rule. In prescribing any such rule, the Commission may not specify section 201, 202, or 208, or any other provision that the Commission determines to be necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or is otherwise in the public interest.

"(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this Act. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this Act.

"(2) NONCOMMON CARRIER TREATMENT OF PRIVATE LAND MOBILE SERVICES.—A person engaged in private land mobile service shall not, inso-

1 far as such person is so engaged, be treated as a
2 common carrier for any purpose under this Act. A
3 common carrier (other than a person that was treat-
4 ed as provider of private land mobile services prior
5 to the enactment of the Licensing Improvement Act
6 of 1993) shall not provide any dispatch service on
7 any frequency allocated for common carrier service,
8 except to the extent such dispatch service is provided
9 on stations licensed in the domestic public land mo-
10 bile radio service before January 1, 1982. The Com-
11 mission may by regulation terminate, in whole or in
12 part, the prohibition contained in the preceding sen-
13 tence if the Commission determines that such termi-
14 nation will serve the public interest.

15 ''(3) STATE AUTHORITY TO REGULATE.—(A)
16 Notwithstanding sections 2(b) and 221(b), no State
17 or local government shall have any authority to im-
18 pose any rate or entry regulation upon any commer-
19 cial mobile service or any private land mobile service,
20 except that this paragraph shall not prohibit a State
21 from regulating the other terms and conditions of
22 commercial mobile services.

23 ''(B) Notwithstanding subparagraph (A), a
24 State may petition the Commission for authority to
25 regulate the rates for any commercial mobile service

and the Commission shall grant such petition if such State demonstrates that (i) such service is a substitute for land line telephone exchange service for a substantial portion of the public within such State, or (ii) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(4) REGULATORY TREATMENT OF COMMUNICATIONS SATELLITE CORPORATION.—Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite of 1962 of the corporation authorized by title III of such Act.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'commercial mobile service' means all mobile services (as defined in section 3(n)) that—

"(A) are provided for profit (i) to the public, (ii) on an indiscriminate basis, or (iii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public; and

"(B) are interconnected (or have requested interconnection pursuant to paragraph (1)(B)) with the public switched network (as such terms are defined by regulation by the Commission); and

"(2) the term 'private mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO DEFINITIONS.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(A) in subsection (n)—

(i) by inserting "(1)" after "and includes"; and

(ii) by inserting before the period at the end the following: ", (2) a mobile serv-

ice which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment of the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90–314; ET Docket No. 92–100), or any successor proceeding''; and

(B) by striking subsection (gg).

(2) CONFORMING AMENDMENTS TO SECTION 332.—Section 332 of such Act is further amended—

(A) in subsection (a), by inserting after ''(a)'' the following: ''MANAGEMENT OF PRIVATE LAND MOBILE FREQUENCIES.—'';

(B) in subsection (b)—

(i) by indenting the margin of paragraphs (2) through (4) by 2 em spaces;

(ii) by striking "(b)(1)" and inserting the following:

"(b) USE OF ADVISORY COMMITTEE.—

"(1) COORDINATION OF FREQUENCY ASSIGNMENT.—";

(iii) by inserting "EXEMPTION.—" after "(2)";

(iv) by inserting "NONEMPLOYEE STATUS.—" after "(3)"; and

(v) by inserting "APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—" after "(4).

SEC. 5206. EFFECTIVE DATES; DEADLINES FOR COMMISSION ACTION.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this chapter are effective on the date of enactment of this Act.

(2) EFFECTIVE DATE OF MOBILE SERVICE AMENDMENTS.—The amendments made by section 5205 shall be effective 1 year after such date of enactment, except that any person that provides private land mobile services before such date of enactment shall continue to be treated as a provider of

private land mobile service until 3 years after such date of enactment.

(b) DEADLINES FOR COMMISSION ACTION.—

(1) GENERAL RULEMAKING.—The Federal Communications Commission shall prescribe rules to implement section 309(j) of the Communications Act of 1934 (as added by this chapter) within 210 days after the date of enactment of this Act.

(2) PCS ORDERS AND LICENSING.—The Commission shall—

(A) within 180 days after such date of enactment, issue a final report and order (i) in the matter entitled ''Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies'' (ET Docket No. 92–9); and (ii) in the matter entitled ''Amendment of the Commission's Rules to Establish New Personal Communications Services'' (GEN Docket No. 90–314; ET Docket No. 92–100); and

(B) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.

(3) MOBILE SERVICE RULEMAKING REQUIRED.—Within 1 year after the date of enactment

of this Act, the Federal Communications Commission shall—

(A) issue such modifications or terminations of its regulations concerning private land mobile services as are necessary to implement the amendments made by section 5205;

(B) make such other modifications of such regulations as may be necessary to equalize the regulatory treatment of providers of all commercial mobile services that offer services that are substantially similar; and

(C) include in such modifications and terminations such provisions as are necessary to provide for an orderly transition to the regulatory treatment required by such amendments.

(c) SPECIAL RULE.—The Federal Communications Commission shall not issue any license or permit pursuant to section 309(i) of the Communications Act of 1934 after the date of enactment of this Act unless the Commission has made the determination required by paragraph (1)(B) of such section (as added by this chapter).

CHAPTER 2—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

SEC. 5221. SHORT TITLE.

This chapter may be cited as the ''Emerging Telecommunications Technologies Act of 1993''.

SEC. 5222. AMENDMENT TO THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ORGANIZATION ACT.

The National Telecommunications and Information Administration Organization Act is amended—

(1) by striking the heading of part B and inserting the following:

"PART D—SPECIAL AND TEMPORARY PROVISIONS";

(2) by redesignating sections 131 through 135 as sections 151 through 155, respectively; and

(3) by inserting after part A the following new part:

"PART B—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

"SEC. 111. FINDINGS.

''The Congress finds that—

''(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum

that is assigned for use pursuant to the Communications Act of 1934;

"(2) many of such frequencies are underutilized by Federal Government licensees;

"(3) the public interest requires that many of such frequencies be utilized more efficiently by Federal Government and non-Federal licensees;

"(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

"(5) scarcity of assignable frequencies for licensing by the Commission can and will—

"(A) impede the development and commercialization of new telecommunications products and services;

"(B) limit the capacity and efficiency of the United States telecommunications systems;

"(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

"(D) adversely affect the productive capacity and international competitiveness of the United States economy;

"(6) a reassignment of these frequencies can produce significant economic returns; and

"(7) the Secretary of Commerce, the President, and the Federal Communications Commission should be directed to take appropriate steps to correct these deficiencies.

"SEC. 112. NATIONAL SPECTRUM PLANNING.

"(a) PLANNING ACTIVITIES.—The Assistant Secretary and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues—

"(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

"(2) the spectrum allocation actions necessary to accommodate those uses; and

"(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference as a means of increasing commercial access.

"(b) REPORTS.—The Assistant Secretary and the Chairman of the Commission shall submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Secretary, and the Commission on the joint spectrum planning activi-

ties conducted under subsection (a) and recommendations for action developed pursuant to such activities.

"(c) REPORTING REQUIREMENTS.—The first annual report submitted after the date of the report by the advisory committee under section 113(d)(4) shall—

"(1) include an analysis of and response to that committee report; and

"(2) include an analysis of the effect on spectrum efficiency and the cost of equipment to Federal spectrum users of maintaining separate allocations for Federal Government and non-Federal Government licensees for the same or similar services.

"SEC. 113. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

"(a) IDENTIFICATION REQUIRED.—The Secretary shall, within 24 months after the date of the enactment of this part, prepare and submit to the President and the Congress a report identifying bands of frequencies that—

"(1) are allocated on a primary basis for Federal Government use and eligible for licensing pursuant to section 305(a) of the Act (47 U.S.C. 305(a));

"(2) are not required for the present or identifiable future needs of the Federal Government;

"(3) can feasibly be made available, as of the date of submission of the report or at any time dur-

ing the next 15 years, for use under the Act (other than for Federal Government stations under such section 305);

"(4) will not result in costs to the Federal Government, or losses of services or benefits to the public, that are excessive in relation to the benefits that may be obtained by non-Federal licensees; and

"(5) are most likely to have the greatest potential for productive uses and public benefits under the Act.

"(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

"(1) IN GENERAL.—Based on the report required by subsection (a), the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the Act (47 U.S.C. 305), bands of frequencies that span a total of not less than 200 megahertz, that are located below 6 gigahertz, and that meet the criteria specified in paragraphs (1) through (4) of subsection (a). The Secretary may not include, in such 200 megahertz, bands of frequencies that span more than 20 megahertz and that are located between 5 and 6 gigahertz. If the report identifies (as meeting such criteria) bands of frequencies spanning more

than 200 megahertz, the report shall identify and recommend for reallocation those bands (spanning not less than 200 megahertz) that meet the criteria specified in paragraph (5) of such subsection.

"(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary's report recommends be partially retained for use by Federal Government stations, but which are also recommended to be reallocated to be made available under the Act for use by non-Federal stations, may be counted toward the minimum spectrum required by paragraph (1) of this subsection, except that—

"(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the minimum required by paragraph (1) of this subsection;

"(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the

potential use to be made by non-Federal stations; and

"(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures which the Commission shall establish and implement to ensure against harmful interference.

"(c) CRITERIA FOR IDENTIFICATION.—

"(1) NEEDS OF THE FEDERAL GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

"(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial carrier or other vendor;

"(B) seek to promote—

"(i) the maximum practicable reliance on commercially available substitutes;

"(ii) the sharing of frequencies (as permitted under subsection (b)(2));

"(iii) the development and use of new communications technologies; and

"(iv) the use of nonradiating communications systems where practicable; and

"(C) seek to avoid—

"(i) serious degradation of Federal Government services and operations; and

"(ii) excessive costs to the Federal Government and users of Federal Government services.

"(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

"(A) assume such frequencies will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) over the course of not less than 15 years;

"(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

"(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for licensing by the Commission for non-Federal use;

"(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

"(E) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

"(3) ANALYSIS OF BENEFITS.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(4), the Secretary shall consider—

"(A) the extent to which equipment is or will be available that is capable of utilizing the band;

"(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use; and

"(C) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

"(4) POWER AGENCY FREQUENCIES.—

"(A) ELIGIBLE FOR MIXED USE ONLY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas and shall not be recommended for the purposes of withdrawing that assignment. In

any case where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall, consistent with the procedures established under subsection (b)(2)(C), not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

"(B) DEFINITION.—As used in this paragraph, the term 'Federal power agency' means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

"(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

"(1) SUBMISSION OF PRELIMINARY IDENTIFICATION TO CONGRESS.—Within 12 months after the date of the enactment of this part, the Secretary shall prepare and submit to the Congress a report which makes a preliminary identification of reallocable bands of frequencies which meet the criteria established by this section.

"(2) CONVENING OF ADVISORY COMMITTEE.—Not later than the date the Secretary submits the

report required by paragraph (1), the Secretary shall convene an advisory committee to—

"(A) review the bands of frequencies identified in such report;

"(B) advise the Secretary with respect to (i) the bands of frequencies which should be included in the final report required by subsection (a), and (ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

"(C) receive public comment on the Secretary's report and on the final report; and

"(D) prepare and submit the report required by paragraph (4).

The advisory committee shall meet at least monthly until each of the actions required by section 114(a) have taken place.

"(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The advisory committee shall include—

"(A) the Chairman of the Commission and the Assistant Secretary, and one other representative of the Federal Government as designated by the Secretary; and

"(B) representatives of—

"(i) United States manufacturers of spectrum-dependent telecommunications equipment;

"(ii) commercial carriers;

"(iii) other users of the electromagnetic spectrum, including radio and television broadcast licensees, State and local public safety agencies, and the aviation industry; and

"(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

"(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The advisory committee shall, not later than 36 months after the date of the enactment of this part, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, a report containing such recommendations as the advisory committee considers

appropriate for the reform of the process of allocating the electromagnetic spectrum between Federal and non-Federal use, and any dissenting views thereon.

"(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—

"(1) TIMETABLE REQUIRED.—The Secretary shall, as part of the report required by subsection (a), include a timetable that recommends immediate and delayed effective dates by which the President shall withdraw or limit assignments on the frequencies specified in the report.

"(2) EXPEDITED REALLOCATION OF INITIAL 30 MHZ PERMITTED.—The Secretary may prepare and submit to the President a report which specifically identifies an initial 30 megahertz of spectrum that meets the criteria described in subsection (a) and that can be made available for reallocation immediately upon issuance of the report required by this section.

"(3) DELAYED EFFECTIVE DATE.—The recommended delayed effective dates shall—

"(A) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 115(1);

"(B) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

"(C) be based on the need to coordinate frequency use with other nations; and

"(D) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

"SEC. 114. WITHDRAWAL OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

"(a) IN GENERAL.—The President shall—

"(1) within 6 months after receipt of the Secretary's report under section 113(a), withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

"(2) within such 6-month period, limit the assignment to a Federal Government station of any frequency which the report recommends be made immediately available for mixed use under section 113(b)(2);

"(3) by the delayed effective date recommended by the Secretary under section 113(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report recommends be reallocated or made available for mixed use on such delayed effective date;

"(4) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

"(5) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

"(b) EXCEPTIONS.—

"(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

"(A) may substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

"(B) shall submit a statement of the reasons for taking the action described in subpara-

graph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

"(A) the reassignment would seriously jeopardize the national defense interests of the United States;

"(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;

"(C) the reassignment would seriously jeopardize public health or safety; or

"(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

"(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report of the Secretary under section

113(a) unless the substituted frequency also meets each of the criteria specified by section 113(a).

"(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the delayed effective date recommended by the Secretary pursuant to section 113(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 115, the President may—

"(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

"(B) substitute alternative frequencies pursuant to the provisions of this subsection.

"(c) LIMITATION ON DELEGATION.—Notwithstanding any other provision of law, the authorities and duties established by this section may not be delegated.

"SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

"Not later than 1 year after the President notifies the Commission pursuant to section 114(a)(5), the Commission shall prepare, in consultation with the Assistant Secretary when necessary, and submit to the President and the Congress, a plan for the distribution under the Act of the frequency bands reallocated pursuant to the requirements of this part. Such plan shall—

"(1) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 113(e), shall propose—

"(A) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (B), over the course of a period of not less than 10 years beginning on the date of submission of such plan; and

"(B) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

"(2) contain appropriate provisions to ensure—

"(A) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Act (47 U.S.C. 157); and

"(B) the availability of frequencies to stimulate the development of such technologies;

"(3) address (A) the feasibility of reallocating spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations; and

"(4) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

"SEC. 116. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

"(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 114, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

"(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

"(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substi-

tution of frequencies established by section 114(b) of this part.

"(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part, except that the notification required by section 114(b)(1)(A) shall include—

"(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

"(B) an estimate of the cost of displacing spectrum users licensed by the Commission.

"(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency band, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

"(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under sections 305 and 706 of the Act (47 U.S.C. 305, 606).

"SEC. 117. DEFINITIONS.

"As used in this part:

"(1) The term 'allocation' means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

"(2) The term 'assignment' means an authorization given to a station licensee to use specific frequencies or channels.

"(3) The term 'commercial carrier' means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

"(4) The term 'the Act' means the Communications Act of 1934 (47 U.S.C. 151 et seq.).".

CHAPTER 3—COMMUNICATIONS TECHNICAL AMENDMENTS

SEC. 5241. CLERICAL CORRECTIONS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

(1) in section 4(f)(3), by striking "overtime exceeds beyond" and inserting "overtime extends beyond";

(2) in section 5, by redesignating subsection (f) as subsection (e);

(3) in section 220(b), by striking "clasess" and inserting "classes";

(4) in section 223(b)(3), by striking "defendant restrict access" and inserting "defendant restricted access";

(5) in section 226(d), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(6) in section 227(e)(2), by striking "national datebase" and inserting "national database";

(7) in section 228(c)(6)(D), by striking "conservation" and inserting "conversation";

(8) in section 308(c), by striking ''May 24, 1921'' and inserting ''May 27, 1921'';

(9) in section 331, by amending the heading of such section to read as follows:

''VERY HIGH FREQUENCY STATIONS AND AM RADIO STATIONS'';

(10) in section 358, by striking ''(a)'';

(11) in part III of title III—

(A) by inserting before section 381 the following heading:

''VESSELS TRANSPORTING MORE THAN SIX PASSENGERS FOR HIRE REQUIRED TO BE EQUIPPED WITH RADIO TELEPHONE'';

(B) by inserting before section 382 the following heading:

''VESSELS EXCEPTED FROM RADIO TELEPHONE REQUIREMENT'';

(C) by inserting before section 383 the following heading:

''EXEMPTIONS BY COMMISSION'';

(D) by inserting before section 384 the following heading:

''AUTHORITY OF COMMISSION; OPERATIONS, INSTALLATIONS, AND ADDITIONAL EQUIPMENT'';

(E) by inserting before section 385 the following heading:

"INSPECTIONS"; and

(F) by inserting before section 386 the following heading:

"FORFEITURES";

(12) in section 410(c), by striking ", as referred to in sections 202(b) and 205(f) of the Interstate Commerce Act,";

(13) in section 705(e)(3)(A), by striking "paragraph (4) of subsection (d)" and inserting "paragraph (4) of this subsection";

(14) in section 705, by redesignating subsections (f) and (g) (as added by Public Law 100–667) as subsections (g) and (h); and

(15) in section 705(h) (as so redesignated), by striking "subsection (f)" and inserting "subsection (g)".

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 303(a)—

(A) by striking "section 27(d)" and inserting "section 327(d)";

(B) by striking "sec. 29–911(d)" and inserting "sec. 29–327(d)";

(C) by striking "section 36" and inserting "section 336"; and

(D) by striking ''sec. 29–916d'' and inserting ''sec. 29–336(d)'';

(2) in section 304(d), by striking ''paragraphs (1), (2), (3), (4), and (5) of section 310(a)'' and inserting ''subsection (a) and paragraphs (1) through (4) of subsection (b) of section 310''; and

(3) in section 304(e)—

(A) by striking ''section 45(b)'' and inserting ''section 345(b)''; and

(B) by striking ''sec. 29–920(b)'' and inserting ''sec. 29–345(b)''; and

(4) in sections 502(b) and 503(a)(1), by striking ''Communications Satellite Corporation'' and inserting ''communications satellite corporation established pursuant to title III of this Act''.

(c) CONFORMING AMENDMENT.—Section 1253 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

SEC. 5242. TRANSFER OF PROVISIONS OF LAW CONCERNING PUBLIC TELECOMMUNICATIONS FACILITIES, CHILDREN'S EDUCATIONAL TELEVISION, AND TELECOMMUNICATIONS DEMONSTRATION PROGRAM.

(a) AMENDMENTS.—The Communications Act of 1934 (hereinafter in this section referred to as ''the 1934 Act'') and the National Telecommunications and Informa-

tion Administration Organization Act (hereinafter in this section referred to as ''the NTIAO Act'') are amended as follows:

(1) The NTIAO Act is amended by inserting after part B (as added by chapter 2 of this subtitle) a new part C, the heading of which shall be as follows:

"PART C—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; CHILDREN'S EDUCATIONAL TELEVISION; TELECOMMUNICATIONS DEMONSTRATIONS";

(2) Sections 390, 391, 392, 393, 393A, 394, and 395 of the 1934 Act are transferred to such new part C of the NTIAO Act and are redesignated as sections 121, 122, 123, 124, 125, 131, and 135, respectively, of the NTIAO Act.

(3) Such new part C of the NTIAO Act is amended—

(A) by inserting before section 121 the following:

"Subpart 1—Assistance for Public Telecommunications Facilities" and;

(B) by inserting before section 131 the following:

1 **"Subpart 2—National Endowment for Children's**
2 **Television"** and;
3 (C) by inserting before section 135 the fol-
4 lowing:
5 **"Subpart 3—Telecommunications Demonstrations"**.
6 (4) Section 125 of the NTIAO Act (as added
7 by paragraph (2) of this subsection) is amended by
8 striking ''section 390'' and inserting ''section 121''.
9 (5) Each of such sections 121 through 135 is
10 amended so that the section designation and section
11 heading of each such shall be in the form and type-
12 face of the section designation and section heading
13 of this section.
14 (b) CONFORMING AMENDMENT TO COMMUNICATIONS
15 ACT OF 1934.—Part IV of title III of the 1934 Act is
16 amended by striking out subparts A, B, and C.
17 (c) REFERENCES IN OTHER LAWS AND DOCU-
18 MENTS.—Any reference to any section or other provision
19 of subpart A, B, or C of part IV of title III of the 1934
20 Act in any law, rule, regulation, certificate, directive, in-
21 struction, or other official paper in force on the date of
22 enactment of this section shall be deemed to refer to the
23 section or other provision of subpart 1, 2, or 3 of part
24 C of the NTIAO Act to which such section or other provi-
25 sion is transferred by this section.

SEC. 5243. ELIMINATION OF EXPIRED AND OUTDATED PROVISIONS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

(1) in section 7(b), by striking ''or twelve months after the date of the enactment of this section, if later'' both places it appears;

(2) in section 212, by striking ''After sixty days from the enactment of this Act it shall'' and inserting ''It shall'';

(3) in section 213, by striking subsection (g) and redesignating subsection (h) as subsection (g);

(4) in section 214(a), by striking ''section 221 or 222'' and inserting ''section 221'';

(5) in section 220(b), by striking '', as soon as practicable,'';

(6) in section 222—

(A) by striking paragraph (1) of subsection (a);

(B) by redesignating paragraphs (2) and (3) of such subsection as paragraphs (1) and (2), respectively;

(C) by striking paragraph (2) of subsection (b);

(D) by redesignating subsection (b)(1) as subsection (b); and

(E) by striking subsections (c), (d), and (e);

(7) in section 224(b)(2), by striking ''Within 180 days from the date of enactment of this section the Commission'' and inserting ''The Commission'';

(8) in 226(e)(1), by striking '', within 9 months after the date of enactment of this section,'';

(9) in section 309(i)(4)(A), by striking ''The commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall,'' and inserting ''The Commission shall,'';

(10) by striking section 328;

(11) in section 331(b), by striking the last sentence;

(12) in section 413, by striking '', within sixty days after the taking effect of this Act,'';

(13) in section 624(d)(2)—

(A) by striking out ''(A)'';

(B) by inserting ''of'' after ''restrict the viewing''; and

(C) by striking subparagraph (B);

(14) by striking sections 702 and 703;

(15) in section 704—

(A) by striking subsections (b) and (d); and

(B) by redesignating subsection (c) as subsection (b);

(16) in section 705(g) (as redesignated by section 5211(15)), by striking ''Within 6 months after the date of enactment of the Satellite Home Viewer Act of 1988, the Federal Communications Commission'' and inserting ''The Commission'';

(16) in section 710(f)—

(A) by striking the first and second sentences; and

(B) in the third sentence, by striking ''Thereafter, the Commission'' and inserting ''The Commission'';

(17) in section 712(a), by striking '', within 120 days after the effective date of the Satellite Home Viewer Act of 1988,''; and

(18) by striking section 713.

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 201(a)(1), by striking ''as expeditiously as possible,'';

(2) by striking sections 301 and 302 and inserting the following:

"SEC. 301. CREATION OF CORPORATION.

''There is authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.

"SEC. 302. APPLICABLE LAWS.

''The corporation shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.'';

(3) in section 304(a), by striking ''at a price not in excess of $100 for each share and'';

(4) in section 404—

(A) by striking subsections (a) and (c); and

(B) by striking ''(b)'' at the beginning of subsection (b);

(5) in section 503—

(A) by striking paragraph (2) of subsection (a); and

(B) by redesignating paragraph (3) of subsection (a) as paragraph (2) of such subsection;

(C) by striking subsection (b);

(D) in subsection (g)—

(i) by striking ''subsection (c)(3)'' and inserting ''subsection (b)(3)''; and

(ii) by striking the last sentence; and

(E) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively;

(5) by striking sections 505, 506, and 507; and

(6) by redesignating section 508 as section 505.

SEC. 5244. STYLISTIC CONSISTENCY.

The Communications Act of 1934 and the Communications Satellite Act of 1962 are amended so that the section designation and section heading of each section of such Acts shall be in the form and typeface of the section designation and heading of this section.

Subtitle D—Energy Programs

SEC. 5301. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking ''September 30, 1995'' and inserting ''September 30, 1998''.

TITLE VI—COMMITTEE ON FOREIGN AFFAIRS

In order to implement its reconciliation instructions, the Committee on Foreign Affairs recommends changes in law that are also recommended by the Committee on Post Office and Civil Service. These changes in law, which are contained in title X of this Act, would reduce direct spending under the Foreign Service Retirement and Disability Fund and the Foreign Service Pension System by requiring a 3-month delay in cost-of-living adjustments in each of the fiscal years 1994, 1995, and 1996.

TITLE VII—COMMITTEE ON THE JUDICIARY

SEC. 7001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking ''1995'' and inserting ''1998'';

(2) in subsection (b)(2) by striking ''1995'' and inserting ''1998''; and

(3) in subsection (c)—

(A) by striking ''through 1995'' and inserting ''through 1998''; and

(B) by adding at the end the following:

''(6) $111,000,000 in fiscal year 1996.

"(7) $115,000,000 in fiscal year 1997.

"(8) $119,000,000 in fiscal year 1998.".

TITLE VIII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

SEC. 8001. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended by—

(1) striking "and 1995," each place it appears and inserting "1995, 1996, 1997, 1998,";

(2) striking "place," and inserting "place;"; and

(3) striking "port, not, however, to include vessels in distress or not engaged in trade" and inserting "port. However, neither duty shall be imposed on vessels in distress or not engaged in trade".

(b) CONFORMING AMENDMENT.—The Act of March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "and 1995," and inserting "1995, 1996, 1997, and 1998,".

(c) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 10402(a) of the Omnibus Budget Reconciliation Act of 1990 (104

Stat. 1388–398) is amended by striking ''in the second paragraph''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on and after November 5, 1990.

SEC. 8002. SENSE OF THE CONGRESS ON THE INLAND WATERWAYS FUEL TAX.

(a) FINDINGS.—The Congress finds the following:

(1) The Administration has proposed to increase the tax on inland barge fuels from $0.19 to $1.19 per gallon by 1997, which represents an increase of 525 percent.

(2) The General Accounting Office has recently identified 117 forms of Federal fees, taxes, and assessments, not including customs duties, which raise some $2,000,000,000 in Federal revenues each year.

(3) Barge transportation is one of the most competitive, efficient, safe, and environmentally friendly modes of transportation.

(4) Barges transport 15 percent of our Nation's commerce and provide jobs to some 180,000 Americans.

(5) The Administration's proposed increase would add $420,000,000 in new taxes for operators

on inland waterways, which is more than their pretax profits.

(6) This increase would cause barge rates to skyrocket, increasing costs to consumers and devastating industries dependent upon the commercial use of barges such as coal, agriculture, and petrochemicals, and would add to our unfavorable balance of trade payments by hurting the competitiveness of United States exports.

(7) Because the price of certain agricultural commodities, such as grain, are set in the world marketplace, increased inland barge fuel taxes could not be passed on to consumers and would largely be borne by our Nation's farmers.

(8) The Senate on March 18, 1993, voted 88 to 12 to reject any further increase in inland barge fuel taxes.

(9) This huge tax increase would cause many barge companies to go out of business, would result in thousands of lost American jobs, and would further burden the already beleaguered United States maritime industry.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the inland waterways fuel tax should not

be further increased beyond those increases already mandated by law.

TITLE IX—COMMITTEE ON NATURAL RESOURCES

SEC. 9001. ANNUAL DIRECT GRANT ASSISTANCE.

(a) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 entitled ''a Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes'' (90 Stat. 263 and following; 48 U.S.C. 1681 note) are repealed, effective on October 1, 1993.

(b) DEFINITIONS.—As used in this section:

(1) COMMITTEES.—The term ''committees'' means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) RECOMMENDATIONS.—The term ''Recommendations'' means the document executed December 17, 1992, between the special representative of the President of the United States and the special representatives of the Governor of the Commonwealth of the Northern Mariana Islands relating to future federal assistance for the Northern Mariana Islands.

(3) REPORTING DATE.—The term ''reporting date'' means the date on which the budget of the President for the fiscal year 1995 is required to be submitted to the Congress under section 1105 of title 31, United States Code.

(c) ASSISTANCE.—

(1) AMOUNTS.—Except as otherwise provided under this section, enactment of this section shall constitute a commitment and pledge of the full faith and credit of the United States for the payment of the following amounts:

(A) In fulfillment of the United States obligation under P.L. 94–241 and the authorization in P.L. 95–348, $3,000,000 for fiscal year 1994, which shall be available only for the American Memorial Park, located at Tanapag Harbor Reservation, Saipan, to be expended in accordance with section 5 of the Act entitled ''An Act to authorize appropriations for certain insular areas of the United States, and for other purposes'', approved August 18, 1978 (92 Stat. 492), for the primary purpose of constructing an appropriate monument honor-

ing the dead in the World War II Mariana Islands campaign.

(B) $19,000,000 for fiscal year 1994, to be held in trust in a special account by the Secretary of the Interior for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands, and to be disbursed by the Secretary during fiscal year 1994 for essential capital improvement projects. Such disbursements shall be made by the Secretary for projects described in plans submitted to the Secretary by the governments of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. No such disbursements shall be made pursuant to any such plan until after the expiration of a period of 60 days after such plan has been submitted to the committees. No such disbursements shall be made to the Commonwealth of the Northern Mariana Islands during fiscal year 1994 pursuant to

any such plan until the committees have received the reports required under subsection (d)(3) and a Joint Resolution has been adopted expressing the sense of Congress that disbursements are appropriate. The Inspector General of the Department of the Interior shall (i) monitor the expenditure of such funds to determine whether such funds are expended in accordance with applicable law, and (ii) submit a report of the findings to the committees not later than January 1, 1995.

(C) Subject to paragraphs (2), (3), and (4) and subject to subsection (d), not more than $98,000,000 for the 6-year period beginning October 1, 1994, for the government of the Commonwealth of the Northern Mariana Islands, for capital improvement projects, at annual amounts that shall not exceed those specified for the Federal contribution within the general funding schedule contained in the Recommendations.

(2) MATCHING RATIO AND INTEREST EARNINGS.—Nothing in this section shall be construed to—

(A) modify the matching ratio requirement specified in the funding schedule contained in the Recommendations; or

(B) modify the terms of the Recommendations as to the availability of interest earnings on funds contributed under Public Law 99–396 upon meeting the terms of the grant pledge agreements entered into under Public Law 99–396.

(3) ROTA, TINIAN, AND SAIPAN.—No less than ⅛ th share of the funds made available under subsection (c)(1)(C) shall be expended in the islands of Rota and Tinian and no less than ¼ th share shall be expended in Saipan.

(4) APPLICABILITY OF GRANT REGULATIONS.—The Federal assistance provided under this section shall be subject to the applicable Federal grant regulations set forth in the Common Rule (43 C.F.R. 12a, OMB Circular A–102, and OMB Circular A–128).

(d) CONDITION ON MULTI-YEAR ASSISTANCE.—

(1) JOINT RESOLUTION.—Amounts under subsection (c)(1)(C) for fiscal years 1995 through 2000 shall be as determined by the Congress by joint resolution. It is the intent of the Congress that the committees report such a joint resolution after considering the plan referred to in paragraph (2) and reports required by this subsection.

(2) CAPITAL IMPROVEMENT PROJECTS PLAN.—The plan referred to in paragraph (1) is a plan developed and submitted by the Governor of the Commonwealth of the Northern Mariana Islands to the Secretary of the Interior as approved by the legislature of the Commonwealth for new and reconstructed capital infrastructure projects, indicating the order of priority, together with cost estimates for each project and identification of sources of financing for each project. The Secretary of the Interior shall submit the plan, together with his recommendations, to the committees not later than the reporting date.

(3) REPORTS.—Each of the following reports shall be submitted to the committees not later than the reporting date as follows:

(A) REVENUE BURDEN.—The Comptroller General of the United States, after consultation

with the government of the Northern Mariana Islands, shall submit a report describing the effective revenue burden (including all taxes and fees) imposed by the government of the Commonwealth of the Northern Mariana Islands. The report shall—

(i) address whether revenues raised are sufficient to meet the infrastructure needs of the Commonwealth; and

(ii) compare the revenue burden of the Commonwealth with that of Guam.

(B) COMPLIANCE WITH AUDIT RECOMMENDATIONS.—The Inspector General of the Department of the Interior shall submit a report on (i) compliance by the government of the Commonwealth of the Northern Mariana Islands with recommendations made by the Inspector General pursuant to audits of the government of the Commonwealth, and (ii) on all unfulfilled commitments made by the government of the Commonwealth in response to those recommendations.

(C) ASSESSMENT OF MINIMUM WAGE.—The Secretary of Labor, after consultation with the government of the Commonwealth of the

Northern Mariana Islands, shall submit a report which assesses whether—

(i) the minimum wage policies of the Commonwealth are sufficient for the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers in the Commonwealth;

(ii) the prevailing wages paid in the Commonwealth are effectively reduced by the immigration policy of the Commonwealth; and

(iii) the wage rate in the Commonwealth gives industries in the Commonwealth a competitive advantage over industries in the United States outside of the Commonwealth.

(D) IMMIGRATION POLICY AND BURDEN ON INFRASTRUCTURE.—(i) The Attorney General of the United States, after consultation with the government of the Commonwealth of the Northern Mariana Islands, shall submit a report which assesses—

(I) whether the immigration laws of the Commonwealth are appropriate in light

of the social and economic situation in the Commonwealth;

(II) the extent to which the Commonwealth is relying on temporary alien workers to meet the Commonwealth's permanent labor needs;

(III) whether the Commonwealth has taken steps to reduce its dependence on temporary alien workers; and

(IV) the political and civil rights of the alien population as compared to the resident population.

(ii) The Comptroller General of the United States shall submit a report to the Congress which analyzes the socioeconomic impact of the immigration policy of the Commonwealth of the Northern Mariana Islands, including the financial burden imposed by the alien population on the infrastructure.

(E) ENVIRONMENTAL LAWS.—The Secretary of the Interior and the Administrator of the Environmental Protection Agency shall each submit a report to the Congress on the compliance by the Commonwealth of the Northern Mariana Islands with United States environ-

mental laws, including (but not limited to) the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the Federal Water Pollution Control Act.

SEC. 9002. NET RECEIPTS SHARING.

Section 35 of the Mineral Leasing Act is amended as follows:

(1) Strike the last sentence.

(2) Insert ''(a) IN GENERAL.—'' after ''SEC. 35.''

(3) Insert ''and, subject to subsection (b),'' between ''United States;'' and ''50 percentum''.

(4) Add the following new subsection at the end thereof:

''(b) ADMINISTRATIVE COSTS.—(1) In calculating the amount to be paid to each State during any fiscal year under this section and under other provisions of law requiring payment to a State of any revenues derived from the leasing of any other onshore lands or interest in land owned by the United States for the production of the same types of minerals as are leasable under this Act or for the production of geothermal steam, prior to the division and distribution of such leasing receipts between the States and the United States, the Secretary shall deduct 50 percent of the portion of the enacted appropriations

of the Department of the Interior and of other departments and agencies of the United States for the preceding fiscal year allocable to the administration and enforcement of this Act and such other provisions of law. Such deduction shall be in approximately equal amounts each month (subject to paragraph (3)).

''(2) The proportion of the deduction required under paragraph (1) which is allocable to each State shall be a percentage of the total deduction allocable to all States. The percentage shall be determined by dividing—

''(A) the monies disbursed to the State during the preceding fiscal year under the provisions of this section and the other provisions of law referred to in paragraph (1), by

''(B) the total money disbursed to all States during that fiscal year under such provisions.

''(3) If the amount otherwise deductible under this subsection in any month from the portion of revenues to be distributed to a State exceeds the amount payable to the State during that month, any amount exceeding the amount payable shall be carried forward and deducted from amounts payable to the State in subsequent months.

''(4) All amounts deducted under this subsection from monies otherwise payable to a State shall be credited to miscellaneous receipts in the Treasury.''.

SEC. 9003. HARD ROCK MINING CLAIM MAINTENANCE AND LOCATION FEES.

(a) CLAIM MAINTENANCE AND LOCATION FEES.—

(1) CLAIM MAINTENANCE FEES.—The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States (whether located before or after enactment of this Act) shall pay to the Secretary of the Interior or his designee for each assessment year a flat claim maintenance fee of not less than $100 per claim. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a) and (c)).

(2) LOCATION FEE.—For each mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States after the date of enactment of this Act, the claimant shall pay the Secretary a location fee of $25.

(b) TIME OF PAYMENT.—The claim maintenance fee payable under subsection (a)(1) for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim main-

tenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under subsection (a)(2) shall be payable not later than 90 days after the date of location

(c) DEPOSIT IN TREASURY.—The Secretary shall deposit monies received under this Act as miscellaneous receipts in the Treasury.

(d) CO-OWNERSHIP.—The co-ownership provisions of section 2324 of the Mining Law of 1872 (30 U.S.C. 28) shall remain in effect with respect to mining claims subject to such provisions except that the annual claim maintenance fee, where applicable, shall be paid in lieu of applicable assessment requirements and expenditures.

(e) FORFEITURE.—Failure to make the annual payment of any claim maintenance or location fee required with respect to any unpatented mining claim, mill, or tunnel site required by subsection (a) shall conclusively constitute a forfeiture by the holder of the unpatented mining claim, mill or tunnel site, effective at noon on the date the payment is due.

(f) FLPMA FILING REQUIREMENTS.—Nothing in this Act shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)) or the requirements of section 314(c) of the Federal Land Policy and Management

Act of 1976 (43 U.S.C. 1744(c)) related to filings required by such section 314(b). Such requirements shall remain in effect with respect to claims, and mill or tunnel sites for which fees are required to be paid under this section.

(g) RULES AND REGULATIONS.—The Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the date of enactment of this Act.

(h) PURCHASING POWER ADJUSTMENT.—Every 5 years following the date of enactment of this Act, or more frequently if the Secretary determines a more frequent adjustment to be reasonable, the Secretary of the Interior shall adjust the fees specified in subsection (a) to reflect changes in the purchasing power of the dollar. The Secretary shall use the Consumer Price Index for all urban consumers published by the Department of Labor as the basis for adjustment, rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890). The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made. A fee adjustment under this paragraph shall begin to apply the first assessment which begins after the adjustment is made.

(i) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3111; 30 U.S.C. 242).

(j) EXCEPTION FOR HOLDERS OF FEWER THAN 50 CLAIMS.—

(1) ELIGIBILITY.—In accordance with paragraph (3), a claimant may be eligible for a waiver or reduction of the claim maintenance fees imposed under this section if the claimant certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 50 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work sufficient to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due; except that such performance of assessment work shall not be required by reason of section 5 of Public

Law 94–429, commonly known as the Mining in the Parks Act, or such other laws that before the date of the enactment of this Act removed the applicability of the assessment work requirement of the general mining laws for any claim subject to such laws.

(2) HOLDER.—For purposes of paragraph (1), with respect to any claimant, the term ''related parties'' means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; and

(B) a person affiliated with the claimant, including—

(i) a person controlled by, controlling, or under common control with the claimant; and

(ii) a subsidiary or parent company or corporation of the claimant.

(3) WAIVED OR REDUCED MAINTENANCE FEES.—

(A) 10 OR FEWER CLAIMS.—The Secretary of the Interior may waive the claim maintenance fee imposed under this section in its en-

tirety for 10 or fewer claims held by a claimant eligible under paragraph (1).

(B) 11 OR MORE CLAIMS.—

(i) IN GENERAL.—Subject to clause (ii), for a claimant eligible under paragraph (1), the Secretary may reduce the claim maintenance fee imposed under this section to $25 per claim for each claim in excess of 10.

(ii) LIMITATION.—The reduction provided for in this subparagraph shall be available for no more than 50 claims held by a claimant who is eligible under paragraph (1).

(4) PAYMENT IN LIEU OF ANNUAL LABOR REQUIREMENTS.—The third sentence of section 2324 of the Revised Statutes (30 U.S.C. 28) is amended by inserting after ''On each claim located after the tenth day of May, eighteen hundred and seventy-two,'' the following: ''for which a waiver of the maintenance fee, or a reduced maintenance fee, under section 9003 of the Omnibus Budget Reconciliation Act of 1993 has been granted under subsection (j) of that section,''.

(5) FILING REQUIREMENTS.—The holder of any unpatented mining claim for which a waiver of the maintenance fee, or a reduced maintenance fee, has been granted pursuant to this subsection shall continue to be subject to the filing requirements contained in sections 314(a) and (c) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(k) EFFECTIVE DATE.—This section shall take effect with respect to assessment years beginning after August 31, 1994.

SEC. 9004. FEDERAL IRRIGATION WATER SURCHARGE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the construction and operation of Federal reclamation projects have contributed to the depletion of streams, the alteration of riparian habitat, and the degradation of water quality;

(B) such impacts have had adverse impacts on fish and wildlife resources; and

(C) the restoration of fish and wildlife and related habitat affected by the construction or operation of Federal reclamation projects is a

1 continuing responsibility of the beneficiaries of
2 such projects.
3 (2) PURPOSES.—The purposes of this section
4 are to—
5 (A) incorporate the restoration of fish and
6 wildlife resources and related habitat affected
7 by the construction or operation of Federal rec-
8 lamation projects into the annual operation and
9 maintenance requirements of such projects;
10 (B) establish a fair and equitable mecha-
11 nism for securing timely payments from the
12 beneficiaries of such projects for the implemen-
13 tation, operation, and maintenance of fish and
14 wildlife restoration measures;
15 (C) accelerate the rate of restoration and
16 recovery of depleted populations of indigenous
17 fish and wildlife; and
18 (D) encourage more efficient use of water
19 resources by the beneficiaries of Federal rec-
20 lamation projects.
21 (b) OPERATIONAL CHARGES.—
22 (1) IN GENERAL.—Individuals or non-Federal
23 entities that receive delivery of water (including by
24 exchange) which is stored in or transported through
25 Federal reclamation projects or project facilities or

projects or project facilities constructed by the Secretary of the Army that meet the conditions specified in paragraph (1) or (2) of section 212(a) of the Reclamation Reform Act of 1982 (Public Law 97–293, 43 U.S.C. 390ll), except for facilities of the Central Valley Project, California (as that project is defined by title XXXIV of Public Law 102–575), shall, pursuant to such terms, conditions, and procedures as the Secretary of the Interior may prescribe, pay to the United States an operation and maintenance charge sufficient to yield at least $10,000,000 (January 1993 price levels) annually in the years 1994, 1995, and 1996 and at least $15,000,000 (January 1993 price levels) annually in 1997 and each year thereafter.

(2) PAYMENTS.—Payments required by paragraph (1) shall be made without reduction or deferral by the Secretary under any provision of reclamation law and without regard to whether an individual or entity has discharged its repayment obligation within the meaning of the first section of the Act of July 2, 1956 (70 Stat. 483; 43 U.S.C. 485h–1), section 213 of the Reclamation Reform Act of 1982 (Public Law 97–293, 43 U.S.C. 390mm), or any other provision of Federal Reclamation law. The

payments shall be in addition to any other repayments owed or made to the United States and shall not be applied or credited to an individual's or entity's repayment of project construction costs, payment of other annual project operation and maintenance costs, payment of interest, or reduction of any contractual obligation the individual or entity may have with the United States.

(c) NATURAL RESOURCES RESTORATION FUND.—There is hereby established in the Treasury of the United States a fund to be known as the ''Natural Resources Restoration Fund'' (hereafter in this section referred to as the ''Fund''). All payments of the operation and maintenance charges authorized in subsection (b) shall be deposited in the Fund, and shall be available in the fiscal year following deposit and thereafter, to such extent or in such amounts as are provided in advance in appropriation Acts, for expenditures by the Secretary of the Interior for the benefit of fish and wildlife resources, including habitat, affected by construction or operation of the projects referred to in this section.

(d) INDIAN LAND OWNERS.—For the purposes of this section, Indian tribes or individual Indian beneficial owners of land held in trust by the United States or sub-

ject to a restriction against alienation by the United States shall be considered to be Federal entities.

(e) FEDERAL RECLAMATION LAW.—This section shall constitute an amendment of and a supplement to the Federal Reclamation laws (the Reclamation Act of 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto).

SEC. 9005. RECREATION USER FEES.

(a) LAND AND WATER CONSERVATION FUND ACT OF 1965.—

(1) IN GENERAL.—The first sentence of section 4(b) of the Land and Water Conservation Fund Act of 1965 (relating to recreation use fees) is amended by striking out ''picnic tables, or boat ramps'' and all that follows down through the period at the end thereof and inserting the following: ''or picnic tables, and in no event shall there be any charge for the use of any campground not having a majority of the following: tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, fee collection by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). For purposes of this subsection, the term 'specialized outdoor recreation site'

includes but shall not be limited to campgrounds, swimming sites, boat launch facilities, and managed parking lots.''. The second sentence of such section 4(b) is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 210 of Public Law 90–483 (82 Stat. 746; 16 U.S.C. 460d–3) is repealed.

(b) COSTS OF COLLECTION.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (relating to special accounts for fees collected) is amended by inserting ''(A)'' after ''(1)'' and by adding the following at the end of paragraph (1):

''(B) Notwithstanding subparagraph (A), in any fiscal year, the Secretary of Agriculture and the Secretary of the Interior may withhold from the special account established under subparagraph (A) such portion of all receipts the fees collected in that fiscal year under this section as such Secretary determines to be equal to the additional fee collection costs for that fiscal year. The amounts so withheld shall be retained by the Secretary of Agriculture or the Secretary of the Interior and shall be available, without further appropriation, for expenditure by the Secretary concerned in the fiscal year in which collected to cover such additional fee collection costs. The Secretary concerned shall deposit in the special account established

pursuant to subparagraph (A) any amounts so retained which remain unexpended and unobligated at the end of such fiscal year. For the purposes of this subparagraph, for any fiscal year, the term 'additional fee collection costs' means those costs for personnel and infrastructure directly associated with the collection of fees imposed under this section which exceed the costs for personnel and infrastructure directly associated with the collection of such fees during fiscal year 1993.''.

(c) GOLDEN AGE PASSPORT.—The second sentence of section 4(a)(4) of the Land and Water Conservation Fund Act of 1965 (relating to Golden Age Passports) is amended to read as follows: ''Such permit shall be nontransferable, shall be issued for a charge of $10, and shall entitle the permittee and the permittee's spouse accompanying the permittee to general admission into any area designated pursuant to this section.''.

(d) USER FEES FOR RIGHTS-OF-WAY.—In each fiscal year after the enactment of this Act, the Secretary of the Interior shall impose and collect an annual fee for the use and occupancy of any right-of-way through any national park system unit for which a permit has been issued by the Secretary pursuant to any general or specific statutory right-of-way authority (whether issued before or after the enactment of this Act) or for any other right-of-way

allowed as of the date of the enactment of this Act. The amount of such annual fee shall be equal to the fair market rental value, as determined by the Secretary, of such use and occupancy for the fiscal year concerned. The fair market value shall be reviewed (and revised if necessary) not less frequently than every 3 years. The Secretary shall deposit all fees collected under this subsection in the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(e) COMMERCIAL TOUR USE FEES.—(1) In the case of each unit of the National Park System for which an admission fee is charged under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4), the Secretary of the Interior shall establish, by October 1, 1993, a commercial tour use fee to be imposed on each vehicle or aircraft entering the unit (or the airspace of the unit) for the purpose of providing commercial tour services within (or within the air space of) the unit. Fee revenue derived from such commercial tour use fees shall be deposited into the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(2) The Secretary shall establish the amount of fee to be imposed under this subsection per entry. The fee shall not be less than—

(A) $25 per vehicle or aircraft with a passenger capacity of 25 persons or less,

(B) $50 per vehicle or aircraft with a passenger capacity of 26 to 99 persons, and

(C) $100 per vehicle or aircraft with a passenger capacity of 100 to 299 persons.

The Secretary may periodically increase the fee imposed under this subsection as he deems necessary and justifiable.

(3) The commercial tour use fee imposed under this subsection shall not apply to either of the following:

(A) Any vehicle or aircraft transporting organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

(B) Any vehicle or aircraft entering a park system unit pursuant to a contract issued under the Act of October 9, 1965 (16 U.S.C. 20–20g) entitled ''An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes''.

(f) FAIR MARKET VALUE FOR COMMUNICATION SITE FEES.—No permit or other authorization for the use of any area of the public lands of the United States for purposes of commercial telephone transmission facilities shall

remain in force and effect after January 1, 1994 unless, before that date, and before January 1 of each year thereafter, the holder of such permit or other authorization pays to Secretary of the Department having administrative jurisdiction over such lands an amount equal to the fair market value, as determined by such Secretary, of the right to use and occupy such area for such purposes. For purposes of this subsection, the term ''public lands of the United States'' means lands owned by the United States and administered by the Secretary of the Interior (other than lands held for the benefit of Indians, Aleuts, and Eskimos) and lands within the National Forest System.

SEC. 9006. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking ''September 30, 1995'' and inserting ''September 30, 1998''.

SEC. 9007. RECOVERING THE COST FOR GOVERNMENT SERVICES.

(a) REPORT.—Not later than January 1, 1994, the Secretary of the Interior and the Secretary of Energy shall each submit a report identifying fees, penalties, and other charges to the Committee on Natural Resources of the

House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each report shall—

(1) identify all fees, penalties, and other charges imposed by the respective Secretary for the provision of services;

(2) include the procedures for adjusting such fees to recover the cost of providing those services; and

(3) identify those services for which no fee is currently charged and make recommendations for a fee appropriate to cover the cost of providing each service.

(b) ADJUSTMENT OF FEES.—Except as provided in subsection (d), for fiscal year 1995 and each fiscal year thereafter, the Secretary of the Interior and the Secretary of Energy shall adjust each fee, penalty, and other charge for the provision of services identified pursuant to subsection (a)(1). Each such fee, penalty, and charge shall be adjusted in accordance with the procedures identified pursuant to subsection (a)(2).

(c) IMPLEMENTATION OF FEES FOR SERVICES NOT COVERED.—Beginning with fiscal year 1995, the Secretary of the Interior and the Secretary of Energy shall charge fees for each of the services identified pursuant to subsection (a)(3) in an amount sufficient to recover the

cost of providing the service. For each fiscal year thereafter, the fee shall be adjusted in the same manner as adjustments are made pursuant to subsection (b), using fiscal year 1995 as the base year.

(d) CERTAIN FEES, PENALTIES AND CHARGES NOT COVERED.—Subsection (b) shall not apply to any fee, penalty, or charge the amount of which is expressly specified in any statute or contract.

SEC. 9008. UNFUNDED LIABILITIES OF THE FEDERAL GOVERNMENT.

Section 1105 of title 31, United States Code, is amended by adding the following subsection at the end thereof:

''(g) The President shall transmit with materials related to each budget an estimate of unfunded future liabilities of the Federal Government that are not accounted for in the budget itself. Such estimate shall include (but not be limited to) liabilities for future remediation of environmental and natural resources damage, and cleaning up waste sites, on Federal lands. Sources of liabilities shall include (but not be limited to) active, inactive, or abandoned mines or oil or gas wells, irrigation waste water impacts, decommissioning of nuclear power plants, and uranium mining and processing activities (without regard to the location of such mining or processing activities) affect-

ing the health of Native Americans and carried out pursuant to a program administered by the United States.''.

TITLE X—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Subtitle A—Civil Service

SEC. 10001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) APPLICABILITY.—This section shall apply with respect to any cost-of-living increase scheduled to take effect, during fiscal year 1994, 1995, or 1996, under—

(1) section 8340(b) or 8462(b) of title 5, United States Code;

(2) section 826 or 858 of the Foreign Service Act of 1980; or

(3) section 291 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2131), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102–496; 106 Stat. 3196).

(b) DELAY IN EFFECTIVE DATE OF ADJUSTMENTS.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would otherwise take effect.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340(b) or (c) or section 8462(b) or (c) of title 5, United States Code, or comparable provisions of law.

SEC. 10002. PERMANENT ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and 8420a of title 5, United States Code, are each amended—

(1) in subsection (a) by striking ''an employee or Member may,'' and inserting ''any employee or Member who has a life-threatening affliction or other critical medical condition may,''; and

(2) by striking subsection (f).

(b) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—Section 807(e)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by striking ''a participant may,'' and inserting ''any participant who has a life-threatening affliction or other critical medical condition may,''.

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—Section 294(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2143(a)), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102–496; 106 Stat. 3196), is amended by striking ''a participant may,'' and inserting ''any participant who has a life-threatening affliction or other critical medical condition may,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1994, and shall apply with respect to any annuity commencing on or after that date.

SEC. 10003. PAY LIMITATIONS.

(a) ELIMINATION OF THE 1994 ANNUAL PAY ADJUSTMENT.—

(1) STATUTORY PAY SYSTEMS.—Notwithstanding section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (5 U.S.C. 5303 note) or any other provision of law, the adjustment in rates of basic pay that is scheduled to take effect in 1994 under section 5303 of title 5, United States Code, shall not take effect.

(2) OTHER PAY SYSTEMS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any general pay adjust-

ment, similar to the adjustment referred to in paragraph (1), which is scheduled to take effect in 1994 with respect to any civilian officers or employees in the executive branch (other than those affected by paragraph (1)) shall not take effect.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to—

(i) any pay adjustment required under the terms of a contract, as in effect before the date of the enactment of this Act; or

(ii) any alien or noncitizen of the United States who occupies a position outside the United States.

(C) REGULATIONS.—The Office of Personnel Management may prescribe any regulations it considers necessary for the administration of this paragraph.

(b) MODIFICATION IN FORMULA FOR COMPUTING ANNUAL PAY ADJUSTMENTS FOR 1995, 1996, AND 1997.—

(1) STATUTORY PAY SYSTEMS.—Section 5303(a) of title 5, United States Code, is amended—

(A) by striking "(a)" and inserting "(a)(1)"; and

(B) by adding at the end the following:

"(2) Notwithstanding section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1991 or any other provision of law, for purposes of any adjustment scheduled to take effect under this section in 1995, 1996, or 1997, paragraph (1) shall be deemed to be amended by striking 'equal to' through 'less than' and inserting 'equal to one and one-half percentage points less than'.".

(2) OTHER PAY SYSTEMS.—Section 704(a)(1) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note) is amended by adding at the end the following:

"(C) SPECIAL RULE.—For purposes of any pay adjustment scheduled to take effect in 1995, 1996, or 1997, subparagraph (B) shall be deemed to be amended by striking 'one-half of 1 percent' and inserting 'one and one-half percent'.".

SEC. 10004. PROVISIONS RELATING TO LOCALITY-BASED COMPARABILITY PAYMENTS.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—

(1) CHANGE IN EFFECTIVE DATE OF PAYMENTS.—Section 5304(d)(2) of title 5, United

States Code, is amended by striking ''January 1'' and inserting ''July 1''.

(2) LIMITATION RELATING TO AGGREGATE AMOUNT PAYABLE DURING CERTAIN PERIODS.—Section 5304 of title 5, United States Code, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following:

''(i)(1) Notwithstanding any other provision of this section, comparability payments may not be established or adjusted under this section in a manner that would cause the resulting estimated total amount payable under this section during the period which—

''(A) begins on July 1, 1994, and ends on June 30, 1995, to exceed $1,800,000,000;

''(B) begins on July 1, 1995, and ends on June 30, 1996, to exceed $2,500,000,000;

''(C) begins on July 1, 1996, and ends on June 30, 1997, to exceed $3,300,000,000;

''(D) begins on July 1, 1997, and ends on June 30, 1998, to exceed $4,200,000,000; or

''(E) begins on July 1, 1998, and ends on September 30, 1998, to exceed $1,747,000,000.

"(2) If necessary in order to achieve compliance with any of the respective limitations under paragraph (1), the President may, in carrying out subsection (d)(2), specify levels of comparability payments less than the minimum which would otherwise be required under subsection (a)(3).

"(3) The pay agent shall develop and include in the appropriate reports under subsection (d)(1) the methodology for making any estimates under this subsection, and any such estimate shall be made in accordance with the methodology so included in the then most recent report.

"(4) Whenever any authority under this subsection is exercised, the President shall so indicate in his next report under subsection (d)(3), including specific information as to how such authority was exercised and the reasons why it was so exercised.".

(b) TEMPORARY CHANGE IN EFFECTIVE DATE OF ANNUAL PAY ADJUSTMENTS UNDER SECTION 5303 OF TITLE 5, UNITED STATES CODE.—Section 5303(a) of title 5, United States Code (as amended by section 10003(b)(1)), is further amended by adding after paragraph (2) of such section 5303(a) (as so amended) the following:

"(3) Effective for the period beginning on January 1, 1995, and ending on December 31, 2003, paragraph

(1) shall be deemed to be amended by striking 'January 1' and inserting 'July 1'.".

(c) REPEAL OF THE PROVISION EXCLUDING SENIOR EXECUTIVES FROM THE LIMITATION GENERALLY APPLICABLE ON THE ACCUMULATION OF ANNUAL LEAVE.—

(1) IN GENERAL.—Section 6304(f) of title 5, United States Code, is repealed, effective as of January 1, 1994.

(2) SAVINGS PROVISION.—

(A) APPLICABILITY.—This paragraph shall apply with respect to an individual—

(i) who, as of December 31, 1993, has more than 30 days of annual leave to such individual's credit (or more than 45 days, if the individual would be subject to section 6304(b) of such title) which were accrued in any position described in section 6304(f) of title 5, United States Code (as in effect on the date of the enactment of this Act); and

(ii) only for so long as such individual remains continuously employed in any such position (disregarding any break in service of 3 days or less).

(B) STATEMENT OF THE RULE.—For purposes of administering section 6304 of title 5, United States Code, with respect to any individual to whom this paragraph applies—

(i) subsection (a) of such section shall be deemed amended by striking ''30'' and inserting the number corresponding to the number of days determined for such individual under subparagraph (A)(i); and

(ii) subsection (b) of such section shall be deemed amended by striking ''45'' and inserting the number corresponding to the number of days determined for such individual under subparagraph (A)(i).

(3) CONFORMING AMENDMENT.—Section 6304(a) of title 5, United States Code, is amended by striking ''(d), (e), (f), and (g)'' and inserting ''(d) and (e)''.

(d) NO CASH AWARDS BETWEEN FISCAL YEARS 1994 THROUGH 1998.—

(1) DEFINITION.—For the purpose of this subsection, the term ''cash award'' means any cash award, performance award, rank, or other form of recognition entitling the recipient to any monetary payment under subchapter I of chapter 45 of title 5,

United States Code, or section 5384, 5406, or 5407 of such title.

(2) RESTRICTION.—Notwithstanding any other provision of law, no cash award may be awarded during the period beginning on October 1, 1993, and ending on September 30, 1998.

(e) REDUCTION OF FEDERAL WORKFORCE BY 150,000.—

(1) DEFINITION.—For the purpose of this subsection, the term ''civilian employees in the executive branch'' means all civilian employees within the executive branch of the Government (other than in the United States Postal Service or the Postal Rate Commission).

(2) LIMITATIONS.—The average total number of civilian employees in the executive branch may not exceed—

(A) 2,095,200 in fiscal year 1994;

(B) 2,044,100 in fiscal year 1995;

(C) 2,010,100 in fiscal year 1996;

(D) 1,998,500 in fiscal year 1997; or

(E) 1,996,700 in fiscal year 1998.

(3) AVERAGING.—The average total number of civilian employees in the executive branch in a fiscal year shall, for purposes of this subsection, be the av-

erage number in such fiscal year, as determined under regulations prescribed under paragraph (5). Any such average shall be determined on a ''full-time equivalent'' basis.

(4) VOLUNTARY MEASURES.—To the extent practicable, any reductions necessary to achieve compliance with any limitation under paragraph (2) shall be effected through attrition or other voluntary measures.

(5) REGULATIONS.—The President shall prescribe regulations to carry out this subsection.

(f) PAY-LIMITATION PROVISIONS MADE APPLICABLE TO CERTAIN EMPLOYEES IN THE JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts shall take such measures as may be necessary to ensure that the purposes of subsections (a) and (b) of section 10003 and subsections (a)(1) (if applicable) and (b) of this section are carried out with respect to employees who are subject to the personnel management system established by the Director under section 3 of Public Law 101–474 (28 U.S.C. 602 note).

SEC. 10005. APPLICATION OF MEDICARE PART B LIMITS TO PHYSICIANS' SERVICES FURNISHED TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.

(a) IN GENERAL.—Section 8904(b) of title 5, United States Code, is amended—

(1) in paragraph (1) by inserting "(A)" after "(b)(1)" and by adding at the end the following:

"(B)(i) A plan, other than a prepayment plan described in section 8903(4), may not provide benefits, in the case of any retired enrolled individual who is age 65 or older and is not entitled to Medicare supplementary medical insurance benefits under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), to pay a charge imposed for physicians' services (as defined in section 1848(j) of such Act, 42 U.S.C. 1395w–4(j)) which are covered for purposes of benefit payments under this chapter and under such part, to the extent that such charge exceeds the fee schedule amount under section 1848(a) of such Act (42 U.S.C. 1395w–4(a)).

"(ii) Physicians and suppliers who have in force participation agreements with the Secretary of Health and Human Services consistent with section 1842(h)(1) of such Act (42 U.S.C. 1395u(h)(1)), whereby the participating provider accepts Medicare benefits (including allowable deductible and coinsurance amounts) as full payment for

1 covered items and services shall accept equivalent benefit
2 and enrollee cost-sharing under this chapter as full pay-
3 ment for services described in clause (i). Physicians and
4 suppliers who are nonparticipating physicians and suppli-
5 ers for purposes of part B of title XVIII of such Act shall
6 not impose charges that exceed the limiting charge under
7 section 1848(g) of such Act (42 U.S.C. 1395w–4(g)) with
8 respect to services described in clause (i) provided to en-
9 rollees described in such clause. The Office of Personnel
10 Management shall notify a physician or supplier who is
11 found to have violated this clause and inform them of the
12 requirements of this clause and sanctions for such a viola-
13 tion. The Office of Personnel Management shall notify the
14 Secretary of Health and Human Services if a physician
15 or supplier is found to knowingly and willfully violate this
16 clause on a repeated basis and the Secretary of Health
17 and Human Services may invoke appropriate sanctions in
18 accordance with sections 1128A(a) and section 1848(g)(1)
19 of such Act (42 U.S.C. 1320a–7a(a), 1395w–4(g)(1)) and
20 applicable regulations.

21 "(C) If the Secretary of Health and Human Services
22 determines that a violation of this subsection warrants ex-
23 cluding a provider from participation for a specified period
24 under title XVIII of the Social Security Act, the Office

shall enforce a corresponding exclusion of such provider for purposes of this chapter.'';

(2) in paragraph (3)(B)—

(A) by inserting ''(i)'' after ''includes''; and

(B) by inserting before the period at the end the following: '', and (ii) the fee schedule amounts and limiting charges for physicians' services established under section 1848 of such Act (42 U.S.C. 1395w–4) and the identity of participating physicians and suppliers who have in force agreements with such Secretary under section 1842(h) of such Act (42 U.S.C. 1395u(h))''; and

(3) by adding at the end the following:

''(4) The Director of the Office of Personnel Management shall certify, before the first day of the fifth month that begins before each contract year, that there is in effect an arrangement with the Secretary of Health and Human Services under which, before the beginning of the contract year—

''(A) physicians and suppliers (whether or not participating) under the Medicare program will be notified of the requirements of paragraph (1)(B);

''(B) enforcement procedures will be in place to carry out such paragraph (including enforcement of

protections against overcharging of beneficiaries); and

"(C) Medicare program information described in paragraph (3)(B)(ii) will be supplied to carriers under paragraph (3)(A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. 10006. TEMPORARY EXTENSION OF METHOD FOR DETERMINING GOVERNMENT CONTRIBUTIONS UNDER FEHBP IN THE ABSENCE OF A GOVERNMENT-WIDE INDEMNITY BENEFIT PLAN.

(a) IN GENERAL.—Public Law 101–76 (5 U.S.C. 8906 note) is amended in subsection (a)(1) by striking "1993" and inserting "1998".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that nothing in this section should be considered to reflect any view on the appropriateness, merits, or timing, or any other aspect of any comprehensive health care reform legislation.

Subtitle B—Postal Service

SEC. 10101. PAYMENTS TO BE MADE BY THE UNITED STATES POSTAL SERVICE.

(a) RELATING TO CORRECTED CALCULATIONS FOR PAST RETIREMENT COLAS.—In addition to any other

payments required under section 8348(m) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund a total of $693,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1995;

(2) at least two-thirds shall be paid not later than September 30, 1996; and

(3) any remaining balance shall be paid not later than September 30, 1997.

(b) RELATING TO CORRECTED CALCULATIONS FOR PAST HEALTH BENEFITS.—In addition to any other payments required under section 8906(g)(2) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Employees Health Benefits Fund a total of $348,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1995;

(2) at least two-thirds shall be paid not later than September 30, 1996; and

(3) any remaining balance shall be paid not later than September 30, 1997.

Subtitle C—Revenue Forgone Reform

SEC. 10201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Revenue Forgone Reform Act''.

(b) TABLE OF CONTENTS.—The table of contents for this subtitle is as follows:

Sec. 10201. Short title; table of contents.
Sec. 10202. References.
Sec. 10203. Repeal of authorization of appropriations for mail sent at reduced rates of postage.
Sec. 10204. Establishing reduced rates of postage.
Sec. 10205. Eligibility of certain mailings for reduced rates of postage.
Sec. 10206. Provisions relating to rates for books and certain other materials.
Sec. 10207. Sense of Congress.
Sec. 10208. Technical corrections.

SEC. 10202. REFERENCES.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 39, United States Code.

SEC. 10203. REPEAL OF AUTHORIZATION OF APPROPRIATIONS FOR MAIL SENT AT REDUCED RATES OF POSTAGE.

(a) IN GENERAL.—Section 2401(c) is amended—

(1) in the first sentence—

(A) by striking ''if sections'' through ''had not been enacted'' and inserting ''if sections

3217 and 3403–3406 had not been enacted''; and

(B) by striking ''such sections and Acts.'' and inserting ''such sections.''; and

(2) in the second sentence—

(A) by striking ''(i)''; and

(B) by striking ''volume;'' through ''schedules.'' and inserting ''volume.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to appropriations for fiscal years beginning after September 30, 1993.

SEC. 10204. ESTABLISHING REDUCED RATES OF POSTAGE.

(a) RATES.—

(1) IN GENERAL.—Section 3626(a) is amended to read as follows:

''(a)(1) For the purpose of this subsection—

''(A) the term 'costs attributable', as used with respect to a class of mail or kind of mailer, means the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service);

''(B) the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in paragraph (2)(A) or section 2401(c); and

"(C) the term 'institutional-costs contribution', as used with respect to a class of mail or kind of mailer, means that portion of the estimated revenues to the Postal Service from such class of mail or kind of mailer which remains after subtracting an amount equal to the estimated costs attributable to such class of mail or kind of mailer.

"(2)(A) Except as provided in paragraph (3) or (4), rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

"(i) the estimated costs attributable to such class of mail or kind of mailer; and

"(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).

"(B) The applicable percentage for any class of mail or kind of mailer referred to in subparagraph (A) shall be the product derived by multiplying—

"(i) the percentage which, for the most closely corresponding regular-rate category, the institutional-costs contribution for such category represents

relative to the estimated costs attributable to such category of mail, times

"(ii)(I) one-twelfth, for fiscal year 1994;

"(II) one-sixth, for fiscal year 1995;

"(III) one-fourth, for fiscal year 1996;

"(IV) one-third, for fiscal year 1997;

"(V) five-twelfths, for fiscal year 1998; and

"(VI) one-half, for any fiscal year after fiscal year 1998.

"(C) For temporary special authority to permit the timely implementation of the preceding provisions of this paragraph, see section 3642.

"(D) For purposes of establishing rates of postage under this subchapter for any of the classes of mail or kinds of mailers referred to in subparagraph (A), subclauses (I) through (V) of subparagraph (B)(ii) shall be deemed amended by striking the fraction specified in each such subclause and inserting 'one-half'.

"(3) The rates for the advertising portion of any mail matter under former section 4358(d) or 4358(e) of this title shall be equal to the rates for the advertising portion of the most closely corresponding regular-rate category of mail, except that if the advertising portion does not exceed 10 percent of the issue of the publication involved, the ad-

vertising portion shall be subject to the same rates as apply to the nonadvertising portion.

''(4) The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail.''.

(2) SPECIAL AUTHORITY.—Subchapter III of chapter 36 is amended by adding at the end the following:

''§ 3642. Special authority relating to reduced-rate categories of mail

''(a) In order to permit the timely implementation of section 3626(a)(2), the Postal Service may establish temporary rates of postage for any class of mail or kind of mailer referred to in section 3626(a)(2)(A).

''(b) Any exercise of authority under this section shall be in conformance with the requirements of section 3626(a), subject to the following:

''(1) All 'attributable costs' and 'institutional-costs contributions' assumed shall be the same as those which were assumed for purposes of the then most recent proceedings under subchapter II pursuant to which rates of postage for the class of mail or kind of mailer involved were last adjusted.

"(2) Any temporary rate established under this section shall take effect upon such date as the Postal Service may determine, except that—

"(A) such a rate may take effect only after 10 days' notice in the Federal Register; and

"(B) no such rate may take effect after September 30, 1998.

"(3) A temporary rate under this section may remain in effect no longer than the last day of the fiscal year in which it first takes effect.

"(4) Authority under this section may not be exercised in a manner that would result in more than 1 change taking effect under this section, during the same fiscal year, in the rates of postage for a particular class of mail or kind of mailer, except as provided in paragraph (5).

"(5) Nothing in paragraph (4) shall prevent an adjustment under this section in rates for a class of mail or kind of mailer with respect to which any rates took effect under this section earlier in the same fiscal year if—

"(A) the rates established for such class of mail or kind of mailer by the earlier adjustment are superseded by new rates established under subchapter II; and

"(B) authority under this paragraph has not previously been exercised with respect to such class of mail or kind of mailer based on the new rates referred to in subparagraph (A).

"(c) The Postal Service may prescribe any regulations which may be necessary to carry out this section, including provisions governing the coordination of adjustments under this section with any other adjustments under this title.".

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) SECTION 3626.—Section 3626(i) is repealed.

(B) SECTION 3627.—

(i) IN GENERAL.—Section 3627 is amended—

(I) by striking "sent at a free or reduced rate under section 3217, 3403–3406, or 3626 of this title," and inserting "sent free of postage under section 3217 or 3403–3406"; and

(II) in the section heading by striking **"and reduced"**.

(ii) TABLE OF CONTENTS.—The table of contents for chapter 36 is amended—

(I) by striking the item relating to section 3627 and inserting the following:

"3627. Adjusting free rates.";

and

(II) by inserting after the item relating to section 3641 the following:

"3642. Special authority relating to reduced-rate categories of mail.".

(b) AUTHORIZATION.—

(1) IN GENERAL.—Section 2401 is amended—

(A) by striking subsections (d) through (f);

(B) by redesignating subsections (g) through (i) as subsections (e) through (g), respectively;

(C) in subsection (f) (as so redesignated by subparagraph (B)) by striking the second sentence;

(D) in subsection (g) (as so redesignated by subparagraph (B)) by striking "subsections (b) and (d) of this section" and inserting "subsection (b)"; and

(E) by inserting after subsection (c) the following:

"(d) As reimbursement to the Postal Service for losses which it incurred as a result of insufficient amounts appropriated under section 2401(c) for fiscal years 1991 through 1993, and to compensate for the additional revenues it is estimated the Postal Service would have received under the provisions of section 3626(a), for the period beginning on October 1, 1993, and ending on September 30, 1998, if the fraction specified in subclause (VI) of section 3626(a)(2)(B)(ii) were applied with respect to such period (instead of the respective fractions specified in subclauses (I) through (V) thereof), there are authorized to be appropriated to the Postal Service $29,000,000 for each of fiscal years 1994 through 2035.".

(2) RATEMAKING LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), rates of postage may not be established, under subchapter II of chapter 36 of title 39, United States Code, in a manner designed to allow the United States Postal Service to receive through revenues any portion of the additional revenues (referred to in section 2401(d) of such title, as amended by paragraph (1)(E)) for which amounts are authorized to be appropriated under such section 2401(d).

(B) EXCEPTION.—If Congress fails to appropriate an amount authorized under section 2401(d) of title 39, United States Code (as amended by paragraph (1)(E)), rates for the various classes of mail may be adjusted in accordance with the provisions of subchapter II of chapter 36 of such title (excluding section 3627 thereof) such that the resulting increase in revenues will equal the amount that Congress so failed to appropriate.

(c) APPLICABILITY.—

(1) RATES.—The amendments made by subsection (a) shall apply with respect to rates for mail sent after September 30, 1993.

(2) AUTHORIZATION.—The amendments made by subsection (b) shall apply with respect to appropriations for fiscal years beginning after September 30, 1993.

SEC. 10205. ELIGIBILITY OF CERTAIN MAILINGS FOR REDUCED RATES OF POSTAGE.

(a) ADVERTISING.—Section 3626(j)(1) is amended—

(1) in subparagraph (B) by striking ''or'' after the semicolon;

(2) in subparagraph (C) by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

"(D) any product or service (other than any to which subparagraph (A), (B), or (C) relates), if—

"(i) the sale of such product or the providing of such service is not substantially related (aside from the need, on the part of the organization promoting such product or service, for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of one or more of the purposes constituting the basis for the organization's authorization to mail at such rates; or

"(ii) the mail matter involved is part of a cooperative mailing (as defined under regulations of the Postal Service) with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

except that—

"(I) any determination under clause (i) that a product or service is not substantially related to a particular purpose shall be made under regulations which shall be prescribed by the Postal Service based on subsections (a) and

(c) of section 513 of the Internal Revenue Code of 1986; and

"(II) clause (i) shall not apply if the product involved is a periodical publication described in subsection (m)(2) (including a subscription to receive any such publication).".

(b) PRODUCTS.—Section 3626 is amended by adding at the end the following:

"(m)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail consisting of products, unless such products—

"(A) were received by the organization as gifts or contributions; or

"(B) are low cost articles (as defined by section 513(h)(2) of the Internal Revenue Code of 1986).

"(2) Paragraph (1) shall not apply with respect to a periodical publication of a qualified nonprofit organization.".

(c) CERTIFICATION; VERIFICATION.—Section 3626(j)(3) is amended—

(1) by striking "(3)" and inserting "(3)(A)"; and

(2) by adding at the end the following:

"(B) The Postal Service shall establish procedures to carry out this paragraph, including procedures for mailer certification of compliance with the conditions specified in paragraph (1)(D) or subsection (m), as applicable, and verification of such compliance.".

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to mail sent, and the rates for mail sent, after September 30, 1993.

SEC. 10206. PROVISIONS RELATING TO RATES FOR BOOKS AND CERTAIN OTHER MATERIALS.

(a) IN GENERAL.—Section 3683(b) is amended to read as follows:

"(b) The rates of postage under former section 4554(b)(1) of this title shall not be effective except with respect to mailings which—

"(1) constitute materials specified in former section 4554(b)(2) of this title; and

"(2) are sent between—

"(A) an institution, organization, or association listed in subparagraph (A) or (B) of such former section 4554(b)(1) and any other such institution, organization, or association;

"(B) an institution, organization, or association referred to in subparagraph (A) and any individual (other than an individual having a fi-

nancial interest in the sale, promotion, or distribution of the materials involved); or

"(C) an institution, organization, or association referred to in subparagraph (A) and a qualified nonprofit organization (as defined in former section 4452(d) of this title) that is not such an institution, organization, or association.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to mail sent after September 30, 1993.

SEC. 10207. SENSE OF CONGRESS.

It is the sense of the Congress that any legislation, enacted after September 30, 1994, which would have the effect of expanding the classes of mail or kinds of mailers eligible for reduced rates of postage should provide for sufficient funding to ensure that neither any losses to the United States Postal Service nor any increase in the rates of postage for any of the other classes of mail or kinds of mailers will result.

SEC. 10208. TECHNICAL CORRECTIONS.

(a) SECTION 410.—Section 410(b) is amended—

(1) in paragraph (8) by striking "and" after the semicolon;

(2) in the first paragraph (9) by striking ''Chapter'' and inserting ''chapter'', and by striking the period and inserting ''; and''; and

(3) by designating the second paragraph (9) as paragraph (10).

(b) SECTION 3202.—Section 3202(a) is amended—

(1) in paragraph (3) by adding ''and'' after the semicolon; and

(2) in paragraph (4) by striking ''; and'' and inserting a period.

(c) SECTION 3210.—The provisions of section 318(3) of Public Law 101–163 (103 Stat. 1068), which amended section 3210 of title 39, United States Code, shall be treated as if, as enacted, the reference in such provisions to ''subparagraph (c)'' had instead read ''subparagraph (C)''.

(d) SECTION 3601.—Section 3601(a) is amended by striking ''concent'' and inserting ''consent''.

(e) SECTION 3625.—Section 3625(d) is amended by striking ''section 3268'' and inserting ''section 3628''.

(f) SECTION 3626.—Section 3626 is amended by redesignating the second subsection (k) as subsection (l).

TITLE XI—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SEC. 11001. AVIATION FEES FOR SERVICES.

(a) IN GENERAL.—Section 313(f) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354(f)) is amended to read as follows:

"(f) FEES FOR SERVICES.—

"(1) IMPOSITION AND COLLECTION.—The following fees are imposed and shall be collected for services rendered:

"(A) AIRCRAFT REGISTRATION FEES.—

"(i) GENERAL RULE.—For registration of an aircraft, the fee to be collected from the owner of the aircraft in each fiscal year beginning after September 30, 1993, shall be determined under the following table:

If the maximum certificated gross weight of the aircraft is:	Amount of fee is:
Not over 3,500 pounds	$40.00
Over 3,500 lbs. but not over 6,500 lbs.	$175.00
Over 6,500 lbs. but not over 10,000 lbs.	$500.00
Over 10,000 lbs. but not over 100,000 lbs.	$1,000.00
Over 100,000 lbs.	$2,000.00.

If the ownership of the aircraft is also transferred in such fiscal year, the fee to be collected

for registration of the aircraft in such fiscal year under this subparagraph, as determined from the table, shall be increased by such amount as the Administrator shall determine so that the average amount of the increase for all aircraft collected under this sentence in such fiscal year will be approximately $200.00.

''(ii) EXEMPTIONS.—No fee shall be collected under this subparagraph for registration of an aircraft in a fiscal year if the aircraft—

''(I) is owned or operated by an air carrier exclusively to provide air transportation;

''(II) is owned by, or operated exclusively by or for, the United States Government;

''(III) is registered under a dealer's aircraft registration certificate issued under section 505 of this Act;

''(IV) is not originally certificated with an engine driven electrical system or has not subsequently been certified by the Administrator with such a system installed; or

''(V) is a balloon or glider.

"(B) DESIGNATION AS AVIATION MEDICAL EXAMINERS.—For designation of a person as an aviation medical examiner, the fee to be collected from such person in each fiscal year beginning after September 30, 1993, shall be $500.

"(C) ISSUANCE OF CERTIFICATES TO PILOTS.—After September 30, 1993, the fee to be collected for issuance or renewal of an airman's certificate to a pilot shall be $12. The fee shall be collected from each pilot at least once every 3 fiscal years.

"(2) CONTINUATION OF FEE FOR PROCESSING OF FORMS FOR MAJOR FUEL TANK ALTERATIONS.—

"(A) ESTABLISHMENT AND COLLECTION.—The Administrator may establish such fees as may be necessary to cover the costs associated with processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

"(B) MAXIMUM AMOUNT.—The amount of any fee under this subsection with respect to processing of a form for a major repair or alternation of a fuel tank or fuel system of an aircraft may not exceed $7.50. Such maximum

amount shall be adjusted annually by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(3) COLLECTION AND DEPOSIT IN TRUST FUND.—The amounts of all fees established by or under this subsection shall be collected by the Administrator, or the Secretary of the Treasury for the Administrator, and shall be deposited in the Airport and Airway Trust Fund.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 313 is amended by striking

"(f) Processing fees.".

and inserting

"(f) Fees for services.".

SEC. 11002. RECREATIONAL USER FEES.

(a) IN GENERAL.—Section 210 of the Flood Control Act of 1968 (16 U.S.C. 460d–3) is amended—

(1) by striking "SEC. 210. No entrance" and inserting the following:

"SEC. 210. RECREATIONAL USER FEES.

"(a) PROHIBITION ON ADMISSIONS FEES.—No entrance";

(2) by striking the second sentence; and

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

"(b) FEES FOR USE OF DEVELOPED RECREATION SITES AND FACILITIES.—

"(1) ESTABLISHMENT AND COLLECTION.—Notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)), the Secretary of the Army is authorized, subject to paragraphs (2) and (3), to establish and collect fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps.

"(2) EXEMPTION OF CERTAIN FACILITIES.—The Secretary shall not establish or collect fees under this subsection for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, picnic tables, toilet facilities, surface water areas, undeveloped or lightly developed shoreland, or general visitor information.

"(3) PER VEHICLE LIMIT.—The fee under this subsection for use of a site or facility (other than an overnight camping site or facility or any other site or facility at which a fee is charged for use of the site or facility as of the date of the enactment of this paragraph) for persons entering the site or facility

by private, noncommercial vehicle shall not exceed $3 per day per vehicle. Such maximum amount may be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(4) DEPOSIT INTO TREASURY ACCOUNT.—All fees collected under this subsection shall be deposited into the Treasury account for the Corps of Engineers established by section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)).".

(b) CONFORMING AMENDMENT FOR CAMPSITES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)) is amended by striking the next to the last sentence.

TITLE XII—COMMITTEE ON VETERANS AFFAIRS

SEC. 12001. SHORT TITLE.

This title may be cited as the "Veterans Reconciliation Act of 1993".

SEC. 12002. EXTENSION OF AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 38 U.S.C. 1710 note) is amended—

(1) by striking out ''September 30, 1992'' in the first sentence and inserting in lieu thereof ''September 30, 1998''; and

(2) by striking out the second sentence.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended—

(1) by striking out ''September 30, 1992'' in the first sentence and inserting in lieu thereof ''September 30, 1998''; and

(2) by striking out the second sentence.

SEC. 12003. EXTENSION OF AUTHORITY FOR MEDICAL CARE COST RECOVERY.

(a) IN GENERAL.—Section 1729(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out ''non-service-connected''; and

(2) in paragraph (2)—

(A) by inserting ''disability and, during the period before October 1, 1998, to a service-connected'' after ''non-service-connected'' in the matter preceding subparagraph (A); and

(B) by striking out ''before August 1, 1994,'' in subparagraph (E) and inserting in lieu thereof ''before October 1, 1998,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to care and services furnished under chapter 17 of title 38, United States Code, after September 30, 1993.

SEC. 12004. EXTENSION OF AUTHORITY FOR CERTAIN INCOME VERIFICATION PROVISIONS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION.—Section 5317(g) of title 38, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

(b) AUTHORITY FOR SECRETARY OF TREASURY TO PROVIDE INFORMATION.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out ''September 30, 1997'' in the last

sentence and inserting in lieu thereof ''September 30, 1998''.

SEC. 12005. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1998''.

SEC. 12006. DENIAL OF FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.

During fiscal year 1994, no increase may be provided in the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code.

SEC. 12007. EXTENSION OF PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) INCLUSION OF LOSSES.—Section 3732(c) of title 38, United States Code, is amended—

(1) in paragraph (1)(C), by striking out ''resale,'' and inserting in lieu thereof ''resale (including losses sustained on the resale of the property),''; and

(2) in paragraph (11), by striking out ''December 31, 1992'' and inserting in lieu thereof ''September 30, 1998''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to all liquidation sales occurring on or after October 1, 1993.

SEC. 12008. INCREASE IN HOME LOAN FEES.

Paragraph (6) of section 3729(a) of title 38, United States Code, is amended to read as follows:

''(6) With respect to a loan closed after September 30, 1993, and before October 1, 1998, for which a fee is collected under paragraph (1), the amount of such fee, as computed under paragraph (2), shall be increased by 0.75 percent of the total loan amount other than in the case of a loan described in subparagraph (A), (D)(ii), or (E) of paragraph (2).''.

SEC. 12009. REDUCTION OF FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) BENEFITS PAYABLE UNDER CHAPTER 30.—Section 3015(g)(1) of title 38, United States Code, is amended by inserting ''less one percentage point'' after ''June 30, 1993,''.

(b) BENEFITS PAYABLE UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(2)(A) of title 10,

United States Code, is amended by inserting ''less one percentage point'' after ''June 30, 1993,''.

(c) TECHNICAL AMENDMENTS.—(1) Section 301(c) of Public Law 102–568 (106 Stat. 4326) is amended by striking out ''Section 3015(f)'' and inserting in lieu thereof ''Section 3015(g) (as redesignated by section 307(a)(1))''.

(2) Section 307(a) of such Public Law (106 Stat. 4328) is amended by striking out ''(as amended by section 301)''.

(3) The amendments made by paragraphs (1) and (2) shall apply as if included in the enactment of Public Law 102–568.

SEC. 12010. LIMITATION ON CHILDREN ELIGIBLE FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) REVISION IN DEFINITION OF CHILDREN ELIGIBLE.—Section 3501(a)(2) of title 38, United States Code, is amended by inserting '', but does not include an individual who is not the natural or legally adopted child of the parent from whom eligibility under this chapter is derived'' before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) does not apply with respect to any individual who, before October 1, 1993, files an original applica-

1 tion for educational assistance under chapter 35 of title
2 38, United States Code.

3 TITLE XIII—COMMITTEE ON 4 WAYS AND MEANS—SAVINGS

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SEC. 13001. EXPLICIT REQUIREMENTS FOR MAINTENANCE OF TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) MAINTENANCE OF SERVICE TO LOCAL OFFICES.—

(1) IN GENERAL.—Section 5110(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388-272) is amended by adding at the end the following new sentence: ''In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service at least the same number of telephone lines to each such local office as was in place as of such date, including telephone sets for connections to such lines.''.

(2) EFFECTIVE DATE.—The Secretary of Health and Human Services shall ensure that the requirements of the amendment made by paragraph (1) are carried out no later than 90 days after the date of the enactment of this Act.

(3) GAO REPORT.—The Comptroller General of the United States shall make an independent determination of the number of telephone lines to each local office of the Social Security Administration which are in place as of 90 days after the enactment of this Act and shall report his findings to the Committee on Ways and Means of the House of Rep-

resentatives and the Committee on Finance of the Senate no later than 150 days after the date of the enactment of this Act.

(b) MAINTENANCE OF TOLL-FREE TELEPHONE NUMBER SERVICE.—The Secretary of Health and Human Services shall ensure that toll-free telephone service provided by the Social Security Administration is maintained at a level which is at least equal to that in effect on the date of the enactment of this Act.

SEC. 13002. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE.

(a) LIMITATION ON MANDATORY COVERAGE OF STATE ELECTION OFFICIALS AND ELECTION WORKERS WITHOUT STATE RETIREMENT SYSTEM.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(a)(7)(F)(iv) of the Social Security Act (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section 11332(a) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking ''$100'' and inserting ''$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) for any subsequent year with respect to service performed during such subsequent year''.

(2) AMENDMENT TO FICA.—Section 3121(b)(7)(F)(iv) of the Internal Revenue Code of 1986 (as amended by section 11332(b) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking ''$100'' and inserting ''$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year''.

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(p)(2)(E) of the Social Security Act (42 U.S.C. 410(p)(2)(E)) is amended by striking ''$100'' and inserting ''$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) for any subsequent year with respect to service performed during such subsequent year''.

(2) AMENDMENT TO FICA.—Section 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code of 1986 is amended by striking ''$100'' and inserting ''$1,000 with respect to service performed during 1994, and the adjusted amount determined

under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year''.

(c) AUTHORITY FOR STATES TO MODIFY COVERAGE AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS AND ELECTION WORKERS.—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended—

(1) by striking ''on or after January 1, 1968,'' and inserting ''at any time'';

(2) by striking ''$100'' and inserting ''$1,000 with respect to service performed during 1994, and the adjusted amount determined under subparagraph (B) for any subsequent year with respect to service performed during such subsequent year''; and

(3) by striking the last sentence and inserting the following new sentence: ''Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.''.

(d) INDEXATION OF EXEMPT AMOUNT.—Section 218(c)(8) of such Act (as amended by subsection (c)) is further amended—

(1) by inserting ''(A)'' after ''(8)''; and

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

"(B) For each year after 1994, the Secretary shall adjust the amount referred to in subparagraph (A) at the same time and in the same manner as is provided under section 215(a)(1)(B)(ii) with respect to the amounts referred to in section 215(a)(1)(B)(i), except that—

"(i) for purposes of this subparagraph, 1992 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II), and

"(ii) such amount as so adjusted, if not a multiple of $100, shall be rounded to the next higher multiple of $100 where such amount is a multiple of $50 and to the nearest multiple of $100 in any other case.

The Secretary shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not later than November 1 preceding the year for which the adjustment is made.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to service performed on or after January 1, 1994.

SEC. 13003. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS AND FEDERAL DISTRICT COURTS FOR JURY SELECTION PURPOSES.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking ''(E)'' in the matter preceding subclause (I) and inserting ''(F)'';

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (D) the following:

''(E)(i) It is the policy of the United States that—

''(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

''(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

"(ii) The additional purposes described in this clause are the following:

"(I) identifying duplicate names of individuals on master lists used for jury selection purposes, and

"(II) identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

"(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

"(iv) For purposes of this subparagraph, the term 'State' has the meaning such term has in subparagraph (D).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13004. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICEMEN AND FIREMEN UNDER EXISTING COVERAGE AGREEMENTS.

(a) IN GENERAL.—Section 218(l) of the Social Security Act (42 U.S.C. 418(l)) is amended—

(1) in paragraph (1), by striking ''(1)'' after ''(l)'', and by striking ''the State of'' and all that follows through ''prior to the date of enactment of this subsection'' and inserting ''a State entered into pursuant to this section''; and

(2) by striking paragraph (2).

(b) CONFORMING AMENDMENT.—Section 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is amended by striking ''agreements with the States named in'' and inserting ''State agreements modified as provided in''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to modifications filed by States after the date of the enactment of this Act.

SEC. 13005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United

States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax with respect to services described in paragraphs (1) and (2) and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.—In any case in which an individ-

ual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act (42 U.S.C. 411(b)), and, if such individual's primary insurance amount has been determined under section 215 of such Act (42 U.S.C. 415), notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection. The recomputation under this subsection shall be effective with respect to benefits for months following approval of the certificate of exemption.

SEC. 13006. EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION.

(a) IN GENERAL.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking ''but excluding'' and all that follows through ''1937'' and inserting ''but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between

the United States and such foreign country pursuant to section 233''; and

(2) in subparagraph (E), by inserting after ''in the case of an individual'' the following: ''whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual''.

(b) CONFORMING AMENDMENT RELATING TO BENEFITS UNDER 1939 ACT.—Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended by striking ''but excluding'' and all that follows through ''1937'' and inserting ''but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f)(1) of the Social Security Act (42 U.S.C. 415(f)(1))) with respect to benefits payable for months after October 1993.

SEC. 13007. EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISIONS.

(a) EXCLUSION FROM GOVERNMENT PENSION OFFSET PROVISIONS.—Subsections (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4)) are each amended—

(1) in subparagraph (A)(ii), by striking ''unless subparagraph (B) applies.'';

(2) in subparagraph (A), by striking ''The'' in the matter following clause (ii) and inserting ''unless subparagraph (B) applies. The''; and

(3) in subparagraph (B), by redesignating the existing matter as clause (ii), and by inserting before such clause (ii) (as so redesignated) the following:

''(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).''.

(b) EXCLUSION FROM WINDFALL ELIMINATION PROVISIONS.—Section 215(a)(7)(A) of such Act (as amended by section 13006(a) of this Act) and section 215(d)(3) of such Act (as amended by section 13006(b) of this Act) are each further amended—

(1) by striking ''and'' before ''(II)''; and

(2) by striking ''section 233'' and inserting ''section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f) of the Social Security Act) with respect to benefits payable for months after October 1993.

SEC. 13008. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.—Section 203(i) of the Social Security Act (42 U.S.C. 403(i)) is repealed.

(b) COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.—Section 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended by striking ''section 222(b). Whenever'' and inserting the following: ''section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for

any month on the basis of the same wages and self-employment income as another person—

"(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

"(B) who does not live in the same household as such individual, and

"(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3). Whenever".

(c) CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.—The third sentence of section 203(h)(1)(A) of such Act (42 U.S.C. 403(h)(1)(A)) is amended by striking "Such report need not be made" and all that follows through "The Secretary may grant" and inserting the following: "Such report need not be made for any taxable year—

"(i) beginning with or after the month in which such individual attained age 70, or

"(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the

first sentence of paragraph (3) of this subsection, unless—

"(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

"(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

"(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant".

(d) CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF REPEAL.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1994.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1994, in taxable years ending after such date.

SEC. 13009. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES.

(a) IN GENERAL.—Section 203(a) of the Social Security Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

''(10)(A) Subject to subparagraphs (B) and (C)—

''(i) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(B)(i) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits, increased for this purpose by the general benefit increases and other increases under section 215(i) that would have applied to such total monthly benefits had the individual remained entitled to disability insurance benefits until the month in which he became entitled to old-age insur-

ance benefits or reentitled to disability insurance benefits or died, and

"(ii) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(C) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits.

"(B) In any case in which—

"(i) the total monthly benefits with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits was computed under paragraph (6), and

"(ii) the individual's primary insurance amount is computed under subparagraph (B)(i) or (C) of section 215(a)(2) by reason of the individual's entitlement to old-age insurance benefits or death,

the total monthly benefits shall equal the total monthly benefits that would have been authorized with respect to the primary insurance amount for the last month of his

prior entitlement to disability insurance benefits if such total monthly benefits had been computed without regard to paragraph (6).

"(C) This paragraph shall apply before the application of paragraph (3)(A), and before the application of section 203(a)(1) of this Act as in effect in December 1978.".

(b) CONFORMING AMENDMENT.—Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended by striking "Subject to paragraph (7)," and inserting "Subject to paragraph (7) and except as otherwise provided in paragraph (10)(C),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for the purpose of determining the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 of the Social Security Act based on the wages and self-employment income of an individual who—

(1) becomes entitled to an old-age insurance benefit under section 202(a) of such Act,

(2) becomes reentitled to a disability insurance benefit under section 223 of such Act, or

(3) dies,

after October 1993.

SEC. 13010. AUTHORIZATION FOR DISCLOSURE BY THE SECRETARY OF HEALTH AND HUMAN SERVICES OF INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH.

(a) IN GENERAL.—Section 1106 of the Social Security Act (42 U.S.C. 1306) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (f) (as so redesignated), by striking ''subsection (d)'' and inserting ''subsection (e)''; and

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

''(d) Notwithstanding any other provision of this section, in any case in which—

''(1) information regarding whether an individual is shown on the records of the Secretary as being alive or deceased is requested from the Secretary for purposes of epidemiological or similar research which the Secretary finds may reasonably be expected to contribute to a national health interest, and

''(2) the requester agrees to reimburse the Secretary for providing such information and to comply with limitations on safeguarding and rerelease or

1 redisclosure of such information as may be specified
2 by the Secretary,
3 the Secretary shall comply with such request, except to
4 the extent that compliance with such request would con-
5 stitute a violation of the terms of any contract entered
6 into under section 205(r).''.
7 (b) AVAILABILITY OF INFORMATION RETURNS RE-
8 GARDING WAGES PAID EMPLOYEES.—Section 6103(l)(5)
9 of the Internal Revenue Code of 1986 (relating to disclo-
10 sure of returns and return information to the Department
11 of Health and Human Services for purposes other than
12 tax administration) is amended—
13 (1) by striking ''for the purpose of'' and insert-
14 ing ''for the purpose of—'';
15 (2) by striking ''carrying out, in accordance
16 with an agreement'' and inserting the following:
17 ''(A) carrying out, in accordance with an
18 agreement'';
19 (3) by striking ''program.'' and inserting ''pro-
20 gram; or''; and
21 (4) by adding at the end the following new sub-
22 paragraph:
23 ''(B) providing information regarding the
24 mortality status of individuals for epidemiolog-

ical and similar research in accordance with section 1106(d) of the Social Security Act.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to requests for information made after the date of the enactment of this Act.

SEC. 13011. IMPROVEMENT AND CLARIFICATION OF PROVISIONS PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY PROGRAMS AND AGENCIES.

(a) PROHIBITION OF UNAUTHORIZED REPRODUCTION, REPRINTING, OR DISTRIBUTION FOR FEE OF CERTAIN OFFICIAL PUBLICATIONS.—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b–10(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting ''(1)'' after ''(a)''; and

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

''(2) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.''.

(b) ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended—

(1) in subparagraph (A) (as redesignated), by striking ''Administration', the letters 'SSA' or 'HCFA','' and inserting ''Administration', 'Department of Health and Human Services', 'Health and Human Services', 'Supplemental Security Income Program', or 'Medicaid', the letters 'SSA', 'HCFA', 'DHHS', 'HHS', or 'SSI',''; and

(2) in subparagraph (B) (as redesignated), by striking ''Social Security Administration'' each place it appears and inserting ''Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services'', and by striking ''or of the Health Care Financing Administration''.

(c) EXEMPTION FOR USE OF WORDS, LETTERS, SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOVERNMENT AGENCIES BY SUCH AGENCIES.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended by adding at the end the following new sentence: ''The preceding provisions of this subsection shall not apply with respect to the use by any

agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.''.

(d) INCLUSION OF REASONABLENESS STANDARD.—Section 1140(a)(1) of such Act (as amended by the preceding provisions of this section) is further amended, in the matter following subparagraph (B) (as redesignated), by striking ''convey'' and inserting ''convey, or in a manner which reasonably could be interpreted or construed as conveying,''.

(e) INEFFECTIVENESS OF DISCLAIMERS.—Subsection (a) of section 1140 of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new paragraph:

''(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, re-

printed, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.''.

(f) VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C. 1320b–10(b)(1)) is amended by adding at the end the following new sentence: ''In the case of any items referred to in subsection (a)(1) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation. In the case of any item referred to in subsection (a)(2), the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.''.

(g) ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.—

(1) REPEAL.—Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b–10(b)(2)) is repealed.

(2) CONFORMING AMENDMENTS.—Section 1140(b) of such Act is further amended—

(A) by striking ''(1) Subject to paragraph (2), the'' and inserting ''The'';

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking ''subparagraph (B)'' and inserting ''paragraph (2)''.

(h) REMOVAL OF FORMAL DECLINATION REQUIREMENT.—Section 1140(c)(1) of such Act (42 U.S.C. 1320b–10(c)(1)) is amended by inserting ''and the first sentence of subsection (c)'' after ''and (i)''.

(i) PENALTIES RELATING TO SOCIAL SECURITY ADMINISTRATION DEPOSITED IN OASI TRUST FUND.—Section 1140(c)(2) of such Act (42 U.S.C. 1320b–10(c)(2)) is amended in the second sentence by striking ''United States.'' and inserting ''United States, except that, to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivor's Insurance Trust Fund.''.

(j) ENFORCEMENT.—Section 1140 of such Act (42 U.S.C. 1320b–10) is amended by adding at the end the following new subsection:

1 ''(d) The preceding provisions of this section shall be
2 enforced through the Office of Inspector General of the
3 Department of Health and Human Services.''.

4 (k) ANNUAL REPORTS.—Section 1140 of such Act
5 (as amended by the preceding provisions of this section)
6 is further amended by adding at the end the following new
7 subsection:

8 ''(e) The Secretary shall include in the annual report
9 submitted pursuant to section 704 a report on the oper-
10 ation of this section during the year covered by such an-
11 nual report. Such report shall specify—

12 ''(1) the number of complaints of violations of
13 this section received by the Social Security Adminis-
14 tration during the year,

15 ''(2) the number of cases in which a notice of
16 violation of this section was sent by the Social Secu-
17 rity Administration during the year requesting that
18 an individual cease activities in violation of this
19 section,

20 ''(3) the number of complaints of violations of
21 this section referred by the Social Security Adminis-
22 tration to the Inspector General in the Department
23 of Health and Human Services during the year,

"(4) the number of investigations of violations of this section undertaken by the Inspector General during the year,

"(5) the number of cases in which a demand letter was sent during the year assessing a civil money penalty under this section,

"(6) the total amount of civil money penalties assessed under this section during the year,

"(7) the number of requests for hearings filed during the year pursuant to subsection (c)(1) of this section and section 1128A(c)(2),

"(8) the disposition during such year of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2), and

"(9) the total amount of civil money penalties under this section deposited into the Federal Old-Age and Survivors Insurance Trust Fund during the year.".

(l) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.

SEC. 13012. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) UNAUTHORIZED DISCLOSURE.—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(1) by striking ''misdemeanor'' and inserting ''felony'';

(2) by striking ''$1,000'' and inserting ''$10,000 for each occurrence of a violation''; and

(3) by striking ''one year'' and inserting ''5 years''.

(b) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(1) by inserting ''social security account number,'' after ''information as to the'';

(2) by striking ''misdemeanor'' and inserting ''felony'';

(3) by striking ''$1,000'' and inserting ''$10,000 for each occurrence of a violation''; and

(4) by striking ''one year'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 13013. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

''(a) GENERAL RULE.—Except as otherwise provided in this section—

''(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

''(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

''(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

''(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1993, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any

State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid

in calendar years beginning after December 31, 1993.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or his delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

(b) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (within the meaning of subsection (y)), if the cash remuneration paid in such year by the

employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (y)) for such year;''.

(B) Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

''(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For purposes of subsection (a)(7)(B)—

''(1) EXCLUSION FOR CERTAIN FARM SERVICE.—The term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5).

''(2) APPLICABLE DOLLAR THRESHOLD.—The term 'applicable dollar threshold' means $1,800. In the case of calendar years after 1994, the Secretary of Health and Human Services shall adjust such $1,800 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this subparagraph, 1992 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If the amount determined under the preceding sentence is

not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.''

(C) The second sentence of section 3102(a) of such Code is amended—

(i) by striking ''calendar quarter'' each place it appears and inserting ''calendar year'', and

(ii) by striking ''$50'' and inserting ''the applicable dollar threshold (as defined in section 3121(y)(2)) for such year''.

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

''(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(y)(2) of the Internal Revenue Code of 1986) for such year. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5).''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1993.

(4) RELIEF FROM LIABILITY FOR CERTAIN UNDERPAYMENT AMOUNTS.—

(A) IN GENERAL.—On and after the date of the enactment of this Act, an underpayment to which this paragraph applies (and any penalty, addition to tax, and interest with respect to such underpayment) shall not be assessed (or, if assessed, shall not be collected).

(B) UNDERPAYMENTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to an underpayment to the extent of the amount thereof which would not be an underpayment if—

(i) the amendments made by paragraph (1) had applied to all calendar years after 1950 and before 1994, and

(ii) the applicable dollar threshold for any such calendar year were the amount determined under the following table:

In the case of calendar year:	The applicable dollar threshold is:
1951, 1952, or 1953	$ 200
1954, 1955, 1956, or 1957	250
1958, 1959, 1960, 1961, or 1962	300

1963, 1964, 1965, or 1966	350
1967, 1968, 1969	400
1970	450
1971, 1972, or 1973	500
1974 or 1975	600
1976	650
1977	700
1978	750
1979	800
1980	850
1981	900
1982	1,000
1983	1,100
1984	1,200
1985	1,250
1986	1,300
1987	1,350
1988	1,400
1989	1,500
1990	1,550
1991	1,600
1992	1,700
1993	1,750

SEC. 13014. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

(a) IN GENERAL.—Section 203(h)(1)(A) of the Social Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking ''three months'' and inserting ''four months''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1993.

SEC. 13015. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended to read as follows:

"(1) 1.75 percent of the wages (as defined in section 3121 of the Internal Revenue Code of 1986) paid after December 31, 1992, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1986, which wages shall be certified by the Secretary of Health and Human Services on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and".

(b) ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended to read as follows:

"(2) 1.75 percent of the self-employment income (as defined in section 1402 of the Internal Revenue Code of 1986) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 1992, which self-employment income shall be certified by the Secretary of Health and Human Services on the basis of the records of self-employment

income established and maintained by the Secretary of Health and Human Services in accordance with such returns.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1992, and self-employment income for taxable years beginning after such date.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) 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 comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) MATTERS TO BE INCLUDED IN STUDY.—In conducting the study under this subsection, the Secretary shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) REPORT.—Not later than December 31, 1995, the Secretary 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 the study conducted under this subsection, together with any recommendations for legislative changes which the Secretary determines appropriate.

SEC. 13016. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) IN GENERAL.—Section 505 of the Social Security Disability Amendments of 1980 (Public Law 96–265), as amended by section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272), section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and section 5120 of the

Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is further amended—

(1) in paragraph (3) of subsection (a), by striking ''June 10, 1993'' and inserting ''June 10, 1996'';

(2) in paragraph (4) of subsection (a), by striking ''1992'' and inserting ''1995''; and

(3) in subsection (c), by striking ''October 1, 1993'' and inserting ''June 9, 1996''.

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

SEC. 13017. TECHNICAL AND CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT.—

(1) Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended, in the matter following clause (4), by striking ''and and'' and inserting ''and''.

(2) Section 202(d)(8)(D)(ii) of such Act (42 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a period at the end and by adjusting the left hand margination thereof so as to align with section 202(d)(8)(D)(i) of such Act.

(3) Section 202(q)(1)(A) of such Act (42 U.S.C. 402(q)(1)(A)) is amended by striking the dash at the end.

(4) Section 202(q)(9) of such Act (42 U.S.C. 402(q)(9)) is amended, in the matter preceding subparagraph (A), by striking ''parargaph'' and inserting ''paragraph''.

(5) Section 202(t)(4)(D) of such Act (42 U.S.C. 402(t)(4)(D)) is amended by inserting ''if the'' before ''Secretary'' the second and third places it appears.

(6) Clauses (i) and (ii) of section 203(f)(5)(C) of such Act (42 U.S.C. 403(f)(5)(C)) are amended by adjusting the left-hand margination thereof so as to align with clauses (i) and (ii) of section 203(f)(5)(B) of such Act.

(7) Paragraph (3)(A) and paragraph (3)(B) of section 205(b) of such Act (42 U.S.C. 405(b)) are amended by adjusting the left-hand margination thereof so as to align with the matter following section 205(b)(2)(C) of such Act.

(8) Section 205(c)(2)(B)(iii) of such Act (42 U.S.C. 405(c)(2)(B)(iii)) is amended by striking ''non-public'' and inserting ''nonpublic''.

(9) Section 205(c)(2)(C) of such Act (42 U.S.C. 405(c)(2)(C)) is amended—

(A) by striking the clause (vii) added by section 2201(c) of Public Law 101–624; and

(B) by redesignating the clause (iii) added by section 2201(b)(3) of Public Law 101–624, clause (iv), clause (v), clause (vi), and the clause (vii) added by section 1735(b) of Public Law 101–624 as clause (iv), clause (v), clause (vi), clause (vii), and clause (viii), respectively;

(C) in clause (v) (as redesignated), by striking ''subclause (I) of'', and by striking ''subclause (II) of clause (i)'' and inserting ''clause (ii)''; and

(D) in clause (viii)(IV) (as redesignated), by inserting ''a social security account number or'' before ''a request for''.

(10) The heading for section 205(j) of such Act (42 U.S.C. 405(j)) is amended to read as follows:

''Representative Payees''.

(11) The heading for section 205(s) of such Act (42 U.S.C. 405(s)) is amended to read as follows:

"Notice Requirements".

(12) Section 208(c) of such Act (42 U.S.C. 408(c)) is amended by striking "subsection (g)" and inserting "subsection (a)(7)".

(13) Section 210(a)(5)(B)(i)(V) of such Act (42 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking "section 105(e)(2)" and inserting "section 104(e)(2)".

(14) Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(A) in paragraph (13), by striking "and" at the end; and

(B) in paragraph (14), by striking the period and inserting "; and".

(15) Section 213(c) of such Act (42 U.S.C. 413(c)) is amended by striking "section" the first place it appears and inserting "sections".

(16) Section 215(a)(5)(B)(i) of such Act (42 U.S.C. 415(a)(5)(B)(i)) is amended by striking "subsection" the second place it appears and inserting "subsections".

(17) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting a period after "1990".

(18) Subparagraph (F) of section 218(c)(6) of such Act (42 U.S.C. 418(c)(6)) is amended by adjusting the left-hand margination thereof so as to align with section 218(c)(6)(E) of such Act.

(19) Section 223(i) of such Act (42 U.S.C. 423(i)) is amended by adding at the beginning the following heading:

"Limitation on Payments to Prisoners".

(b) RELATED AMENDMENTS.—

(1) Section 603(b)(5)(A) of Public Law 101–649 (amending section 202(n)(1) of the Social Security Act) (104 Stat. 5085) is amended by inserting "under" before "paragraph (1)," and by striking "(17), or (18)" and inserting "(17), (18), or (19)", effective as if this paragraph were included in such section 603(b)(5)(A).

(2) Section 10208(b)(1) of Public Law 101–239 (amending section 230(b)(2)(A) of the Social Security Act) (103 Stat. 2477) is amended by striking "230(b)(2)(A)" and "430(b)(2)(A)" and inserting "230(b)(2)" and "430(b)(2)", respectively, effective as if this paragraph were included in such section 10208(b)(1).

(c) CONFORMING, CLERICAL AMENDMENTS UPDATING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN

TITLE II OF THE SOCIAL SECURITY ACT TO THE INTERNAL REVENUE CODE.—

(1)(A) Section 201(a) of such Act (42 U.S.C. 401(a)) is amended—

(i) by striking clauses (1) and (2);

(ii) in clause (3), by striking ''(3) the taxes imposed'' and all that follows through ''December 31, 1954,'' and inserting ''(1) the taxes imposed by chapter 21 (other than sections 3101(b) and 3111(b)) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,'', and by striking ''subchapter or'';

(iii) in clause (4), by striking ''(4) the taxes imposed'' and all that follows through ''such Code,'' and inserting ''(2) the taxes imposed by chapter 2 (other than section 1401(b)) of the Internal Revenue Code of 1986 with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code,'', and by

striking ''subchapter or chapter'' and inserting ''chapter''; and

(iv) in the matter following the clauses amended by this subparagraph, by striking ''clauses (3) and (4)'' each place it appears and inserting ''clauses (1) and (2)''.

(B) The amendments made by subparagraph (A) shall apply only with respect to taxes imposed with respect to wages paid on or after January 1, 1993, or with respect to self-employment income for taxable years beginning on or after such date.

(2)(A)(i) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is amended—

(I) in subparagraph (A)(i), by striking ''and subchapter E'' and all that follows through ''1954'' and inserting ''and chapters 2 and 21 of the Internal Revenue Code of 1986'';

(II) in subparagraph (A)(ii), by striking ''1954'' and inserting ''1986'';

(III) in the matter in subparagraph (A) following clause (ii), by striking ''subchapter E'' and all that follows through ''1954.'' and inserting ''chapters 2 and 21 of the Internal Revenue Code of 1986.'', and by striking ''1954 other'' and inserting ''1986 other''; and

(IV) in subparagraph (B), by striking "1954" each place it appears and inserting "1986".

(ii) The amendments made by clause (i) shall apply only with respect to periods beginning on or after the date of the enactment of this Act.

(B)(i) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended by striking "section 3101(a)" and all that follows through "1950." and inserting "section 3101(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 3121 of such Code).", and by striking "wages reported" and all that follows through "1954," and inserting "wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,".

(ii) The amendments made by clause (i) shall apply only with respect to wages paid on or after January 1, 1993.

(C) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended—

(i) by striking "The Board of Trustees shall prescribe before January 1, 1981, the method" and inserting "If at any time or times

the Boards of Trustees of such Trust Funds deem such action advisable, they may modify the method prescribed by such Boards''; (ii) by striking ''1954'' and inserting ''1986''; and (iii) by striking the last sentence.

(3) Section 202(v) of such Act (42 U.S.C. 402(v)) is amended—

(A) in paragraph (1), by striking ''1954'' and inserting ''1986''; and

(B) in paragraph (3)(A), by inserting ''of the Internal Revenue Code of 1986'' after ''3127''.

(4) Section 205(c)(5)(F)(i) of such Act (42 U.S.C. 405(c)(5)(F)(i)) is amended by inserting ''or the Internal Revenue Code of 1986'' after ''1954''.

(5)(A) Section 208(a)(1) of such Act (42 U.S.C. 408(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking ''subchapter E'' and all that follows through ''1954'' and inserting ''chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1986'';

(ii) in subparagraph (A), by inserting ''of 1986'' after ''Internal Revenue Code''; and

(iii) in subparagraph (B), by inserting ''of 1986'' after ''Internal Revenue Code''.

(B) The amendments made by subparagraph (A) shall apply only with respect to violations occurring on or after the date of the enactment of this Act.

(6)(A) Section 209(a)(4)(A) of such Act (42 U.S.C. 409(a)(4)(A)) is amended by inserting ''or the Internal Revenue Code of 1986'' after ''Internal Revenue Code of 1954''.

(B) Section 209(a) of such Act (42 U.S.C. 409(a)) is amended—

(i) in subparagraphs (C) and (E) of paragraph (4),

(ii) in paragraph (5)(A),

(iii) in subparagraphs (A) and (B) of paragraph (14),

(iv) in paragraph (15),

(v) in paragraph (16), and

(vi) in paragraph (17),

by striking ''1954'' each place it appears and inserting ''1986''.

(C) Subsections (b), (f), (g), (i)(1), and (j) of section 209 of such Act (42 U.S.C. 409) are amend-

ed by striking ''1954'' each place it appears and inserting ''1986''.

(7) Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by inserting ''of the Internal Revenue Code of 1986'' after ''section 162(m)''.

(8) Title II of such Act is further amended—

(A) in subsections (f)(5)(B)(ii) and (k) of section 203 (42 U.S.C. 403),

(B) in section 205(c)(1)(D)(i) (42 U.S.C. 405(c)(1)(D)(i)),

(C) in the matter in section 210(a) (42 U.S.C. 410(a)) preceding paragraph (1) and in paragraphs (8), (9), and (10) of section 210(a),

(D) in subsections (p)(4) and (q) of section 210 (42 U.S.C. 410),

(E) in the matter in section 211(a) (42 U.S.C. 411(a)) preceding paragraph (1) and in paragraphs (3), (4), (6), (10), (11), and (12) and clauses (iii) and (iv) of section 211(a),

(F) in the matter in section 211(c) (42 U.S.C. 411(c)) preceding paragraph (1), in paragraphs (3) and (6) of section 211(c), and in the matter following paragraph (6) of section 211(c),

(G) in subsections (d), (e), and (h)(1)(B) of section 211 (42 U.S.C. 411),

(H) in section 216(j) (42 U.S.C. 416(j)),

(I) in section 218(e)(3) (42 U.S.C. 418(e)(3)),

(J) in section 229(b) (42 U.S.C. 429(b)),

(K) in section 230(c) (42 U.S.C. 430(c)), and

(L) in section 232 (42 U.S.C. 432),

by striking ''1954'' each place it appears and inserting ''1986''.

(d) RULES OF CONSTRUCTION.—

(1) The preceding provisions of this section shall be construed only as technical and clerical corrections and as reflecting the original intent of the provisions amended thereby.

(2) Any reference in title II of the Social Security Act to the Internal Revenue Code of 1986 shall be construed to include a reference to the Internal Revenue Code of 1954 to the extent necessary to carry out the provisions of paragraph (1).

(e) UTILIZATION OF NATIONAL AVERAGE WAGE INDEX FOR WAGE-BASED ADJUSTMENTS.—

(1) DEFINITION OF NATIONAL AVERAGE WAGE INDEX.—Section 209(k) of the Social Security Act (42 U.S.C. 409(k)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) in paragraph (3) (as redesignated), by striking ''paragraph (1)'' and inserting ''this subsection''; and

(C) by striking paragraph (1) and inserting the following new paragraphs:

''(k)(1) For purposes of sections 203(f)(8)(B)(ii), 213(d)(2)(B), 215(a)(1)(B)(ii), 215(a)(1)(C)(ii), 215(a)(1)(D), 215(b)(3)(A)(ii), 215(i)(1)(E), 215(i)(2)(C)(ii), 224(f)(2)(B), and 230(b)(2) (and 230(b)(2) as in effect immediately prior to the enactment of the Social Security Amendments of 1977), the term 'national average wage index' for any particular calendar year means, subject to regulations of the Secretary under paragraph (2), the average of the total wages for such particular calendar year.

''(2) The Secretary shall prescribe regulations under which the national average wage index for any calendar year shall be computed—

"(A) on the basis of amounts reported to the Secretary of the Treasury or his delegate for such year,

"(B) by disregarding the limitation on wages specified in subsection (a)(1),

"(C) with respect to calendar years after 1990, by incorporating deferred compensation amounts and factoring in for such years the rate of change from year to year in such amounts, in a manner consistent with the requirements of section 10208 of the Omnibus Budget Reconciliation Act of 1989, and

"(D) with respect to calendar years before 1978, in a manner consistent with the manner in which the average of the total wages for each of such calendar years was determined as provided by applicable law as in effect for such years.".

(2) CONFORMING AMENDMENTS.—

(A) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(B) Section 213(d)(2)(B) of such Act (42 U.S.C. 413(d)(2)(B)) is amended by striking

"deemed average total wages" and inserting "national average wage index", and by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1976,".

(C) Section 215(a)(1)(B)(ii) of such Act (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

(i) in subclause (I), by striking "deemed average total wages" and inserting "national average wage index"; and

(ii) in subclause (II), by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1977.".

(D) Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "deemed average total wages" and inserting "national average wage index".

(E) Section 215(a)(1)(D) of such Act (42 U.S.C. 415(a)(1)(D)) is amended—

(i) by striking "after 1978";

(ii) by striking "and the average of the total wages (as described in subparagraph (B)(ii)(I))" and inserting "and the

national average wage index (as defined in section 209(k)(1))''; and

(iii) by striking the last sentence.

(F) Section 215(b)(3)(A)(ii) of such Act (42 U.S.C. 415(b)(3)(A)(ii)) is amended by striking ''deemed average total wages'' each place it appears and inserting ''national average wage index''.

(G) Section 215(i)(1) of such Act (42 U.S.C. 415(i)(1)) is amended—

(i) in subparagraph (E), by striking ''SSA average wage index'' and inserting ''national average wage index (as defined in section 209(k)(1))''; and

(ii) by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(H) Section 215(i)(2)(C)(ii) of such Act (42 U.S.C. 415(i)(1)(C)(ii)) is amended to read as follows:

''(ii) The Secretary shall determine and promulgate the OASDI fund ratio for the current calendar year on or before November 1 of the current calendar year, based upon the most recent data then available. The Secretary shall include a statement of the fund ratio and the na-

tional average wage index (as defined in section 209(k)(1)) and a statement of the effect such ratio and the level of such index may have upon benefit increases under this subsection in any notification made under clause (i) and any determination published under subparagraph (D).''.

(I) Section 224(f)(2) of such Act (42 U.S.C. 424a(f)(2)) is amended—

(i) in subparagraph (A), by adding ''and'' at the end;

(ii) by striking subparagraph (C); and

(iii) by striking subparagraph (B) and inserting the following:

''(B) the ratio of (i) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the year in which such redetermination is made to (ii) the national average wage index (as so defined) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).''.

(J) Section 230(b)(2) of such Act (42 U.S.C. 430(b)(2)) is amended by striking ''deemed average total wages'' each place it appears and inserting ''national average wage index''.

(K) Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking ''deemed average total wage'' and inserting ''national average wage index''.

SEC. 13018. CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE.

(a) SOCIAL SECURITY ACCOUNT NUMBER INFORMATION.—Clause (iii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as added by section 1735(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3791)) is amended—

(1) by inserting ''(I)'' after ''(iii)''; and

(2) by striking ''The Secretary of Agriculture shall restrict'' and all that follows and inserting the following:

''(II) The Secretary of Agriculture may share any information contained in any list referred to in subclause (I) with any other agency or instrumentality of the United States which otherwise has access to social security account numbers in accordance with this subsection or other applicable Federal law, except that the Secretary of Agri-

culture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subclause may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

''(III) The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in this subclause, shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subclause (II).

''(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause (II), shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.''.

(b) EMPLOYER IDENTIFICATION NUMBER INFORMATION.—Subsection (f) of section 6109 of the Internal Revenue Code of 1986 (as added by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3792)) (relating to access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) SHARING OF INFORMATION AND SAFEGUARDS.—

"(A) SHARING OF INFORMATION.—The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality.

1 Any such information shared pursuant to this
2 subparagraph may be used by such other agen-
3 cy or instrumentality only for the purpose of ef-
4 fective administration and enforcement of the
5 Food Stamp Act of 1977 or for the purpose of
6 investigation of violations of other Federal laws
7 or enforcement of such laws.

8 ''(B) SAFEGUARDS.—The Secretary of Ag-
9 riculture, and the head of any other agency or
10 instrumentality referred to in subparagraph
11 (A), shall restrict, to the satisfaction of the Sec-
12 retary of the Treasury, access to employer iden-
13 tification numbers obtained pursuant to this
14 subsection only to officers and employees of the
15 United States whose duties or responsibilities
16 require access for the purposes described in
17 subparagraph (A). The Secretary of Agri-
18 culture, and the head of any agency or instru-
19 mentality with which information is shared pur-
20 suant to subparagraph (A), shall provide such
21 other safeguards as the Secretary of the Treas-
22 ury determines to be necessary or appropriate
23 to protect the confidentiality of the employer
24 identification numbers.'';

(2) in paragraph (3), by striking ''by the Secretary of Agriculture pursuant to this subsection'' and inserting ''pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)'', and by striking ''social security account numbers'' and inserting ''employer identification numbers''; and

(3) in paragraph (4), by striking ''by the Secretary of Agriculture pursuant to this subsection'' and inserting ''pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)''.

SEC. 13019. PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.

(a) GENERAL RULE.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

''§ 333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

''(a) GENERAL RULE.—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—

"(1) the words 'Department of the Treasury', or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

"(2) the titles 'Secretary of the Treasury' or 'Treasurer of the United States' or the title of any other officer or employee of the Department of the Treasury,

"(3) the abbreviations or initials of any entity referred to in paragraph (1),

"(4) the words 'United States Savings Bond' or the name of any other obligation issued by the Department of the Treasury,

"(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

"(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems,

in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.

"(b) TREATMENT OF DISCLAIMERS.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

"(2) AMOUNT OF PENALTY.—The amount of the civil penalty imposed by paragraph (1) shall not exceed $5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$25,000' for '$5,000'.

"(3) TIME LIMITATIONS.—

"(A) ASSESSMENTS.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

"(B) CIVIL ACTION.—The Secretary of the Treasury may commence a civil action to re-

cover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed.

''(4) COORDINATION WITH SUBSECTION (d).—No penalty may be assessed under this subsection with respect to any violation after a criminal proceeding with respect to such violation has been commenced under subsection (d).

''(d) CRIMINAL PENALTY.—

''(1) IN GENERAL.—If any person knowingly violates subsection (a), such person shall, upon conviction thereof, be fined not more than $10,000 for each such use or imprisoned not more than 1 year, or both. If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$50,000' for '$10,000'.

''(2) TIME LIMITATIONS.—No person may be prosecuted, tried, or punished under paragraph (1) for any violation of subsection (a) unless the indictment is found or the information instituted during the 3-year period beginning on the date of the violation.

''(3) COORDINATION WITH SUBSECTION (c).—No criminal proceeding may be commenced under

this subsection with respect to any violation if a civil penalty has previously been assessed under subsection (c) with respect to such violation.''

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 31, United States Code, is amended by adding after the item relating to section 332 the following new item:

''333. Prohibition of misuse of Department of the Treasury names, symbols, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) REPORT.—Not later than May 1, 1995, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)), the number of prosecutions commenced under such section, and the total amount of the penalties collected in such prosecutions.

SEC. 13020. AVAILABILITY AND USE OF DEATH INFORMATION UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

(a) IMPROVEMENTS IN PROGRAM FOR USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION.—

(1) ELIMINATION OF STATE RESTRICTIONS ON USE OF INFORMATION.—Section 205(r)(1) of the Social Security Act (42 U.S.C. 405(r)(1)) is amended by adding at the end, after and below subparagraph (B), the following new sentence:

''Any contract entered into pursuant to subparagraph (A) shall not include any restriction on the use of information obtained by the Secretary pursuant to such contract, except to the extent that such use may be restricted under paragraph (6).''.

(2) INFORMATION PROVIDED TO STATE AGENCIES FREE OF CHARGE.—

(A) IN GENERAL.—Section 205(r)(4) of such Act (42 U.S.C. 405(r)(4)) is amended to read as follows:

''(4)(A) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a State agency other than under this Act, the Secretary shall to the extent feasible provide such information free of charge through a cooperative arrangement

with such agency, for ensuring proper payment of those benefits with respect to such individuals, if such arrangement does not conflict with the duties of the Secretary under paragraph (1).

"(B) The Secretary may enter into similar agreements with States to provide information free of charge for their use in programs wholly funded by the States if such arrangement does not conflict with the duties of the Secretary under paragraph (1).".

(B) CONFORMING AMENDMENT.—Section 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is amended by striking "or State".

(3) USE BY STATES OF SOCIAL SECURITY ACCOUNT NUMBERS CONTINGENT UPON PARTICIPATION IN PROGRAM.—Section 205(r)(2) of such Act (42 U.S.C. 405(r)(2)) is amended—

(A) by inserting "(A)" after "(2)"; and

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

"(B) Notwithstanding section 7(a)(2)(B) of the Privacy Act of 1974 and clauses (i) and (v) of subsection (c)(2)(C) of this section, any State which is not a party to a contract with the Secretary meeting the requirements of paragraph (1) (and any political subdivision thereof) may not utilize an individual's social security account

number in the administration of any driver's license or motor vehicle registration law.''.

(b) STUDY REGARDING IMPROVEMENTS IN GATHERING AND REPORTING OF DEATH INFORMATION.

(1) 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 possible improvements in the current methods of gathering and reporting death information by the Federal, State, and local governments which would result in more efficient and expeditious handling of such information.

(2) SPECIFIC MATTERS TO BE STUDIED.—In carrying out the study required under this subsection, the Secretary shall—

(A) ascertain the delays in the receipt of death information which are currently encountered by the Social Security Administration and other agencies in need of such information on a regular basis,

(B) analyze the causes of such delays,

(C) develop alternative options for improving Federal, State, and local agency cooperation in reducing such delays, and

(D) evaluate the costs and benefits associated with the options referred to in subparagraph (C).

(3) REPORT.—Not later than June 1, 1994, the Secretary shall submit a written 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 the study conducted pursuant to this subsection, together with such administrative and legislative recommendations as the Secretary may consider appropriate.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) PROMOTION OF ENTRY INTO NEW CONTRACTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall take such actions as are necessary and appropriate to promote entry into contracts under section 205(r) of the Social Security Act which are in compliance with the requirements of the amendments made by subsection (a).

Subtitle B—Human Resources Amendments

SEC. 13201. TABLE OF CONTENTS.

The table of contents of this subtitle is as follows:

Subtitle B—Human Resources Amendments

Sec. 13201. Table of contents.
Sec. 13202. References.

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Sec. 13212. Grants for State courts to assess and improve handling of proceedings relating to foster care and adoption.
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CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 13261. 50 percent Federal match of State administrative costs.
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Sec. 13271. Treatment of short-time compensation programs.
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CHAPTER 6—TECHNICAL PROVISIONS

Sec. 13281. Corrections related to the income security and human resources provisions of the Omnibus Budget Reconciliation Act of 1990.
Sec. 13282. Technical corrections related to the human resource and income security provisions of the Omnibus Budget Reconciliation Act of 1989.
Sec. 13283. Elimination of obsolete provisions relating to treatment of the earned income tax credit.
Sec. 13284. Redesignation of certain provisions.

SEC. 13202. REFERENCES.

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.

CHAPTER 1—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

SEC. 13211. ENTITLEMENT FUNDING FOR SERVICES DESIGNED TO STRENGTHEN AND PRESERVE FAMILIES.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628) is amended—

(1) by striking the heading and inserting the following:

"PART B—CHILD AND FAMILY SERVICES

"Subpart 1—Child Welfare Services"; and

(2) by adding at the end the following:

"Subpart 2—Family Preservation and Support Services

"SEC. 430. PURPOSES; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.

''(a) PURPOSES; LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the purpose of encouraging

and enabling each State to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services, there are authorized to be appropriated to the Secretary—

"(1) $60,000,000 for fiscal year 1994;

"(2) $135,000,000 for fiscal year 1995;

"(3) $240,000,000 for fiscal year 1996;

"(4) $360,000,000 for fiscal year 1997; and

"(5) $600,000,000 for fiscal year 1998.

"(b) RESERVATION OF CERTAIN AMOUNTS.—

"(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve 1 percent of the amount appropriated pursuant to subsection (a) for each fiscal year, for expenditure by the Secretary for evaluation, research, training, and technical assistance related to the program under this subpart.

"(2) STATE COURT ASSESSMENTS.—The Secretary shall reserve $5,000,000 of the amount appropriated pursuant to subsection (a) for fiscal year 1995, and $10,000,000 of the amount so appropriated for each of fiscal years 1996, 1997, and 1998, for grants under section 13212 of the Omnibus Budget Reconciliation Act of 1993.

"(3) INDIAN TRIBES.—The Secretary shall reserve 1 percent of the amount appropriated pursuant to subsection (a) for each fiscal year, for allotment to Indian tribes in accordance with section 433(a).

"SEC. 431. DEFINITIONS.

"(a) IN GENERAL.—As used in this subpart:

"(1) FAMILY PRESERVATION SERVICES.—The term 'family preservation services' means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including—

"(A) service programs designed to help children—

"(i) where appropriate, return to families from which they have been removed; or

"(ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

"(B) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of

foster care placement remain with their families;

"(C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;

"(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents); and

"(E) services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition.

"(2) FAMILY SUPPORT SERVICES.—The term 'family support services' means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment,

and otherwise to enhance child development, including—

"(A) services described in paragraph (1)(E);

"(B) respite care of children to provide temporary relief for parents and other caregivers;

"(C) structured activities involving parents and children to strengthen the parent-child relationship;

"(D) drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

"(E) information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education and literacy programs, and counseling and mentoring services; and

"(F) early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

"(3) STATE AGENCY.—The term 'State agency' means the State agency responsible for administering the program under subpart 1.

"(4) STATE.—The term 'State' includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

"(5) TRIBAL ORGANIZATION.—The term 'tribal organization' means the recognized governing body of any Indian tribe.

"(6) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe (as defined in section 482(i)(5)) and any Alaska Native organization (as defined in section 482(i)(7)(A)).

"(b) OTHER TERMS.—For other definitions of other terms used in this subpart, see section 475.

"SEC. 432. STATE PLANS.

"(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

"(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

"(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth

the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

"(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

"(C) contains a commitment that the State—

"(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

"(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final review (I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward accomplishment of the goals, and (II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;

"(3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;

"(4) contains assurances that not less than 90 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 433 for the fiscal year shall be for services for children and families, and that significant portions of such 90 percent shall be expended—

"(A) for family preservation services; and

"(B) for community-based family support services;

"(5) provides that, by the beginning of the 6th fiscal year during which the plan is in effect, programs under the plan shall be available on a statewide basis, to the extent feasible and appropriate;

"(6) contains assurances that the State will—

"(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services and community-based family support services) of—

"(i) the service programs to be made available under the plan in the immediately succeeding fiscal year;

"(ii) the populations which the programs will serve; and

"(iii) the geographic areas in the State in which the services will be available; and

"(B) perform the activities described in subparagraph (A)—

"(i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and

"(ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

"(7) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

"(8)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and

"(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A); and

"(9) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

"(b) APPROVAL OF PLANS.—

"(1) IN GENERAL.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and nonprofit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and family support services).

"(2) PLANS OF INDIAN TRIBES EXEMPTED FROM INAPPROPRIATE REQUIREMENTS.—The Secretary may exempt a plan submitted by an Indian tribe from any requirement of this section that the Secretary determines would be inappropriate to

apply to the Indian tribe, taking into account the resources, needs, and other circumstances of the Indian tribe.

"SEC. 433. ALLOTMENTS TO STATES.

"(a) INDIAN TRIBES.—

"(1) IN GENERAL.—From the amount reserved pursuant to section 430(b)(3), the Secretary shall allot to each Indian tribe with a plan approved under this subpart (except as provided in paragraph (2) of this subsection) an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary.

"(2) SPECIAL RULE.—The Secretary may not allot funds to an Indian tribe with a plan approved under this subpart whose allotment (but for this paragraph) would be less than $10,000 if allotments were made under paragraph (1) to all Indian tribes with plans approved under this subpart with the same or larger numbers of children.

"(b) TERRITORIES.—From the amount appropriated pursuant to section 430 that remains after applying sec-

tion 430(b) for each fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 421.

"(c) OTHER STATES.—

"(1) IN GENERAL.—From the amount appropriated pursuant to section 430 that remains after applying section 430(b) and subsection (b) of this section for each fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in subsection (b) of this section an amount equal to such remaining amount multiplied by the food stamp percentage of the State for the fiscal year.

"(2) FOOD STAMP PERCENTAGE DEFINED.—

"(A) IN GENERAL.—As used in paragraph (1) of this subsection, the term 'food stamp percentage' means, with respect to a State and a fiscal year, the average monthly number of children receiving food stamp benefits in the State for months in the 3 fiscal years referred to in subparagraph (B) of this paragraph, as determined from sample surveys made under

section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average monthly number of children receiving food stamp benefits in the States described in such paragraph (1) for months in such 3 fiscal years, as so determined.

"(B) FISCAL YEARS USED IN CALCULATION.—For purposes of the calculation pursuant to subparagraph (A), the Secretary shall use data for the 3 most recent fiscal years, preceding the fiscal year for which the State's allotment is calculated under this subsection, for which such data are available to the Secretary.

"SEC. 434. PAYMENTS TO STATES.

"(a) ENTITLEMENT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) of this subsection, each State which has a plan approved under this subpart shall be entitled to payment of the lesser of—

"(A) 75 percent of the total cost of activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

"(B) the allotment of the State under section 433 for the fiscal year.

"(2) SPECIAL RULE.—Upon submission by a State to the Secretary during fiscal year 1994 of an application in such form and containing such information as the Secretary may require (including, if the State is seeking payment of an amount pursuant to subparagraph (B) of this paragraph, a description of the services to be provided with the amount), the State shall be entitled to payment of an amount equal to the sum of—

"(A) such amount not exceeding $1,000,000 as the State may require to develop and submit a plan for approval under section 432; and

"(B) an amount equal to the lesser of—

"(i) 75 percent of the cost of State services to children and families provided in accordance with section 432(a)(4); or

"(ii) the allotment of the State under section 433 for fiscal year 1994, reduced by any amount paid to the State pursuant to subparagraph (A) of this paragraph.

"(b) PROHIBITIONS.—

"(1) NO USE OF OTHER FEDERAL FUNDS FOR STATE MATCH.—Each State receiving an amount paid under paragraph (1) or (2)(B) of subsection (a)

may not expend any Federal funds to meet the costs of services described in this subpart not covered by the amount so paid.

"(2) AVAILABILITY OF FUNDS.—

"(A) IN GENERAL.—A State may not expend any amount paid under subsection (a)(1) for any fiscal year after the end of the immediately succeeding fiscal year.

"(B) PLAN DEVELOPMENT.—A State may not expend any amount paid under subsection (a)(2) after the end of fiscal year 1994.

"(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS OF INDIAN TRIBES.—The Secretary shall pay any amount to which an Indian tribe is entitled under this section directly to the tribal organization of the Indian tribe.

"SEC. 435. EVALUATIONS; REPORT.

"(a) EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall evaluate the effectiveness of the programs carried out pursuant to this subpart in accomplishing the purposes of this subpart, in accordance with criteria established in accordance with paragraph (2).

"(2) CRITERIA TO BE USED.—In developing the criteria to be used in evaluations under paragraph

(1), the Secretary shall consult with appropriate parties, such as—

"(A) State agencies administering programs under this part and part E;

"(B) persons administering child and family services programs (including family preservation and family support programs) for private, nonprofit organizations with an interest in child welfare; and

"(C) other persons with recognized expertise in the evaluation of child and family services programs (including family preservation and family support programs) or other related programs.

"(b) REPORT TO THE CONGRESS.—Not later than December 31, 1997, the Secretary shall submit to the Congress a report containing findings with respect to the evaluations required by subsection (a).

"(c) COORDINATION OF EVALUATIONS.—The Secretary shall develop procedures to coordinate evaluations under this section, to the extent feasible, with evaluations by the States of the effectiveness of programs under this subpart.".

(b) CONFORMING AMENDMENTS.—

(1) Section 422 (42 U.S.C. 622) is amended—

(A) in subsection (a), by striking ''this part'' and inserting ''this subpart'';

(B) in subsection (b), by striking ''this part'' each place such term appears and inserting ''this subpart''; and

(C) in subsection (b)(2), by inserting ''under the State plan approved under subpart 2 of this part,'' after ''part A of this title,''.

(2) Section 423(a) (42 U.S.C. 623(a)) is amended by striking ''this part'' and inserting ''this subpart''.

(3) Section 428(a) (42 U.S.C. 628(a)) is amended by striking ''this part'' each place such term appears and inserting ''this subpart''.

(4) Section 471(a)(2) (42 U.S.C. 671(a)(2)) is amended by inserting ''subpart 1 of'' before ''part B''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1993.

SEC. 13212. GRANTS FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.

(a) IN GENERAL.—The Secretary shall make grants, in accordance with this section, to the highest State courts

in States participating in the program under part E of title IV of the Social Security Act, for the purpose of enabling such courts—

(1) to conduct assessments, in accordance with subsection (b), of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts)—

(A) to determine the advisability or appropriateness of foster care placement;

(B) to determine whether to terminate parental rights; and

(C) to legally recognize the adoption of a child; and

(2) to implement changes deemed necessary as a result of the assessments.

(b) ASSESSMENTS.—Each assessment conducted with funds provided under this section shall—

(1) identify the requirements imposed on State courts with respect to proceedings described in subsection (a), addressing separately—

(A) rules, standards, and criteria imposed pursuant to State laws (including laws implementing parts B and E of title IV of the Social Security Act, laws relating to child abuse and

neglect, or any other laws on related matters) to be applied in determinations with respect to placement of a child, or with respect to related matters concerning the parent-child relationship and the welfare of the child, including determinations—

(i) whether to remove a child from or return a child to the home of the child;

(ii) whether to place a child in foster care or to continue a foster care placement;

(iii) whether to terminate parental rights;

(iv) whether to place a child for adoption or in another permanent arrangement; and

(v) whether to set aside or to finalize an adoption; and

(B) rules and procedures, established by or under State law or adopted by the State court system on its own initiative, with respect to the conduct of such proceedings, that address matters such as—

(i) whether a proceeding should be judicial or administrative;

(ii) timetables for such proceedings, and determinations of the priority of such proceedings relative to other matters under the jurisdiction of the State courts;

(iii) procedural safeguards of the rights of parents (including foster and adoptive parents), guardians, and children, such as provisions for legal representation and for guardians ad litem; and

(iv) rules for conduct of the proceeding with respect to matters such as admissible evidence, opportunity to present witnesses, and time limits on the presentation of evidence and the making of arguments;

(2) evaluate the performance of the State courts in implementing the requirements identified under paragraph (1), by assessing—

(A) the extent to which particular practices or procedures have been successful in facilitating compliance with such requirements;

(B) the frequency of failures to comply with any such requirements, and patterns with respect to the circumstances of and factors contributing to the failures; and

(C) the extent to which caseload size and resource limitations contribute to the failures identified pursuant to subparagraph (B);

(3) determine the extent to which the rules and practices identified under paragraph (1) or (2) are in accord with recommended standards of national organizations concerned with permanent placement for foster children;

(4) determine, from the standpoint of the State courts, the extent to which particular requirements under paragraph (1)—

(A) are facilitating or impeding achievement of the purposes of such parts B and E, including the goal of appropriate permanent placement for each child; and

(B) are imposing significant administrative burdens on the State court system; and

(5) make specific recommendations for improvement, based on the conclusions reached as a result of activities described in paragraphs (1) through (4), including recommendations for—

(A) changes in Federal or State laws, regulations, or policies;

(B) changes in procedures and practices of the State courts and of the State agencies ad-

ministering foster care, adoption, child welfare, and child protective services programs;

(C) additional education or training of State court judges, or of personnel of the judicial system or of the State agencies described in subparagraph (B);

(D) collection or dissemination of additional data or information for purposes of increasing the understanding of personnel of State courts and State agencies of matters relating to case review proceedings in general, or to specific case review proceedings; and

(E) increases in manpower, reductions in the number of case reviews, or other changes needed to enable the State courts to better manage their caseloads with respect to such proceedings.

(c) APPLICATIONS.—In order to be eligible for a grant under this section, a highest State court shall submit to the Secretary, at such time and in such form as the Secretary may require, an application containing—

(1) a timetable for conducting and completing the assessment;

(2) a budget for the assessment;

(3) a description of the methods to be used to select State courts for inclusion in, and to conduct, the assessment;

(4) certifications by the head of the State agency administering the State program under such part E, and by the State foster care citizen review board or State organization of such review boards (if any), that such entities have had an opportunity to review and comment on a draft of the application before its submission, and a copy of such comments;

(5) a description of the process to be used by the court to consult with the entities referred to in paragraph (4) of this subsection in conducting the assessment under subsection (b);

(6) an assurance that, to the extent funds provided under this section are not necessary to complete the assessment under subsection (b), the court will use such funds to implement, to the extent feasible, recommendations made pursuant to subsection (b)(5);

(7) an assurance that funds provided under this section will not be used to supplant State or local funds which would otherwise be used for similar purposes;

(8) a commitment to furnish to the Secretary—

(A) an interim report following the end of the 2nd year of assessment activities under this section; and

(B) a final report following the completion of the assessment; and

(9) any other information the Secretary may require.

(d) ALLOTMENTS.—

(1) IN GENERAL.—Each highest State court which has an application approved under subsection (c), and is conducting assessment activities in accordance with this section, shall be entitled to payment, for each of fiscal years 1995 through 1998, from amounts reserved pursuant to section 430(b)(2) of the Social Security Act, of an amount equal to the sum of—

(A) for fiscal year 1995, $75,000 plus the amount described in paragraph (2) for fiscal year 1995; and

(B) for each of fiscal years 1996 through 1998, $85,000 plus the amount described in paragraph (2) for each of such fiscal years.

(2) FORMULA.—The amount described in this paragraph for any fiscal year is the amount that bears the same ratio to the amount reserved pursu-

ant to section 430(b)(2) of the Social Security Act for the fiscal year (reduced by the dollar amount specified in paragraph (1) of this subsection for the fiscal year) as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under subsection (c).

(e) USE OF GRANT FUNDS.—Each highest State court which receives funds paid under this section may use such funds to pay—

(1) any or all costs of activities under this section in fiscal year 1995; and

(2) not more than 75 percent of the cost of activities under this section in each of fiscal years 1996, 1997, and 1998.

SEC. 13213. REQUIRED PROTECTIONS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)) 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) provide assurances that the State—

"(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

"(C)(i) has reviewed (or within 12 months after the date of the enactment of this paragraph will review) State laws and administrative and judicial procedures in effect for children abandoned at or shortly after birth (in-

cluding laws and procedures providing for legal representation of such children); and

"(ii) has enacted and is implementing (or within 24 months after the date of the enactment of this paragraph will enact and implement) such laws and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.".

(b) RESTRICTION ON REALLOTMENT.—Section 424 (42 U.S.C. 624) is amended—

(1) in the 1st sentence, by striking "The amount" and inserting the following:

"(a) IN GENERAL.—Subject to subsection (b), the amount"; and

(2) by adding at the end the following:

"(b) EXCEPTION RELATING TO FOSTER CHILD PROTECTIONS.—The Secretary shall not reallot under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to comply with section 422(b)(9).".

(c) REPEAL.—Section 427 (42 U.S.C. 627) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Section 423(a) (42 U.S.C. 623(a)) is amended by striking ''and in section 427''.

(2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is amended by striking ''the statistical report required by section'' and inserting ''with section 422(b)(9) or''.

(3) Section 472(d) (42 U.S.C. 672(d)) is amended by striking ''427(b)'' and inserting ''422(b)(9)''.

(e) EFFECTIVE DATE.—The amendments and repeal made by this section shall be effective for fiscal years beginning on or after October 1, 1994.

(f) CONSTRUCTION OF SECTION.—This section and the amendments and repeal made by this section shall not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 of the Social Security Act, as in effect on the effective date of such amendments and repeal.

SEC. 13214. STATES REQUIRED TO REPORT ON MEASURES TAKEN TO COMPLY WITH THE INDIAN CHILD WELFARE ACT.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by section 13213(a) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(3) by adding at the end the following:

''(10) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to calendar quarters beginning on or after October 1, 1994.

SEC. 13215. CHILD WELFARE TRAINEESHIPS.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628) is amended by inserting after section 428 the following:

''SEC. 429. CHILD WELFARE TRAINEESHIPS.

''The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application—

''(1) provides assurances that each individual who receives a stipend with such traineeship (in this

1 section referred to as a 'recipient') will enter into an
2 agreement with the institution under which the
3 recipient agrees—

4 "(A) to participate in training at a public
5 or private nonprofit child welfare agency on a
6 regular basis (as determined by the Secretary)
7 for the period of the traineeship;

8 "(B) to be employed for a period of years
9 equivalent to the period of the traineeship, in a
10 public or private nonprofit child welfare agency
11 in any State, within a period of time (deter-
12 mined by the Secretary in accordance with
13 regulations) after completing the postsecondary
14 education for which the traineeship was
15 awarded;

16 "(C) to furnish to the institution and the
17 Secretary evidence of compliance with subpara-
18 graphs (A) and (B); and

19 "(D) if the recipient fails to comply with
20 subparagraph (A) or (B) and does not qualify
21 for any exception to this subparagraph which
22 the Secretary may prescribe in regulations, to
23 repay to the Secretary all (or an appropriately
24 prorated part) of the amount of the stipend,
25 plus interest, and, if applicable, reasonable col-

lection fees (in accordance with regulations promulgated by the Secretary);

"(2) provides assurances that the institution will—

"(A) enter into agreements with child welfare agencies for onsite training of recipients;

"(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

"(C) develop and implement a system that, for the 3-year period that begins on the date any student completes a child welfare services program of study, tracks the employment record of the student, for the purpose of determining the percentage of students who secure employment in the field of child welfare services and remain employed in the field.".

(b) CONFORMING AMENDMENT.—Section 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by inserting "described in section 429" after "including traineeships".

(c) APPLICABILITY.—The amendments made by this section shall apply to grants awarded on or after April 1, 1994.

SEC. 13216. DISSOLVED ADOPTIONS.

(a) ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS.—Section 472 (42 U.S.C. 672) is amended—

(1) in subsection (b), by inserting ''or (i)'' after ''subsection (a)''; and

(2) by adding at the end the following:

''(i) Any State with a plan approved under this part may make foster care maintenance payments under this part on behalf of a child—

''(1) with respect to whom such payments were previously made;

''(2) whose adoption has been set aside by a court;

''(3) who meets the requirements of paragraphs (1), (2), and (3) of subsection (a); and

''(4) who fails to meet the requirements of subsection (a)(4) but would meet such requirements if—

''(A) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the

child was determined eligible for such payments; and

"(B) the adoption were treated as having never occurred.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under part E of title IV of the Social Security Act in fiscal years beginning on or after October 1, 1995.

SEC. 13217. TIME FRAME FOR JUDICIAL DETERMINATIONS ON VOLUNTARY PLACEMENTS.

(a) IN GENERAL.—Section 472(e) (42 U.S.C. 672(e)) is amended—

(1) by striking "No" and inserting "(1) Except as provided in paragraph (2), no"; and

(2) by adding at the end the following:

"(2) If the judicial determination referred to in paragraph (1) is made after the 180-day period described therein, the payments referred to therein may not be made for the period that begins at the end of the 180-day period and ends 180 days after the date of the judicial determination, but shall (unless otherwise prohibited) be made for periods thereafter.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to foster care

maintenance payments made, under State plans in fiscal year 1996 and succeeding fiscal years, on behalf of children placed in foster care on or after October 1, 1995.

SEC. 13218. STUDY OF REASONABLE EFFORTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the implementation by the States of section 471(a)(15) of the Social Security Act, giving particular attention to—

(1) standards used by States in determining what action to take, and whether and for how long to continue efforts—

(A) before the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the home of the child; and

(B) to return a child home rather than to seek some other planned, permanent placement; and

(2) the responses of the courts to the State actions described in paragraph (1) of this subsection, including whether such responses facilitate or impede the achievement by State agencies of the objectives of such section 471(a)(15).

(b) REPORT AND RECOMMENDATIONS.—Within 18 months after the date of the enactment of this Act, the

Secretary of Health and Human Services shall submit to the Congress a report, with such recommendations as the Secretary finds appropriate, based on the results of the study required by subsection (a) of this section, which describes State practices that the Secretary has found effective in achieving the objectives of section 471(a)(15) of the Social Security Act, and, if appropriate, shall set forth model practices for consideration by the States.

SEC. 13219. ENHANCED MATCH FOR AUTOMATED DATA SYSTEMS.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (E); and

(C) by inserting after subparagraph (B) the following:

''(C) 90 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 90 percent of the full amount of expenditures for hardware compo-

nents for such systems) but only to the extent that such systems—

"(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

"(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

"(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

"(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

"(D) 50 percent of so much of such expenditures as are for the operation of the state-

wide mechanized data collection and information retrieval systems referred to in subparagraph (C); and''.

(2) TREATMENT OF STATE EXPENDITURES FOR DATA COLLECTION AND INFORMATION RETRIEVAL SYSTEMS.—Section 474 (42 U.S.C. 674), as amended by section 13224 of this Act, is amended by adding at the end the following:

''(c) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures during fiscal years 1994, 1995, and 1996.

(b) TERMINATION OF ENHANCED MATCH.—

(1) IN GENERAL.—Section 474(a)(3)(C) (42 U.S.C. 674(a)(3)(C)), as amended by subsection (a)

of this section, is amended by striking ''90 percent'' each place such term appears and inserting ''50 percent''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to expenditures during fiscal years beginning on or after October 1, 1996.

SEC. 13220. PERIODIC REEVALUATION OF FOSTER CARE MAINTENANCE PAYMENTS.

(a) IN GENERAL.—Section 471(a)(11) (42 U.S.C. 671(a)(11)) is amended—

(1) by inserting ''(A)'' after ''(11)'';

(2) by striking ''and amounts paid as foster care maintenance payments and adoption assistance''; and

(3) by adding at the end the following:

''(B) provides that, at least once every 3 years, the State agency will review the amount paid as foster care maintenance payments and adoption assistance payments to ensure their continuing appropriateness, and will submit to the Secretary (and make available to the public) a report on the results of the review, in such form and manner as the Secretary may by regulation require, which contains, at a minimum—

"(i) a statement of the manner in which the foster care maintenance payment level is determined, including information on the cost of foster care with respect to which such payments are made;

"(ii) information on the amount of the basic foster care maintenance payment level, and as to whether such payment level includes an amount to cover the cost of clothing, and whether such payment level varies by the type of care or the special needs or age of the child, and, if so, the payment levels for each special needs, care, or age category;

"(iii) if such payments are not made at a different rate for children who test positive for human immunodeficiency virus, have acquired immune deficiency syndrome, are addicted to drugs, suffer from complications due to exposure to drugs or alcohol, or have other severe special needs, the reasons therefor; and

"(iv) information on any limitations imposed by the State on adoption assistance payment levels;".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1994.

SEC. 13221. DISPOSITIONAL HEARING.

Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking ''periodically'' and inserting ''not less frequently than every 12 months''.

SEC. 13222. HEALTH CARE PLANS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 475(1)(C) (42 U.S.C. 675(1)(C)) is amended—

(1) in clause (vii), by striking ''and''; and

(2) by redesignating clause (viii) as clause (ix) and inserting after clause (vii) the following:

''(viii) a record indicating that the child's foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic, and treatment services under title XIX; and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to case plans established or reviewed on or after January 1, 1994.

SEC. 13223. INDEPENDENT LIVING.

(a) TREATMENT OF ASSETS OF PARTICIPATING YOUTHS.—Section 477 (42 U.S.C. 677) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

''(i) Notwithstanding any other provision of this title, with respect to a child who is included in a program established by a State agency under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for purposes of determining eligibility for benefits under this title may be disregarded for the purpose of allowing the child to establish a household, pursue education, or otherwise complete the transition to independent living. The amount disregarded may not exceed an amount determined by the State agency to be reasonable for such purposes.''.

(b) PERMANENT EXTENSION OF PROGRAM.—Section 477 (42 U.S.C. 677) is amended—

(1) in subsection (a)(1), by striking the 3rd sentence;

(2) in subsection (c), by striking ''of the fiscal years 1988 through 1992'' and inserting ''succeeding fiscal year'';

(3) in subsection (e)(1)(A), by striking ''each of the fiscal years 1987 through 1992'' and inserting ''fiscal year 1987 and any succeeding fiscal year'';

(4) in subsection (e)(1)(B), by striking ''fiscal years 1991 and 1992'' and inserting ''fiscal year 1991 and any succeeding fiscal year''; and

(5) in subsection (e)(1)(C)(ii), by striking ''fiscal year 1992'' and inserting ''any succeeding fiscal year''.

(c) EFFECTIVE DATES.—

(1) TREATMENT OF ASSETS OF PARTICIPATING YOUTHS.—The amendments made by subsection (a) shall apply to activities in fiscal years beginning on or after October 1, 1995.

(2) PERMANENT EXTENSION OF PROGRAM.—The amendments made by subsection (b) shall apply to activities engaged in on or after October 1, 1992.

SEC. 13224. ELIMINATION OF FOSTER CARE CEILINGS AND OF AUTHORITY TO TRANSFER UNUSED FOSTER CARE FUNDS TO CHILD WELFARE SERVICES PROGRAMS.

(a) REPEAL.—Subsections (b) and (c) of section 474 (42 U.S.C. 674(b) and (c)) are hereby repealed.

(b) CONFORMING AMENDMENTS.—Section 474 (42 U.S.C. 674) is amended—

(1) in subsection (d)(1)—

(A) by striking ''subsections (a), (b), and (c)'' and inserting ''subsection (a)''; and

(B) by striking ''the provisions of such subsections'' and inserting ''subsection (a)''; and

(2) by redesignating subsection (d) as subsection (b).

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1993.

SEC. 13225. TRAINING OF AGENCY STAFF AND FOSTER AND ADOPTIVE PARENTS.

(a) IN GENERAL.—Section 8006(b) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 674 note) is amended by striking '', and before October 1, 1992''.

(b) RETROACTIVE APPLICABILITY.—The Social Security Act shall be applied and administered as if the amendment made by subsection (a) had been made on October 1, 1992.

SEC. 13226. ON-SITE REVIEWS AND AUDITS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

(a) ON-SITE REVIEWS AND AUDITS OF STATE CLAIMS.—Section 474 (42 U.S.C. 674), as amended by sections 13224 and 13219(a)(2) of this Act, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) ON-SITE REVIEWS AND AUDITS OF STATE CLAIMS FOR PAYMENT.—

"(1) REGULATIONS SPECIFYING REVIEW STANDARDS.—The Secretary shall promulgate regulations applicable to on-site reviews and audits of State expenditures for foster care maintenance payments and adoption assistance payments under this part, which specify—

"(A) the criteria to be used to determine the appropriateness of expenditures identified in sampled case files;

"(B) the criteria to be used to determine the appropriateness of expenditures for child placement services and plan administration; and

"(C) the types of erroneous expenditures which will be disregarded for purposes of determining the appropriateness of payments under this part (including erroneous payments resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary).

"(2) DEVELOPMENT AND PUBLICATION OF WRITTEN STANDARDS AND PROCEDURES.—The Secretary, after consultation with organizations representing State and local governmental agencies with responsibility for foster care and adoption services and other relevant agencies and organizations, shall develop and furnish to State agencies a written description of the methods and procedures to be used in the on-site audits and reviews referred to in paragraph (1), which specify—

"(A) the methods and procedures to be used to select a sample of case files for review or audit;

"(B) the procedures to be used in reviewing or auditing sampled case files to determine erroneous expenditures;

"(C) the procedures to be used to review or audit State expenditures for child placement services and plan administration; and

"(D) the methodology to be used to extrapolate from review or audit findings to all expenditures under the State plan.

"(3) ADVANCE NOTICE TO STATES.—The Secretary shall not, in a review or audit of State expenditures during a fiscal year, use any criterion

specified pursuant to paragraph (1), or any procedure or methodology specified pursuant to paragraph (2), which was not published in final regulations or furnished in writing to the State (as applicable) at least 3 months before the beginning of the fiscal year.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures in fiscal years beginning on or after October 1, 1994.

SEC. 13227. CONFORMITY REVIEWS.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1122 the following:

''SEC. 1123. REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS, AND OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS, FOR COMPLIANCE WITH STATE PLAN REQUIREMENTS.

''(a) IN GENERAL.—The Secretary shall not impose a financial penalty on any State for any failure of the State programs under parts B and E of title IV to comply with any requirement of any State plan approved under such part B or E, except pursuant to final regulations, developed after consultation with State agencies admin-

1 istering such programs, which meet the requirements of
2 this section.
3 "(b) ELEMENTS OF REVIEW SYSTEM.—The regula-
4 tions referred to in subsection (a) shall—
5 "(1) specify the timetable for compliance re-
6 views of State programs, which—
7 "(A) shall provide for annual reviews of
8 each State program during the 1st 2 years of
9 operation;
10 "(B) shall provide for review of a State
11 program not later than 1 year following a re-
12 view in which the State program was found not
13 to be in substantial compliance with plan re-
14 quirements; and
15 "(C) may provide for less frequent reviews
16 of State programs which have been found to be
17 in substantial compliance with plan require-
18 ments, but shall permit the Secretary to rein-
19 state more frequent reviews based on informa-
20 tion which indicates that the State program
21 may not be in compliance with plan require-
22 ments;
23 "(2) specify the plan requirements subject to
24 review, and the criteria to be used to measure com-
25 pliance with such requirements and to determine

whether there is a substantial failure to comply with a plan requirement;

"(3) specify the method to be used to determine the financial penalty to be imposed (subject to paragraph (4)) for a failure to comply with plan requirements, which ensures that—

"(A) a financial penalty will not be imposed with respect to a program, unless it is determined that the program fails substantially to so comply;

"(B) a financial penalty will not be imposed for a failure to so comply resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary; and

"(C) the amount of financial penalty is related to the extent of the noncompliance; and

"(4) require the Secretary, with respect to any State found to have failed substantially to comply with plan requirements—

"(A) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the noncompliance;

"(B) to make technical assistance available to the State to the extent necessary to enable the State to develop and implement such a corrective action plan;

"(C) to suspend the imposition of any penalty under this section while such a corrective action plan is in effect; and

"(D) to rescind any such penalty if the noncompliance is ended by successful completion of such a corrective action plan.

"(c) PROVISIONS FOR ADMINISTRATIVE AND JUDICIAL REVIEW.—The regulations referred to in subsection (a) shall—

"(1) require the Secretary, not later than 10 days after a determination that a program of the State is not in compliance with applicable plan requirements, to notify the State of—

"(A) the basis for the determination; and

"(B) the amount of the financial penalty (if any) imposed on the State;

"(2) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days after receipt of the notice described in paragraph (1) (or, if later, after failure to

1 continue or to complete a corrective action plan);
2 and
3 ''(3) afford the State an opportunity to obtain
4 judicial review of an adverse decision of the Board,
5 within 60 days after the State receives notice of the
6 decision of the Board, by appeal to the district court
7 of the United States for the judicial district in which
8 the principal or headquarters office of the agency re-
9 sponsible for administering the program is located.''.
10 (b) CONFORMING AMENDMENT.—Section 471(b) (42
11 U.S.C. 671(b)) is amended by striking all that follows the
12 1st sentence.
13 (c) EFFECTIVE DATE.—The amendments made by
14 subsections (a) and (b) shall take effect on the date of
15 the enactment of this Act.
16 (d) CONSTRUCTION.—This section shall not be con-
17 strued to prevent the Secretary, before the effective date
18 of final regulations meeting the requirements of section
19 1123 of the Social Security Act, from conducting compli-
20 ance reviews of State programs under parts B and E of
21 such Act for the purpose of providing information and
22 technical assistance to States concerning corrective actions
23 needed in order to comply with plan requirements applica-
24 ble to such programs.

SEC. 13228. REPEAL OF ANNUAL REPORT ON VOLUNTARY PLACEMENT.

Section 102(e) of the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C. 672 note) is hereby repealed.

SEC. 13229. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1128B the following:

"SEC. 1129. DEMONSTRATION PROJECTS.

"(a) IN GENERAL.—The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

"(b) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

"(1) any provision of section 427 (as in effect before October 1, 1994), section 422(b)(9) (as in effect after such date), or section 479; or

"(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any

qualified child or family to benefits under a State plan approved under such part E.

"(c) TREATMENT AS PROGRAM EXPENDITURES.—For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

"(d) DURATION OF DEMONSTRATION.—A demonstration project under this section may be conducted for not more than 5 years.

"(e) APPLICATION.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

"(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

"(2) a statement of the period during which the proposed project would be conducted;

"(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

"(4) an estimate of the costs or savings of the proposed project;

"(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

"(6) a description of the proposed evaluation design; and

"(7) such additional information as the Secretary may require.

"(f) EVALUATIONS; REPORT.—Each State authorized to conduct a demonstration project under this section shall—

"(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

"(A) comparison of methods of service delivery under the project, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management;

"(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

"(C) any other information that the Secretary may require; and

"(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

"(g) COST NEUTRALITY.—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.".

SEC. 13230. PLACEMENT ACCOUNTABILITY.

(a) CASE PLAN REQUIREMENTS.—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by adding at the end the following: "which—

"(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which the home is located, sets forth the reasons why such placement is in the best interests of the child, and

"(ii) if the child has been placed in foster care outside the State, requires that, at least every 6 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,".

(b) DISPOSITIONAL HEARING.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by inserting "and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child," after "long-term basis)".

(c) DATA COLLECTION.—Section 479(c)(3)(C) (42 U.S.C. 679(c)(3)(C)) is amended—

(1) by striking ''and'' at the end of clause (i); and

(2) by adding at the end the following:

''(iii) children placed in foster care outside the State, and''.

(d) EFFECTIVE DATES.—The amendments made by subsections (a), (b), and (c) shall be effective with respect to fiscal years beginning on and after October 1, 1994.

SEC. 13231. PAYMENTS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

Section 474(b) (42 U.S.C. 674(b)), as so redesignated by section 13239(b)(2) of this Act, is amended by adding at the end the following:

''(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

''(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

''(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

"(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

"(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

"(I) upon completion of the review, if it is determined that the claim is not allowable; or

"(II) on the basis of findings of an audit or financial management review.".

SEC. 13232. MORATORIUM ON COLLECTION OF DISALLOWANCES.

The Secretary of Health and Human Services shall not—

(1) before October 1, 1994, reduce any payment to, withhold any payment from, or seek any repayment from any State under part B or E of title IV of the Social Security Act by reason of a determination made in connection with a review of State compliance with section 427 of such Act for any Federal fiscal year before fiscal year 1995; or

(2) reduce any payment to, withhold any payment from, or seek any repayment from any State under such part E by reason of a determination made in connection with any on-site Federal finan-

cial review, or any audit conducted by the Inspector General using similar methodologies.

SEC. 13233. BORDER REGION CHILD WELFARE WORKER TRAINING DEMONSTRATION.

(a) IN GENERAL.—The Secretary shall make grants to not more than 5 eligible institutions to train individuals to deliver culturally sensitive and bilingual child welfare services in areas of the United States that border on Mexico, 1 of which grants shall be for training to deliver child welfare services to historically unserved or underserved populations in an urban center with a high concentration of such populations.

(b) APPLICATIONS.—The Secretary shall approve an application of an institution for a grant under this section only if the application—

(1) demonstrates to the satisfaction of the Secretary that the institution has a history of, or a plan for, training students to deliver culturally sensitive and bilingual child welfare services in a border county;

(2) provides assurances that the institution will develop and implement, in consultation with the child welfare agency of the State in which the institution is located, a curriculum in the field of child welfare services which—

(A) is sensitive to the culture of—

(i) the areas of the United States that border on Mexico; or

(ii) in the case of the institution which receives the urban center grant described in subsection (a), the historically unserved or underserved populations in the urban center; and

(B) includes training for identification of health problems of children and their families and of child abuse and neglect;

(3) provides assurances that each individual who receives a stipend with such training will enter into an agreement with the institution under which the individual agrees—

(A) to be employed for a period of years equivalent to the period of such training, in a public or private nonprofit family assistance agency that provides services directly to residents of—

(i) the border county in which the agency is located; or

(ii) in the case of the institution which receives the urban center grant described

in subsection (a), the urban center in which the agency is located; and

(B) if the individual fails to be so employed for such period, to repay to the Secretary, in accordance with such conditions as the Secretary may prescribe, all or part of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees; and

(4) provides that each agreement entered into with an individual pursuant to paragraph (3) will fully disclose the terms and conditions under which the stipend is to be provided.

(c) EVALUATIONS.—Each institution that receives a grant under this section shall develop and carry out a plan for evaluating the effects of the training provided under the grant, and shall submit to the Secretary a report on the evaluation.

(d) DEFINITIONS.—As used in this section:

(1) FAMILY ASSISTANCE AGENCY.—The term ''family assistance agency'' means a child welfare agency, family planning agency, hospital, clinic, community mental health facility, or drug and alcohol treatment program.

(2) ELIGIBLE INSTITUTION.—The term ''eligible institution'' means a public or private nonprofit

institution of higher learning that is located in a State that contains a border county.

(3) BORDER COUNTY.—The term ''border county'' means—

(A) a United States county that borders on Mexico; and

(B) a United States county that borders on a county described in subparagraph (A).

(4) URBAN CENTER.—The term ''urban center'' means an area in a metropolitan statistical area, as designated by the Office of Management and Budget, which has a high incidence of individuals in historically unserved or underserved populations who are in need of social services, as determined by the Secretary using the most recent and best available information.

(5) HISTORICALLY UNSERVED OR UNDERSERVED POPULATIONS.—The term ''historically unserved or underserved populations'' includes—

(A) socially and economically disadvantaged populations;

(B) persons with limited English proficiency;

(C) populations residing in urban areas and exhibiting a high incidence of child abuse,

neglect, or abandonment, as determined by the Secretary;

(D) homeless persons (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act);

(E) persons who are, or are in danger of becoming, infected with the human immunodeficiency virus; and

(F) persons who abuse alcohol or drugs.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 13234. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301–1320b–13), as amended by section 13229 of this Act, is amended by inserting after section 1129 the following:

''SEC. 1130. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

''In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the

Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: *Provided, however,* That this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

CHAPTER 2—CHILD SUPPORT ENFORCEMENT

SEC. 13241. STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) PERFORMANCE STANDARDS.—Section 452(g) (42 U.S.C. 652(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''1991'' and inserting ''1994'';

(B) by inserting ''is based on reliable data and'' before ''equals or exceeds''; and

(C) by striking subparagraphs (A), (B), and (C) and inserting the following:

''(A) 75 percent;

''(B) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for the fiscal year, the paternity establishment percentage of the State for the immediately preceding year plus 3 percentage points; or

''(C) for a State with a paternity establishment percentage of less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding year plus 6 percentage points.''; and

(2) in paragraph (2)—

(A) by striking ''(or under all such plans)'' each place such term appears;

(B) by inserting ''or part E'' after ''under part A'' each place such term appears;

(C) by amending subparagraph (B) to read as follows:

''(B) the term 'reliable data' means the most recent data available which are found by

the Secretary to be reliable for purposes of this section.'';

(D) by inserting ''unless paternity is established for such child'' after ''the death of a parent'';

(E) by striking ''parent or'' and inserting ''parent,''; and

(F) by inserting '', or any child with respect to whom the State agency administering the plan under part E determines (as provided in section 454(4)(B)) that it is against the best interest of such child to do so'' after ''cooperate under section 402(a)(26)''.

(b) STATE PLAN REQUIREMENTS.—

(1) REQUIRED PROCEDURES.—Section 466(a) (42 U.S.C. 666(a)) is amended—

(A) in paragraph (2)—

(i) by striking ''at the option of the State,''; and

(ii) by inserting ''and paternity establishment'' after ''support order issuance and enforcement'';

(B) in paragraph (5), by adding at the end the following:

"(C) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must explain the rights and responsibilities of acknowledging paternity, and afford due process safeguards. Such procedures must include (i) a hospital-based program for the voluntary acknowledgment of paternity during the period immediately before or after the birth of a child, and (ii) the inclusion of signature lines on applications for official birth certificates which, once signed by the father and the mother, are considered a voluntary acknowledgment of paternity.

"(D) Procedures under which the voluntary acknowledgment of paternity of a child by an individual in the manner described in subparagraph (C)(ii) creates a rebuttable or, at the option of the State, conclusive presumption that the individual is the father of the child, and under which such a voluntary acknowledgment is admissible as evidence of paternity.

"(E) Procedures under which a voluntary acknowledgment of paternity in the manner described in subparagraph (C)(ii) must be recognized as a basis for seeking a support order

without first requiring any further proceedings to establish paternity.

"(F) Procedures requiring that (i) any objection to genetic testing results be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence, and (ii) if no objection is made, the test results be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

"(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity of a child, upon genetic testing results indicating a threshold probability of the alleged father being the father of the child.

"(H) Procedures requiring a default order to be entered in a paternity case upon a showing that process has been served on the defendant and any additional showing required by State law."; and

(C) by inserting after paragraph (10) the following:

"(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.".

(2) FURNISHING OF SOCIAL SECURITY NUMBERS.—

(A) IN GENERAL.—Section 466(a) (42 U.S.C. 666(a)), as amended by paragraph (1)(C) of this subsection, is amended by inserting after paragraph (11) the following:

"(12)(A) Procedures under which, in the administration of any law involving the issuance, reissuance, or amendment of a birth certificate, the State shall require each parent to furnish to the State, or any agency or political subdivision thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than 1 such number) issued to the parent, unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of the number.

"(B) Procedures under which any number furnished under subparagraph (A) shall be made avail-

able to the agency administering the State plan under this part, in accordance with Federal or State law or regulation.

"(C) Procedures under which—

"(i) any number furnished under subparagraph (A) shall not be recorded on the birth certificate; and

"(ii) any social security account number, obtained with respect to the issuance by the State of any birth certificate, shall not be used for other than child support purposes, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of the number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure.".

(B) CONFORMING AMENDMENTS.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended—

(i) by striking "(ii) In the administration of any law involving the issuance" and inserting "(ii) In the administration of any law involving the issuance, reissuance, or amendment"; and

(ii) by striking ''any purpose other than for the enforcement of child support orders in effect in the State'' and inserting ''other than child support purposes''.

(c) CONFORMING REPEAL.—Section 468 (42 U.S.C. 668) is hereby repealed.

(d) EFFECTIVE DATE.—The amendments and repeal made by this section shall become effective with respect to a State—

(1) on October 1, 1993, or, if later

(2) upon enactment by the legislature of the State of all laws required by such amendments,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding 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. 13242. ENFORCEMENT OF HEALTH INSURANCE SUPPORT.

(a) STATE PLAN REQUIREMENTS.—Section 454(a) (42 U.S.C. 654(a)) is amended—

(1) by striking ''and'' at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by inserting after paragraph (24) the following:

"(25) provide assurances satisfactory to the Secretary that the State has in effect laws applicable to health insurers and insurance policies or programs subject to the laws of the State that—

"(A) prohibit insurers' consideration, in determining an individual's eligibility for or coverage under any such policy or program, of such individual's eligibility for or coverage under the plan of any State under title XIX;

"(B) provide that, where an individual assigns rights to any State in accordance with section 1912, that State is subrogated, to the extent of medical assistance furnished, to the individual's rights under any health insurance policy or program;

"(C) prohibit insurers from applying, to State agencies administering programs under title XIX and acting as agents or subrogees (for purposes of insurance policies or programs of such insurers) of individuals receiving medical assistance under such State programs, require-

1 ments (with respect to deadlines for filing
2 claims or any other matters) different from re-
3 quirements applicable to any other applicant,
4 beneficiary, agent, or subrogee;
5 ''(D) prohibit insurers from denying enroll-
6 ment of a child under the health insurance cov-
7 erage of the child's parent on grounds that—
8 ''(i) the child does not reside with the
9 parent, or
10 ''(ii) the child was born out of wed-
11 lock;
12 ''(E) in any case where a parent is re-
13 quired by court or administrative order to pro-
14 vide health insurance coverage for a child, re-
15 quire insurers, without regard to otherwise ap-
16 plicable enrollment season restrictions—
17 ''(i) to permit such parent, upon ap-
18 plication, to enroll in family coverage (if
19 otherwise eligible and not already so en-
20 rolled), and to enroll such child under such
21 family coverage, and
22 ''(ii) where such a parent who is en-
23 rolled in family coverage fails to make ap-
24 plication, to enroll such child under such
25 family coverage upon application by the

child's other parent or by the State agency administering the program under this part or title XIX; and

"(F) in any case where a child is covered under the health insurance of a noncustodial parent, require insurers—

"(i) to permit the custodial parent (or service provider, with the custodial parent's approval), or any State agency administering a program under title XIX, to submit claims for covered services without the approval of the noncustodial parent, and

"(ii) to make payment on claims submitted in accordance with clause (i) directly to the custodial parent, service provider, or State agency submitting such claim;

"(26) provide assurances satisfactory to the Secretary that the State has in effect laws requiring employers doing business in the State—

"(A) upon notice of a court or administrative order requiring an employee to provide health insurance coverage for the employee's child, and upon application by such employee

(or, where such employee fails to make application, by the child's other parent or the State agency administering the program under this part or title XIX), to permit enrollment of such child at any time as a dependent of the employee under the employer's group health insurance;

"(B) to permit disenrollment from such group health insurance by such employee, or elimination of coverage of such child, only upon receipt of satisfactory evidence, in writing, that—

"(i) such court or administrative order is no longer in effect, or

"(ii) the employee has enrolled or will enroll in alternative health insurance covering such child which will take effect immediately upon the effective date of such disenrollment; and

"(C) to withhold from such employee's compensation the employee's share (if any) of premiums for such health insurance, and to pay such share of premiums to the insurer;

"(27) provide assurances satisfactory to the Secretary that the State has in effect laws requiring

the State agency to garnish the wages, salary, or other employment income of, and to withhold amounts from State tax refunds to, any person who—

"(A) is required by court or administrative order to provide coverage of the costs of medical services to an individual eligible for medical assistance under title XIX,

"(B) has received payment from a third party for the costs of medical services to such individual, and

"(C) has not used such payments to reimburse, as appropriate, either such individual or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under title XIX, but any claims for current or past-due child support shall take priority over any such claims for the costs of medical services.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) apply to calendar quarters beginning on or after April 1, 1994, except as provided in paragraph (2).

(2) EXTENSION FOR STATE LAW AMENDMENT.—In the case of a State plan under part D of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation 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 these additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the preceding 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. 13243. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "upon the request of such agency" and inserting ", and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support

and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information''; and

(2) by striking ''(C) a fee'' and all that follows through ''by the State'' and inserting '', and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1994.

(2) EXCEPTION.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social

Security Act, or October 1, 1995, whichever occurs earlier.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

SEC. 13251. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) IN GENERAL.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is amended—

(A) by inserting ''(1)'' after ''(d)'';

(B) by inserting '', plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3)'' before the period; and

(C) by adding after and below the end the following:

''(2)(A) The Secretary shall assess each State an administration fee in an amount equal to—

''(i) the number of supplementary payments made by the Secretary on behalf of the State under this section for any month in a fiscal year; multiplied by

''(ii) the applicable rate for the fiscal year.

1 "(B) As used in subparagraph (A), the term 'applica-
2 ble rate' means—
3 "(i) for fiscal year 1994, $1.67;
4 "(ii) for fiscal year 1995, $3.33;
5 "(iii) for fiscal year 1996, $5.00; and
6 "(iv) for fiscal year 1997 and each succeeding
7 fiscal year, $5.00, or such different rate as the Sec-
8 retary determines pursuant to criteria established in
9 regulations is appropriate for the State, taking into
10 account the complexity of the State's supplementary
11 payment program.
12 "(C) All fees collected pursuant to this paragraph
13 shall be transferred to the United States at the same time
14 that amounts for such supplementary payments are re-
15 quired to be so transferred.
16 "(3)(A) The Secretary shall charge a State an addi-
17 tional services fee if, at the request of the State, the Sec-
18 retary provides additional services beyond the level cus-
19 tomarily provided, in the administration of State supple-
20 mentary payments pursuant to this section.
21 "(B) The additional services fee shall be in an
22 amount that the Secretary determines is necessary to
23 cover all costs (including indirect costs) incurred by the
24 Federal Government in furnishing the additional services
25 referred to in subparagraph (A).

"(C) The additional services fee shall be payable in advance or by way of reimbursement.

"(4) All administration fees and additional services fees collected pursuant to this subsection shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—Section 212(b)(3) of Public Law 93–66 (42 U.S.C. 1382 note) is amended—

(A) by inserting "(A)" after "(3)";

(B) by inserting ", plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C)" before the period; and

(C) by adding after and below the end the following:

"(B)(i) The Secretary shall assess each State an administration fee in an amount equal to—

"(I) the number of supplementary payments made by the Secretary on behalf of the State under this subsection for any month in a fiscal year; multiplied by

"(II) the applicable rate for the fiscal year.

1 "(ii) As used in clause (i), the term 'applicable rate'
2 means—
3 "(I) for fiscal year 1994, $1.67;
4 "(II) for fiscal year 1995, $3.33;
5 "(III) for fiscal year 1996, $5.00; and
6 "(IV) for fiscal year 1997 and each succeeding
7 fiscal year, $5.00, or such different rate as the Sec-
8 retary determines pursuant to regulations estab-
9 lished in regulations is appropriate for the State,
10 taking into account the complexity of the State's
11 supplementary payment program.
12 "(iii) All fees collected pursuant to this subparagraph
13 shall be transferred to the United States at the same time
14 that amounts for such supplementary payments are re-
15 quired to be so transferred.
16 "(C)(i) The Secretary shall charge a State an addi-
17 tional services fee if, at the request of the State, the Sec-
18 retary provides additional services beyond the level cus-
19 tomarily provided, in the administration of State supple-
20 mentary payments pursuant to this subsection.
21 "(ii) The additional services fee shall be in an amount
22 that the Secretary determines is necessary to cover all
23 costs (including indirect costs) incurred by the Federal
24 Government in furnishing the additional services referred
25 to in clause (i).

"(iii) The additional services fee shall be payable in advance or by way of reimbursement.

"(D) All administration fees and additional services fees collected pursuant to this paragraph shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to supplementary payments made pursuant to section 1616(a) of the Social Security Act or section 212(a) of Public Law 93–66 for any calendar month beginning after September 30, 1993, and to services furnished after such date, regardless of whether regulations to implement such amendments have been promulgated by such date, or whether any agreement entered into under such section 1616(a) or such section 212(a) has been modified.

SEC. 13252. EXCLUSION FROM INCOME OF STATE RELOCATION ASSISTANCE.

Section 5035(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1382a note; 104 Stat. 1388–225) is amended—

(1) by striking "The amendments made by this section" and inserting "(1) The amendments made by subsection (b)"; and

(2) by adding at the end the following:

"(2) The amendments made by subsection (a) shall apply with respect to benefits for calendar months beginning on or after May 1, 1991.".

SEC. 13253. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY FOR, AND AMOUNT OF, BENEFITS WHEN SPOUSE OR PARENT OF BENEFICIARY IS ABSENT FROM THE HOUSEHOLD DUE TO ACTIVE MILITARY SERVICE.

(a) ABSENT PERSON GENERALLY DEEMED TO BE LIVING IN THE HOUSEHOLD.—Section 1614(f) (42 U.S.C. 1382c(f)) is amended by adding at the end the following:

"(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.".

(b) EXCLUSION FROM INCOME OF HAZARDOUS DUTY PAY RECEIVED WHILE IN ACTIVE MILITARY SERVICE.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (18), by striking "and" the 2nd place such term appears;

(2) in paragraph (19), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(20) special pay received pursuant to section 310 of title 37, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 2nd month that begins after the date of the enactment of this Act.

SEC. 13254. ELIGIBILITY FOR CHILDREN OF ARMED FORCES PERSONNEL RESIDING OUTSIDE THE UNITED STATES OTHER THAN IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking "the District of Columbia" and all that follows to the period and inserting "and who, for the month before the parent reported for such assignment, received a benefit under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 13255. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended by striking ''a child'' and inserting ''an individual''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made on or after the date of the enactment of this Act.

SEC. 13256. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE WHEN THERE IS A COST OF LIVING ADJUSTMENT IN BENEFITS.

(a) IN GENERAL.—Section 1611(c) (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by striking ''and (5)'' and inserting ''(5), and (6)''; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

''(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this title by reason of section 1617 shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this title to an individual (and the eligible spouse,

if any, of the individual) for the 1st 2 months for which the increase in benefits applies.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits paid for months after the calendar year 1993.

SEC. 13257. EXCLUSION FROM INCOME OF CERTAIN AMOUNTS RECEIVED BY INDIANS FROM INTERESTS HELD IN TRUST.

(a) IN GENERAL.—Section 8 of the Act of October 19, 1973, (25 U.S.C. 1408) is amended by inserting '', and the first $2,000 per year of income received by individual Indians that is derived from such interests shall not be considered income,'' after ''resource''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1993.

CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 13261. 50 PERCENT FEDERAL MATCH OF STATE ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amended by striking ''the sum of'' and all that follows through the end of subparagraph (D) and inserting ''50 percent of the total amounts expended during such quarter as the Secretary has found necessary for the proper and efficient administration of the State plan (in-

1 cluding any amounts expended by the State to carry out
2 initial evaluations under section 486(a)),''.
3 (b) OPTIONAL USE OF CERTAIN PROCEDURES TO
4 VERIFY IMMIGRATION STATUS OF AFDC APPLICANTS.—
5 Section 1137(d) (42 U.S.C. 1320b–7(d)) is amended—
6 (1) in each of paragraphs (3) and (4)(B)(i), by
7 inserting ''(or, in the case of the program specified
8 in subsection (b)(1), may)'' after ''shall''; and
9 (2) in paragraph (4), by inserting ''(if re-
10 quired)'' after ''verified''.
11 (c) EFFECTIVE DATE.—
12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendments made by this section
14 shall apply to payments made for calendar quarters
15 beginning on or after April 1, 1994.
16 (2) DELAYED APPLICABILITY TO CERTAIN
17 STATES.—
18 (A) IN GENERAL.—The Secretary of
19 Health and Human Services may delay the ap-
20 plicability to a qualified State of the amend-
21 ments made by subsection (a) until the 1st cal-
22 endar quarter that begins after the close of the
23 1st regular session of the State legislature that
24 begins after the date of the enactment of this
25 section.

(B) QUALIFIED STATE DEFINED.—As used in subparagraph (A), the term ''qualified State'' means a State that meets such criteria as the Secretary shall establish and apply uniformly, including whether the State legislature meets biennially and does not have a regular session scheduled in calendar year 1994.

SEC. 13262. DELAY IN EFFECTIVE DATE OF PENALTY FOR FAILURE TO MEET REQUIRED PARTICIPATION RATE FOR UNEMPLOYED PARENTS IN THE JOBS PROGRAM.

Section 403(l)(4)(B) (42 U.S.C. 603(l)(4)(B)) is amended—

(1) in clause (i), by striking ''1994'' and inserting ''1995'';

(2) in clause (ii), by striking ''1995'' and inserting ''1996'';

(3) in clause (iii), by striking ''1996'' and inserting ''1997''; and

(4) in clause (iv), by striking ''1997 and 1998'' and inserting ''1998 and 1999''.

SEC. 13263. REPORT TO THE CONGRESS WITH RESPECT TO PERFORMANCE STANDARDS IN THE JOBS PROGRAM.

Section 487(a) (42 U.S.C. 687(a)) is amended—

(1) by striking ''3'' and inserting ''4'';

(2) in paragraph (1), by inserting ''criteria for'' after ''develop'';

(3) in paragraph (2), by striking ''for'' and inserting ''with respect to''; and

(4) in the 2nd sentence, by striking ''under this subsection'' and inserting ''with respect to the program under this part''.

SEC. 13264. MEASUREMENT AND REPORTING OF WELFARE PARTICIPATION.

(a) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce the rate at which, and the degree to which, families depend on income from welfare programs, and the duration of welfare participation, to assist families toward self-sufficiency, and to increase the living standards of low-income families, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families and improve the life prospects of their children, to ensure that children grow up in families that are economically self-sufficient, and to

underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare participation to improve their education and job skills, to obtain access to high quality child care and other necessary support services, and to take such other steps as may assist them to meet their responsibilities to become financially independent; and

(4) it is the purpose of this section to provide the public with generally accepted measures of welfare participation so that the public can track such participation over time and determine whether progress is being made in reducing the rate at which, and the degree to which, families depend on income from welfare programs, and the duration of welfare participation.

(b) DEVELOPMENT OF WELFARE PARTICIPATION MEASURES AND PREDICTORS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') in consultation with the Secretary of Agriculture shall develop—

(A) measures of—

(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation; and

(B) predictors of welfare participation.

(2) INTERIM REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall provide an interim report containing conclusions resulting from such development, to—

(A) the Committee on Ways and Means of the House of Representatives;

(B) the Committee on Education and Labor of the House of Representatives;

(C) the Committee on Agriculture of the House of Representatives;

(D) the Committee on Energy and Commerce of the House of Representatives;

(E) the Committee on Finance of the Senate;

(F) the Committee on Labor and Human Resources of the Senate; and

(G) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) ADVISORY BOARD ON WELFARE PARTICIPATION.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Participation (in this section referred to as the ''Board'').

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of measures of the rate at which, and the degree to which, families depend on income from welfare

programs, and the duration of welfare participation; and

(B) providing advice on the development and presentation of the report required by subsection (d).

(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in subsection (c)(4) have been completed, but in any case prior to the submission of the 1st report required by subsection (d).

(d) ANNUAL WELFARE PARTICIPATION REPORTS.—

(1) PREPARATION.—The Secretary shall prepare annual reports on welfare participation in the United States.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each such report shall set forth, for each means-tested benefit program described in paragraph (2)—

(A) measures of—

(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation;

(B) trends in the measures;

(C) predictors of welfare participation;

(D) the causes of welfare participation;

(E) patterns of multiple program participation;

(F) such other information as the Secretary deems relevant; and

(G) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce—

(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation.

(4) SUBMISSION.—The Secretary shall submit such reports not later than 3 years after the date of the enactment of this section, and annually there-

after, to the committees specified in subsection (b)(2). Each such report shall be transmitted during the 1st 60 days of each regular session of the Congress.

SEC. 13265. NEW HOPE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) PAYMENTS.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act and for administrative expenses related to such assistance. In calculating the amount of such payment, the expenses of the program incurred in evaluating the effects of the program may be treated as amounts necessary for the proper and efficient administration of the program, for purposes of part A of title IV of such Act.

(c) DEMONSTRATION PROJECT DESCRIBED.—For purposes of this section, the term ''qualified program'' means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (in this section referred to as the ''operator''), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) CONTENTS OF APPLICATION.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the program. The evaluation plan will include adequately

sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) EFFECTIVE DATE.—This section shall take effect on the 1st day of the 1st calendar quarter that begins after the date of enactment of this Act.

SEC. 13266. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC–UP PROGRAM.

Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking ''October 1, 1992'' and inserting ''the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act''.

SEC. 13267. ADULT IN FAMILY OR HOUSEHOLD ALLOWED TO ATTEST TO CITIZENSHIP STATUS OF FAMILY OR HOUSEHOLD MEMBERS.

(a) IN GENERAL.—Section 1137(d)(1)(A) (42 U.S.C. 1320b–7(d)(1)(A)) is amended—

(1) by inserting ''(i)'' after ''(1)(A)'';

(2) by inserting ''(other than the aid to families with dependent children program under part A of title IV of this Act)'' after ''any program listed in subsection (b)''; and

(3) by adding at the end the following:

''(ii) The State shall require, as a condition of an individual's eligibility for benefits under the aid to families with dependent children program under part A of title IV of this Act, a declaration in writing, under penalty of perjury—

"(I) in the case of an individual who is an adult member of a family or household applying for or receiving such benefits, by such individual or another adult member of such family or household on such individual's behalf;

"(II) in the case of an individual who is a child, by an adult on the individual's behalf; or

"(III) in the case of an individual born into a family or household receiving such benefits, by an adult member of such individual's family or household on the individual's behalf no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to benefits provided on or after October 1, 1993.

SEC. 13268. INCREASE IN STEPPARENT INCOME DISREGARD.

(a) IN GENERAL.—Section 402(a)(31) (42 U.S.C. 602(a)(31)) is amended by striking "$75" and inserting "$90".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1994 and such payments for succeeding fiscal years.

SEC. 13269. EXTENSION OF NEW YORK STATE CHILD SUPPORT DEMONSTRATION PROGRAM.

Section 9122(g)(1) of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note; 101 Stat. 1330–312) is amended by striking "five" and inserting "10".

SEC. 13270. EARLY CHILDHOOD DEVELOPMENT PROJECTS.

Section 501(a) of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by adding at the end the following:

"(4) For grants to States to conduct demonstration projects under this subsection, there are authorized to be appropriated not to exceed $3,000,000 for each of the fiscal years 1994 through 1998.".

CHAPTER 5—UNEMPLOYMENT INSURANCE

SEC. 13271. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) GENERAL RULE.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

''(t) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term 'short-time compensation program' means a program under which—

''(1) individuals whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

''(2) the amount of unemployment compensation payable to any such individual is a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

''(3) eligible employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

''(4) eligible employees may participate in an employer-sponsored training program to enhance

jobs skills if such program has been approved by the State agency;

"(5) there is a reduction in the number of hours worked by employees in lieu of temporary layoffs;

"(6) there is a plan of an employer (or an employers association which is party to a collective bargaining agreement) approved by the State agency consisting of factors in this subsection or other factors as the Secretary of Labor may find relevant; and

"(7) the employer continues to provide health benefits and pension benefits under a pension plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974) to any employee whose workweek is reduced under such plan.

A short-time compensation program may also contain such other factors as the Secretary of Labor finds relevant.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 3304(a)(4) of such Code is amended to read as follows:

"(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program approved by the Secretary of Labor:".

(2) Paragraph (4) of section 3306(f) of such Code is amended to read as follows:

''(4) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program approved by the Secretary of Labor.''.

(3) Section 303(a)(5) of the Social Security Act is amended by striking ''the payment of short-time compensation under a plan approved by the Secretary of Labor'' and inserting ''the payment of short-time compensation under a short-time compensation program (as defined in section 3306(t) of the Internal Revenue Code of 1986) approved by the Secretary of Labor''.

SEC. 13272. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND.

Paragraph (1) of section 905(b) of the Social Security Act is amended to read as follows:

''(b)(1) Except as provided in paragraph (3), the Secretary of the Treasury shall transfer (as of the close of each month), from the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount equal to 20 percent of the amount by which—

"(A) the transfers to such account pursuant to section 901(b)(2) during such month, exceed

"(B) the payments during such month from the employment security administration account pursuant to section 901(b)(3) and (d).

If for any month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred.".

SEC. 13273. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL.

In the case of the first Advisory Council on Unemployment Compensation established under section 908 of the Social Security Act, subsection (f) of such section 908 shall be applied—

(1) by substituting "3rd year" for "2d year" in paragraph (1), and

(2) by substituting "February 1, 1995" for "February 1, 1994" in paragraph (2).

SEC. 13274. CLARIFICATION OF EMERGENCY UNEMPLOYMENT BENEFITS PROVISIONS.

(a) IN GENERAL.—Subclauses (II) and (III) of section 102(b)(2)(A)(v) of the Emergency Unemployment Compensation Act of 1991 are amended to read as follows:

"(II) The requirements of this subclause are met for any week if the national rate of total unemployment (seasonally adjusted) for each of the 2 most recent calendar months (not averaged) for which data are published before the close of such week is less than 7 percent, and if the requirements of subclause (III) are not met for such week.

"(III) The requirements of this subclause are met for any week if the national rate of total unemployment (seasonally adjusted) for each of the 2 most recent calendar months (not averaged) for which data are published before the close of such week is less than 6.8 percent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the amendments made by section 101(b) of the Unemployment Compensation Amendments of 1992.

SEC. 13275. MODIFICATIONS TO EXTENDED UNEMPLOYMENT PROGRAM.

(a) INCREASE IN REIMBURSEMENT RATE.—Subsection (a) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking ''one-half'' and inserting ''75 percent''.

(b) REPEAL OF SPECIAL ELIGIBILITY REQUIREMENTS.—Subsection (a) of section 202 of such Act is amended—

(1) by striking paragraphs (3), (4), and (7),

(2) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively, and

(3) by striking ''paragraphs (3), (4), and (5)'' in paragraph (4) (as redesignated by paragraph (1) of this subsection) and inserting ''paragraph (3)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to weeks beginning after October 2, 1993.

(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, 1993, the amendment made by subsection (b) shall not be a requirement of the State law of such State before the date 30 calendar days

after the 1st day on which such legislature is in session on or after October 1, 1993.

SEC. 13276. EXTENSION OF CURRENT FEDERAL UNEMPLOYMENT RATE.

Section 3301 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''1996'' in paragraph (1) and inserting ''1998'', and

(2) by striking ''1997'' in paragraph (2) and inserting ''1999''.

SEC. 13277. DISCLOSURE OF INFORMATION TO RAILROAD RETIREMENT BOARD.

Section 6103(l)(1)(C) of the Internal Revenue Code of 1986 is amended to read as follows:

''(C) taxes imposed by chapters 22 and 23A, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement and Railroad Unemployment Insurance Acts.''.

CHAPTER 6—TECHNICAL PROVISIONS

SEC. 13281. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking ''a semicolon'' and inserting '' '; and' ''.

(b) REPEAL OF PROVISION INADVERTENTLY INCLUDED.—Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

(c) AMENDMENT RELATED TO SECTION 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–266) is amended to read as follows:

''(B) TITLE XVI.—Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)), as so redesignated by subsection (c)(2) of this section, is amended to read as follows:

1 "'(F) The Secretary shall include as a part of the
2 annual report required under section 704 information with
3 respect to the implementation of the preceding provisions
4 of this paragraph, including—
5 "'(i) the number of cases in which the rep-
6 resentative payee was changed;
7 "'(ii) the number of cases discovered where
8 there has been a misuse of funds;
9 "'(iii) how any such cases were dealt with by
10 the Secretary;
11 "'(iv) the final disposition of such cases (in-
12 cluding any criminal penalties imposed); and
13 "'(v) such other information as the Secretary
14 determines to be appropriate.'.".
15 (d) AMENDMENT RELATED TO SECTION
16 5105(a)(1)(B).—The 2nd paragraph of section 1631(a)
17 (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Pay-
18 ments" and inserting "(2)(A)(i) Payments".
19 (e) AMENDMENTS RELATED TO SECTION 5105(b).—
20 Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is
21 amended—
22 (1) by striking clause (ii);
23 (2) by redesignating clauses (iii), (iv), and (v)
24 as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking ''(iii), and (iv)'' and inserting ''and (iii)''.

(f) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C. 1383(c)(1)(B)) is amended by striking ''paragraph (1)'' each place such term appears and inserting ''subparagraph (A)''.

(g) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(h) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking ''paragraph (8)'' and inserting ''paragraph (9)'';

(2) in subparagraph (B), by striking ''paragraph (9)'' and inserting ''paragraph (10)''; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(i) AMENDMENT RELATED TO SECTION 13101(d)(2).—Section 256(k)(2)(A) of the Balanced

Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking ''—'' the 2nd place it appears and all that follows through ''(I)''; and

(2) by striking ''; or'' and all that follows through ''(II)'' and inserting '', except that a State may not be allotted an amount under this subparagraph that exceeds''.

(j) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 13282. TECHNICAL CORRECTIONS RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989.

(a) AMENDMENT RELATING TO SECTION 8004(a).—Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is amended by striking ''a fiscal'' and inserting ''the fiscal''.

(b) AMENDMENT RELATING TO SECTION 8006(a).—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amended by striking ''474(a)(3)(B)'' and inserting ''474(a)(3)(C)''.

(c) AMENDMENT RELATING TO SECTION 8007(b)(3).—Subparagraph (D) of section 475(5) (42 U.S.C. 675(5)(D)) is amended by moving such subparagraph 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C) of such section.

(d) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if the amendment had been included in the provision of the Omnibus Budget Reconciliation Act of 1989 to which the amendment relates, at the time the provision became law.

SEC. 13283. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) TREATMENT OF EITC AS EARNED INCOME.—Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) ADJUSTMENT OF BENEFITS DUE TO TREATMENT OF EITC AS EARNED INCOME.—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 13284. REDESIGNATION OF CERTAIN PROVISIONS.

Section 1631(e)(6) (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

Subtitle C—Medicare Program

SEC. 13400. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment 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 that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1989'', and ''OBRA–1990'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Sec. 13400. References in subtitle; table of contents of subtitle.

CHAPTER 1—PROVISIONS RELATING TO PART A

SUBCHAPTER A—ELIMINATION OF INFLATION UPDATE FOR SERVICES PROVIDED UNDER PART A

Sec. 13401. Inpatient hospital services and hospice care.
Sec. 13402. Limits on per diem routine service costs for extended care services.

SUBCHAPTER B—OTHER PROVISIONS RELATING TO PART A

Sec. 13411. Wage index provisions.
Sec. 13412. Transition for hospital outlier thresholds.
Sec. 13413. Essential access community hospital (EACH) amendments.
Sec. 13414. Rural health transition grant program extension.
Sec. 13415. Regional referral center extension.
Sec. 13416. Medicare-dependent, small rural hospital payment extension.
Sec. 13417. Extension of regional floor.
Sec. 13418. Extension of rural hospital demonstration.
Sec. 13419. Hemophilia pass-through extension.
Sec. 13420. State hospital payment programs.
Sec. 13421. Psychology services in hospitals.
Sec. 13422. Graduate medical education payments in hospital-owned community health centers.
Sec. 13423. Treatment of certain military facilities.
Sec. 13424. Epilepsy DRG.
Sec. 13425. Skilled nursing facility wage index.
Sec. 13426. Hospice notification to beneficiaries.
Sec. 13427. Reduction in part A premium for certain individuals with 30 or more quarters of Social Security coverage.
Sec. 13428. Periodic updates to salary equivalency guidelines for physical therapy and respiratory therapy services.
Sec. 13429. Extension of deadline for application for geographic classification for certain reclassified hospitals.
Sec. 13430. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

CHAPTER 2—PROVISIONS RELATING TO PART B

SUBCHAPTER A—ELIMINATION OF INFLATION UPDATE

Sec. 13431. Elimination of inflation update for physician and related professional services.
Sec. 13432. Elimination of cost-of-living adjustments for certain items and services.
Sec. 13433. Ambulatory surgical center services.
Sec. 13434. Other items and services under part B.

SUBCHAPTER B—PHYSICIANS' SERVICES

Sec. 13441. Reinstating separate payment for the interpretation of electrocardiograms (EKGs).
Sec. 13442. Payments for new physicians and practitioners.
Sec. 13443. Retaining payment for actual anesthesia time.
Sec. 13444. Geographic cost of practice index refinements.
Sec. 13445. Extra-billing.
Sec. 13446. Relative values for pediatric services.
Sec. 13447. Antigens under physician fee schedule.
Sec. 13448. Administration of claims relating to physicians' services.
Sec. 13449. Miscellaneous and technical corrections.

SUBCHAPTER C—AMBULATORY SURGICAL CENTER SERVICES

Sec. 13451. Designation of certain hospitals as eye or eye and ear hospitals.
Sec. 13452. Treatment of intraocular lenses.
Sec. 13453. Technical amendments.

SUBCHAPTER D—DURABLE MEDICAL EQUIPMENT

Sec. 13461. Certification of suppliers.
Sec. 13462. Prohibition against carrier forum shopping.
Sec. 13463. Restrictions on certain marketing and sales activities.
Sec. 13464. Anti-kickback clarification.
Sec. 13465. Limitations on beneficiary liability for noncovered services.
Sec. 13466. Adjustments for inherent reasonableness.
Sec. 13467. Treatment of nebulizers and aspirators.
Sec. 13468. Payment for ostomy supplies and other supplies.
Sec. 13469. Miscellaneous and technical corrections.

SUBCHAPTER E—OTHER PROVISIONS

Sec. 13471. Clarifying payments for medically directed certified registered nurse anesthetist services.
Sec. 13472. Extension of Alzheimer's disease demonstration projects.
Sec. 13473. Oral cancer drugs.
Sec. 13474. Part B premium for late enrollment.
Sec. 13475. Coverage of services of speech-language pathologists and audiologists.
Sec. 13476. Extension of municipal health service demonstration projects.
Sec. 13477. Treatment of certain Indian health programs and facilities as Federally-qualified health centers.
Sec. 13478. Miscellaneous and technical corrections.

SUBCHAPTER F—PART B PREMIUM

Sec. 13481. Part B premium.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

SUBCHAPTER A—ELIMINATION OF UPDATES

Sec. 13501. Elimination of cost-of-living update in per resident amounts for direct medical education.
Sec. 13502. Elimination of inflation update in cost limits for home health services.

SUBCHAPTER B—MEDICARE SECONDARY PAYER PROVISIONS

Sec. 13511. Extension of transfer of data.
Sec. 13512. 3-year extension of medicare secondary payer to disabled beneficiaries.
Sec. 13513. 3-year extension of 18-month rule for ESRD beneficiaries.
Sec. 13514. Medicare secondary payer reforms.

SUBCHAPTER C—PHYSICIAN OWNERSHIP AND REFERRAL

Sec. 13521. Application of medicare ban on self-referrals to all payers.
Sec. 13522. Extension of self-referral ban to additional specified services.
Sec. 13523. Exceptions for both ownership and compensation arrangements.
Sec. 13524. Exceptions related only to ownership or investment.

Sec. 13525. Exceptions related only to compensation arrangements.
Sec. 13526. Clarification concerning civil money penalty sanctions.
Sec. 13527. Requirements for group practice.
Sec. 13538. No Federal preemption of more restrictive State laws.
Sec. 13529. Miscellaneous provisions.
Sec. 13530. Effective dates.

SUBCHAPTER D—OTHER PROVISIONS

Sec. 13551. Direct graduate medical education.
Sec. 13552. Immunosuppressive drug therapy.
Sec. 13553. Reduction in payments for erythropoientin.
Sec. 13554. Qualified medicare beneficiary outreach.
Sec. 13555. Extension of social health maintenance organization demonstrations.
Sec. 13556. Hospice notification to home health beneficiaries.
Sec. 13557. Interest payments.
Sec. 13558. Peer review organizations.
Sec. 13559. Health maintenance organizations.
Sec. 13560. Medicare administration budget process.
Sec. 13561. Other provisions.

CHAPTER 4—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 13571. Standards for medicare supplemental insurance policies.

CHAPTER 1—PROVISIONS RELATING TO PART A

Subchapter A—Elimination of Inflation Update for Services Provided Under Part A

SEC. 13401. INPATIENT HOSPITAL SERVICES AND HOSPICE CARE.

Section 1886(b)(3)(B)(iii) (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(1) by striking ''(iii) For purposes of this subparagraph'' and inserting ''(iii)(I) Except as provided in subclause (II), for purposes of this subparagraph'', and

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

"(II) For purposes of this subparagraph and section 1814(i)(1)(C)(ii), the 'market basket percentage increase', with respect to cost reporting periods and discharges occurring in fiscal year 1994 or 1995, is 0 percent.".

SEC. 13402. LIMITS ON PER DIEM ROUTINE SERVICE COSTS FOR EXTENDED CARE SERVICES.

The Secretary of Health and Human Services shall not provide for any increase, on the basis of inflation or changes in the cost of goods and services, in the limits on per diem routine service costs for extended care services under section 1888 of the Social Security Act for cost reporting periods beginning during fiscal year 1994 or fiscal year 1995.

Subchapter B—Other Provisions Relating to Part A

SEC. 13411. WAGE INDEX PROVISIONS.

(a) WAGE INDEX HOLD HARMLESS PROTECTION.—

(1) IN GENERAL.—Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)) is amended by adding at the end the following new clause:

"(iv) The application of subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (1) may not result in a reduction in an urban area's wage index if—

"(I) the urban area has a wage index below the wage index for rural areas in the State in which it is located; or

"(II) the urban area is located in a State that is composed of a single urban area.".

(2) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the fiscal year 1992 or fiscal year 1993 standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring—

(A) on or after October 1, 1991, in the case of hospitals located in an urban area described in section 1886(d)(8)(C)(iv)(I) of the Social Security Act (as added by paragraph (1)); and

(B) on or after the date of the enactment of this Act, in the case of hospitals located in an urban area described in section 1886(d)(8)(C)(iv)(II) of the Social Security Act (as added by paragraph (1)).

(b) UPDATING STANDARDS FOR TREATING RURAL COUNTIES AS URBAN COUNTIES BASED ON RATES OF COMMUTATION.—

(1) IN GENERAL.—Section 1886(d)(8)(B) (42 U.S.C. 1395ww(d)(8)(B)) is amended—

(A) by striking ''standards'' each place it appears and inserting ''standards most recently used'', and

(B) by striking ''published in the Federal Register on January 3, 1980''.

(2) HOLD HARMLESS FOR COUNTIES CURRENTLY TREATED AS URBAN.—Any hospital that is treated as being located in an urban metropolitan statistical area pursuant to section 1886(d)(8)(B) of the Social Security Act as of September 30, 1992, shall continue to be so treated notwithstanding the amendments made by paragraph (1).

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective on October 1, 1993.

(c) USE OF OCCUPATIONAL MIX IN GUIDELINES.—

(1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting ''(to the extent the Secretary determines appropriate)'' after ''taking into account''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1989.

SEC. 13412. TRANSITION FOR HOSPITAL OUTLIER THRESHOLDS.

Section 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(1) in clause (i), by striking ''The Secretary'' and inserting ''For discharges occurring during fiscal years ending on or before September 30, 1997, the Secretary''; and

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

''(v) The Secretary shall provide that—

''(I) the day outlier percentage for fiscal year 1995 shall be 75 percent of the day outlier percentage for fiscal year 1994;

''(II) the day outlier percentage for fiscal year 1996 shall be 50 percent of the day outlier percentage for fiscal year 1994; and

''(III) the day outlier percentage for fiscal year 1997 shall be 25 percent of the day outlier percentage for fiscal year 1994.

''(vi) For purposes of this subparagraph, the term 'day outlier percentage' means, for a fiscal year, the per-

1 centage of the total additional payments made by the Sec-
2 retary under this subparagraph for discharges in that fis-
3 cal year which are additional payments under clause (i).''.

4 **SEC. 13413. ESSENTIAL ACCESS COMMUNITY HOSPITAL**
5 **(EACH) AMENDMENTS.**

6 (a) INCREASING NUMBER OF PARTICIPATING
7 STATES.—Section 1820(a)(1) (42 U.S.C. 1395i–4(a)(1))
8 is amended by striking ''7'' and inserting ''9''.

9 (b) TREATMENT OF INPATIENT HOSPITAL SERVICES
10 PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

11 (1) IN GENERAL.—Section 1820(f)(1)(F) (42
12 U.S.C. 1395i–4(f)(1)(F)) is amended to read as
13 follows:

14 ''(F) subject to paragraph (4), provides not
15 more than 6 inpatient beds (meeting such con-
16 ditions as the Secretary may establish) for pro-
17 viding inpatient care to patients requiring sta-
18 bilization before discharge or transfer to a hos-
19 pital, except that the facility may not provide
20 any inpatient hospital services—

21 ''(i) to any patient whose attending
22 physician does not certify that the patient
23 may reasonably be expected to be dis-
24 charged or transferred to a hospital within
25 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i–4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because

transfer to a hospital is precluded because of inclement weather or other emergency conditions.''.

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking ''such services'' and all that follows and inserting ''the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.''.

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpa-

tient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking ''is located'' and inserting ''except in the case of a hospital located in an urban area, is located'',

(II) by striking '', (ii)'' and inserting ''or (ii)'',

(III) by striking ''or (iii)'' and all that follows through ''section,'', and

(IV) in subsection (i)(1)(B), by striking ''paragraph (3)'' and inserting ''paragraph (2)''.

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting ''located in a rural area and'' after ''that is'', and

(ii) in clause (v), by inserting ''located in a rural area and'' after ''in the case of a hospital''.

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

''(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

''(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access

community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) (42 U.S.C. 1395i–4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i–4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking ''subparagraph (B)'' and inserting ''subparagraph (B) or subsection (k)''.

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i–4(f)(3)) is amended by striking ''because the facility'' and all that follows and inserting the following: ''because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.''.

(e) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking ''during a year before 1993'' and inserting ''during a year before the prospective payment system described in paragraph (2) is in effect''; and

(B) in paragraph (2), by striking ''January 1, 1993,'' and inserting ''January 1, 1996,''.

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following:

''The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.''.

(f) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i–4(f)(1)(H)) is amended by striking the period and inserting the following: '', except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).''.

(g) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking ''inpatient hospital services'' the first place it appears and inserting ''inpatient hospital services or inpatient rural primary care hospital services'';

(B) by striking ''inpatient hospital services'' the second place it appears and inserting ''such services''; and

(C) by striking ''and inpatient rural primary care hospital services''.

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking ''inpatient hospital services'' each place it appears and inserting ''inpatient hospital services or inpatient rural primary care hospital services''.

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking ''inpatient hospital services'' and inserting ''inpatient hospital services, inpatient rural primary care hospital services''.

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraphs (1), by striking ''inpatient hospital services'' and inserting ''inpatient hospital services, inpatient rural primary care hospital services''; and

(B) in paragraph (2), by striking ''hospital'' and inserting ''hospital or rural primary care hospital''.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(k) (42 U.S.C. 1395i–4(k)) is amended by striking ''1990, 1991, and 1992'' and inserting ''1990 through 1995''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13414. RURAL HEALTH TRANSITION GRANT PROGRAM EXTENSION.

Section 4005(e)(9) of OBRA–1987 is amended—

(1) by striking ''1989 and'' and inserting ''1989,''; and

(2) by striking ''1992'' and inserting ''1992 and $30,000,000 for each of fiscal years 1993 through 1997''.

SEC. 13415. REGIONAL REFERRAL CENTER EXTENSION.

(a) EXTENSION OF CLASSIFICATION THROUGH FISCAL YEAR 1994.—Effective on the date of the enactment

of this Act, section 6003(d) of such Act (42 U.S.C. 1395ww note) is amended by striking ''October 1, 1992'' and inserting ''October 1, 1994''.

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT FOR HOSPITALS LOSING CLASSIFICATION.—

(1) IN GENERAL.—In the case of an affected regional referral center (as described in paragraph (2)), the Secretary of Health and Human Services

shall make a lump sum payment to the center equal to the difference between the aggregate payment made to the center under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (3) and the aggregate payment that would have been made to the center under such section if, during the period of applicability, the center was classified a regional referral center under section 1886(d)(5)(C) of such Act.

(2) AFFECTED CENTERS DESCRIBED.—In paragraph (1), an ''affected regional referral center'' is a hospital classified as regional referral center under section 1886(d)(5)(C) of the Social Security Act as of September 30, 1992, that was not classified as such a center after such date but would have been so classified if the reference in section 6003(d) of OBRA–1989 to ''October 1, 1992,'' had been deemed a reference to ''October 1, 1994,''.

(3) PERIOD OF APPLICABILITY.—In paragraph (1), the ''period of applicability'' is the period that begins on October 1, 1992, and ends on the date of the enactment of this Act.

SEC. 13416. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) EXTENSION OF ADDITIONAL PAYMENTS.—Effective on the date of the enactment of this Act, section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) in clause (i) in the matter preceding subclause (I)—

(A) by inserting ''(or portion thereof)'' after ''cost reporting period'', and

(B) by striking ''March 31, 1993,'' and all that follows and inserting the following: ''September 30, 1994, in the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) shall be equal to the sum of the amount determined under clause (ii) and the amount determined under paragraph (1)(A)(iii).'';

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and

(3) by inserting after clause (i) the following new clause:

''(ii) The amount determined under this clause is—

''(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hos-

pital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii); and

"(II) for discharges occurring during any subsequent cost reporting period (or portion thereof), 50 percent of the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii).".

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than sec-

tion 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT.—

(1) IN GENERAL.—In the case of a hospital treated as a medicare dependent, small rural hospital under section 1886(d)(5)(G) of the Social Security Act, the Secretary of Health and Human Services shall make a lump sum payment to the hospital equal to the difference between the aggregate payment made to the hospital under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (2) and the aggregate payment that would have been made to the hospital under such section if, during the period of applicability, section 1886(d)(5)(G) of such Act had been applied as if—

(A) the reference in clause (i) to ''March 31, 1993,'' had been deemed a reference to ''September 30, 1994,''; and

(B) the amendments made by subsection (a) had been in effect.

(2) PERIOD OF APPLICABILITY.—In paragraph (1), the ''period of applicability'' is, with respect to

a hospital, the period that begins on the first day of the hospital's first 12-month cost reporting period that begins after April 1, 1992, and ends on the date of the enactment of this Act.

SEC. 13417. EXTENSION OF REGIONAL FLOOR.

Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking ''September 30, 1993'' and inserting ''September 30, 1996''.

SEC. 13418. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of OBRA–1990 is amended by adding at the end the following new sentence: ''The Secretary shall continue any such demonstration project until at least December 31, 1995.''.

SEC. 13419. HEMOPHILIA PASS-THROUGH EXTENSION.

Effective as if included in the enactment of OBRA–1989, section 6011(d) of such Act is amended by striking ''2 years after the date of enactment of this Act'' and inserting ''September 30, 1994''.

SEC. 13420. STATE HOSPITAL PAYMENT PROGRAMS.

In the case of a State hospital reimbursement system that meets the requirements of section 1814(b)(3) of the Social Security Act, no other provision of law shall be construed as preventing the system from providing that pay-

ment for services covered under the system be made on the basis of rates provided for under the system.

SEC. 13421. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking ''physician;'' and inserting ''physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;''.

SEC. 13422. GRADUATE MEDICAL EDUCATION PAYMENTS IN HOSPITAL-OWNED COMMUNITY HEALTH CENTERS.

Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by inserting after ''the hospital'' the following: ''or providing services at any entity receiving a grant under section 330 of the Public Health Service Act that is under the ownership or control of the hospital (if the hospital incurs all, or substantially all, of the costs of the services furnished to the hospital by such interns and residents)''.

SEC. 13423. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any recoupment action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for services provided during the period beginning October 1, 1986, and ending December 31, 1989, except to the extent that funds were obligated to the Uniformed Services Treatment Facilities program to fulfill such an action pursuant to title VI of the Department of Defense Appropriations Act, 1993.

(2) FACILITIES DESCRIBED.—The facilities referred to in paragraph (1) are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(b) STUDY OF JOINT MEDICAL FACILITIES.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall conduct a study of the feasibility and desirability of establishing joint medical facilities among the

Department of Defense, the Department of Veterans' Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facilities.

(2) REPORT.—Not later than October 1, 1993, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under paragraph (1).

SEC. 13424. EPILEPSY DRG.

(a) IN GENERAL.—The Secretary of Health and Human Services shall review the diagnosis-related groups established pursuant to section 1886(d)(4) of the Social Security Act that are assigned to discharges of patients with intractable epilepsy, including patients whose admissions involve intensive neurodiagnostic monitoring, and shall revise, for discharges occurring on or after October 1, 1994, the assignment of discharges to such groups as the Secretary considers appropriate to account for the resource requirements of such patients.

(b) CONSULTATION REQUIREMENTS.—In carrying out subsection (a), the Secretary shall consult with the Prospective Payment Assessment Commission and na-

tional organizations representing individuals with epilepsy or individuals and entities providing specialized medical services to such individuals related to the treatment of epilepsy.

SEC. 13425. SKILLED NURSING FACILITY WAGE INDEX.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) PROPAC REPORT.—The Prospective Payment Assessment Commission shall, by March 1, 1994, study and report to the Congress on the impact of applying routine per diem cost limits for skilled nursing facilities on a regional basis.

SEC. 13426. HOSPICE NOTIFICATION TO BENEFICIARIES.

(a) HOSPITALS.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(b) NURSING FACILITIES.—Section 1819(c)(1)(B) (42 U.S.C. 1395i–3(c)(1)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by inserting after clause (iii) the following new clause:

"(iv) inform each resident who is entitled to benefits under this title, orally and in writing at the time of admission to the facility, of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the facility to refer patients to hospice programs located outside such geographic area).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 13427. REDUCTION IN PART A PREMIUM FOR CERTAIN INDIVIDUALS WITH 30 OR MORE QUARTERS OF SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Section 1818(d) (42 U.S.C. 1395i–2(d)) is amended—

(1) in the second sentence of paragraph (2), by striking ''Such amount'' and inserting ''Subject to paragraph (4), the amount of an individual's monthly premium under this section''; and

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

''(4)(A) In the case of an individual described in subparagraph (B), the monthly premium for a month shall be reduced by the applicable reduction percent specified in the following table:

''For a month in:	**The applicable reduction percent is:**
1994	25 percent
1995	30 percent
1996	35 percent
1997	40 percent
1998 or subsequent year	45 percent.

''(B) An individual described in this subparagraph with respect to a month is an individual who establishes to the satisfaction of the Secretary that, as of the last day of the previous month, the individual—

''(i) had at least 30 quarters of coverage under title II;

''(ii) was married (and had been married for the previous 1 year period) to an individual who had at least 30 quarters of coverage under such title;

''(iii) had been married to an individual for a period of at least 1 year (at the time of the individ-

ual's death) if at such time the individual had at least 30 quarters of coverage under such title; and

"(iv) is divorced from an individual and had been married to the individual for a period of at least 10 years (at the time of the divorce) if at such time the individual had at least 30 quarters of coverage under such title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to monthly premiums under section 1818 of the Social Security Act for months beginning with January 1, 1994.

SEC. 13428. PERIODIC UPDATES TO SALARY EQUIVALENCY GUIDELINES FOR PHYSICAL THERAPY AND RESPIRATORY THERAPY SERVICES.

(a) IN GENERAL.—Section 1861(v)(5) (42 U.S.C. 1395x(v)(5)) is amended by adding at the end the following new subparagraph:

"(C) Using the most recent available data, the Secretary shall update, not less often than every 3 years, the salary equivalency guidelines used under subparagraph (A) with respect to physical therapy and respiratory therapy services.".

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first update the salary equivalency guidelines, under the amendment made by subsection (a),

by not later than December 31, 1993. Such updated guidelines shall apply to cost reporting periods beginning on or after July 1, 1993.

SEC. 13429. EXTENSION OF DEADLINE FOR APPLICATION FOR GEOGRAPHIC CLASSIFICATION FOR CERTAIN RECLASSIFIED HOSPITALS.

Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board requesting a change in geographic classification for fiscal year 1994 after the first day of fiscal year 1993 if—

(1) the hospital's geographic classification for fiscal year 1994 was changed from urban to rural as a result of the issuance of the Revised Statistical Definitions for Metropolitan Areas established by the Office of Management and Budget on December 28, 1992 (pursuant to OMB Bulletin No. 93-05); and

(2) the hospital submits the application not later than 60 days after the date of the enactment of this Act.

SEC. 13430. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is further amended by striking ''and includes'' and inserting ''and (in the case of a subsection (d) hospital) includes''.

(b) TECHNICAL CORRECTION RELATING TO RESIDENT ASSESSMENT IN NURSING HOMES.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i–3(b)(3)(C)(i)(I)) is amended by striking ''not later than'' before ''14 days''.

(c) CLERICAL CORRECTIONS.—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking ''1990,,'' and inserting ''1990,''.

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking ''such agency'' and inserting ''such agency's''.

(3) Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking '', the sum of'' and inserting ''is equal to the sum of''.

CHAPTER 2—PROVISIONS RELATING TO PART B

Subchapter A—Elimination of Inflation Update

SEC. 13431. ELIMINATION OF INFLATION UPDATE FOR PHYSICIAN AND RELATED PROFESSIONAL SERVICES.

(a) NO INCREASE IN INDEX.—Section 1848(d)(3)(A) (42 U.S.C. 1395w–4(d)(3)(A)) is amended—

(1) in clause (i), by striking ''clause (iii)'' and inserting ''clauses (iii) and (iv)'', and

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

''(iv) NO INCREASE IN INDEX FOR 1994 OR 1995.—In applying clause (i) for services furnished on or after January 1, 1994, the percentage increase in the appropriate update index for each of 1994 and 1995 shall be 0 percent.''.

(b) NO INCREASE IN MEI FOR 1994 AND 1995.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

''(vi) For purposes of this part for items and services furnished in 1994 or 1995, the percentage increase in the MEI is 0 percent.''.

SEC. 13432. ELIMINATION OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN ITEMS AND SERVICES.

(a) CLINICAL LABORATORY SERVICES.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

(1) by striking ''and'' at the end of subclause (II),

(2) by striking the period at the end of subclause (III) and inserting '', and'', and

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

''(IV) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1994 and 1995 shall be 0 percent.''.

(b) DURABLE MEDICAL EQUIPMENT.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (A), as amended by 13469(a), by striking ''and'' at the end;

(2) in subparagraph (B)—

(A) by striking ''a subsequent year'' and inserting ''1993'', and

(B) by striking ''June of the previous year.'' and inserting ''June 1992,''; and

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

"(C) for 1994 and 1995, no percentage change, and

"(D) 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.".

(c) ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

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

(2) in clause (ii), by striking "a subsequent year" and inserting "1992 and 1993"; and

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

"(iii) for 1994 and 1995, 0 percent, and

"(iv) 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;".

(d) REASONABLE CHARGE LIMITS FOR ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES AND EQUIPMENT.—In determining the amount of payment under

part B of title XVIII of the Social Security Act during 1994 and 1995, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 13433. AMBULATORY SURGICAL CENTER SERVICES.

(a) ELIMINATION OF INFLATION UPDATE.—The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for fiscal year 1994 or for fiscal year 1995.

(b) CONFORMING AMENDMENT.—Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)), as added by section 13453(a)(2)(B), is amended by striking ''fiscal year 1995'' and inserting ''fiscal year 1996''.

SEC. 13434. OTHER ITEMS AND SERVICES UNDER PART B.

(a) RURAL HEALTH CLINIC SERVICES; FEDERALLY-QUALIFIED HEALTH CENTER SERVICES; COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—In determining the amount of payment made for rural health clinic services, Federally qualified health center services, or comprehensive outpatient rehabilitation facility services furnished under part B of title XVIII of the

1 Social Security Act for services furnished on or after Jan-
2 uary 1, 1994, the Secretary of Health and Human Serv-
3 ices shall provide that any inflation update, in the applica-
4 ble limits used to determine the costs which are reasonable
5 and related to the cost of furnishing such services under
6 section 1833(a)(3) of such Act, that would otherwise have
7 applied for 1994 or for 1995 shall be deemed to be 0
8 percent.

9 (b) DIALYSIS SERVICES.—In determining the amount
10 of payment made for dialysis services furnished under part
11 B of title XVIII of the Social Security Act on or after
12 January 1, 1994, the Secretary of Health and Human
13 Services shall provide that any inflation update, in the
14 payment amounts determined under section
15 1881(b)(2)(B) of such Act or the rates determined under
16 section 1881(b)(7) of such Act, that would otherwise have
17 applied for 1994 or for 1995 shall be deemed to be 0
18 percent.

19 (c) OTHER PART B ITEMS AND SERVICES.—In deter-
20 mining the amount of payment made for an item or service
21 furnished under part B of title XVIII of the Social Secu-
22 rity Act on or after January 1, 1994, other than an item
23 or service to which a preceding provision of (or amend-
24 ment made by) this subchapter applies, the Secretary of
25 Health and Human Services shall provide that any infla-

tion update in the fee schedule amount for the item or service established under such part B of such title, or (if applicable) any applicable limit used to determine the actual charge, reasonable charge, or reasonable cost for the item or service under such part, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.

Subchapter B—Physicians' Services

SEC. 13441. REINSTATING SEPARATE PAYMENT FOR THE INTERPRETATION OF ELECTROCARDIOGRAMS (EKGS).

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w–4(b)) is amended to read as follows:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

"(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

"(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms

in the relative value for visits and consultations.''.

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

''(E) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

''(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 13441(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

''(ii) shall reduce the amounts determined under subsection (a)(2)(B)(i)(I) by such percentage as the Secretary deter-

mines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 13441(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1993 that exceed the amount of such expenditures that would have been made if such amendment had not been made.''.

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting ''and as adjusted under subsection (c)(2)(E)(ii)'' after ''for 1993'';

(2) in subsection (c)(2)(A)(i), by adding at the end the following: ''Such relative values are subject to adjustment under subparagraph (E)(i).''; and

(3) in subsection (i)(1)(B), by adding at the end ''including adjustments under subsection (c)(2)(E),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 13442. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w–4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1993 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1993 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(i)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4), as amended by section 13441(c), is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting ''and section 13442(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''(c)(2)(E)(ii)'' after ''for 1993'';

(2) in subsection (c)(2)(A)(i), by inserting ''and section 13442(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''under subparagraph (E)(i)''; and

(3) in subsection (i)(1)(B), by inserting ''and section 13442(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''under subsection (c)(2)(E)''.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13443. RETAINING PAYMENT FOR ACTUAL ANESTHESIA TIME.

(a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w–4(b)(2)(B)) is amended by adding at the end the following: ''The Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.''.

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: ''The Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take apply to services furnished on or after the date of the enactment of this Act.

SEC. 13444. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by striking ''shall review'' and inserting ''shall, in consultation with appropriate representatives of physicians, review''.

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.".

(c) DEADLINE FOR INITIAL REVIEW AND REVISION.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995. Not later than April 1, 1994, the Secretary shall study and report to report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the construction of the geographic cost of practice index under section 1848(e)(1)(A)(i) of such Act.

(d) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and

the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

(e) DEVELOPMENT OF CRITERIA FOR USE IN DETERMINING PAYMENT LOCALITIES.—The Physician Pay-

ment Review Commission shall conduct a study to develop criteria that would be used to refine the fee schedule areas that are used within States, in applying geographic adjustment factors for computing payment amounts, under section 1848 of the Social Security Act. The Commission shall include a report on such study in its recommendations submitted to the Congress under section 1845(b) of such Act in 1994.

SEC. 13445. EXTRA-BILLING.

(a) ENFORCEMENT AND UNIFORM APPLICATION.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w–4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of

the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the

individual has an outstanding balance owed by the individual to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made

not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).''.

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w–4(g)(2)(C)) is amended by inserting ''or for nonparticipating suppliers or other persons'' after ''nonparticipating physicians''.

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking '', and the term'' and inserting ''; the term'', and

(ii) by inserting before the period at the end the following: ''; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))''.

(b) PRE-PAYMENT SCREENING OF CLAIMS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;".

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking ''and'' at the end of subparagraph (B),

(B) in subparagraph (C), by striking ''shall include'' and by striking the period at the end and inserting '', and'', and

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

''(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).''.

(2) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w–4(g)(6)(B)) is amended by inserting ''the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and'' after ''report to the Congress''.

(d) APPLYING THE LIMITING CHARGE TO NONPHYSICIAN SERVICES PROVIDED UNDER THE PHYSICIAN FEE SCHEDULE.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (a)(3), by inserting ''AND SUPPLIERS'' after ''PHYSICIANS'', and by inserting ''or a nonparticipating supplier or other person'' after ''nonparticipating physician'' and by adding at the end the following: ''In the case of physicians' services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.'';

(2) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting ''(including services which the Secretary excludes pursuant to subsection (j)(3))'' after ''a physician's service'';

(3) in subsection (g)(2)(D), by inserting ''(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)'' after ''subsection (a)'';

(4) in subsection (g)(3)(B)—

(A) by inserting after the first sentence the following: '' No person is liable for payment of

any amounts billed for such a service in violation of the previous sentence.'', and

(B) in the last sentence, by striking ''previous sentence'' and inserting ''first sentence'';

(5) in subsection (h)—

(A) by inserting ''or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))'' after ''physician'' the first place it appears,

(B) by inserting '', supplier, or other person'' after ''physician'' the second place it appears, and

(C) by inserting '', suppliers, and other persons'' after ''physicians'' the second place it appears; and

(6) in subsection (j)(3), by inserting '', except for purposes of subsections (a)(3), (g), and (h)'' after ''tests and''.

(e) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 13449(e), is amended by adding at the end the following new paragraph:

1 "(18)(A) Payment for any service furnished by a
2 practitioner described in subparagraph (C) and for which
3 payment may be made under this part on a reasonable
4 charge or fee schedule basis may only be made under this
5 part on an assignment-related basis.

6 "(B) A practitioner described in subparagraph (C) or
7 other person may not bill (or collect any amount from)
8 the individual or another person for any service described
9 in subparagraph (A), except for deductible and coinsur-
10 ance amounts applicable under this part. No person is lia-
11 ble for payment of any amounts billed for such a service
12 in violation of the previous sentence. If a practitioner or
13 other person knowingly and willfully bills (or collects an
14 amount) for such a service in violation of such sentence,
15 the Secretary may apply sanctions against the practitioner
16 or other person in the same manner as the Secretary may
17 apply sanctions against a physician in accordance with
18 section 1842(j)(2) in the same manner as such section ap-
19 plies with respect to a physician. Paragraph (4) of section
20 1842(j) shall apply in this subparagraph in the same man-
21 ner as such paragraph applies to such section.

22 "(C) A practitioner described in this subparagraph
23 is any of the following:

1 "(i) A physician assistant, nurse practitioner, or
2 clinical nurse specialist (as defined in section
3 1861(aa)(5)).
4 "(ii) A certified registered nurse anesthetist (as
5 defined in section 1861(bb)(2)).
6 "(iii) A certified nurse-midwife (as defined in
7 section 1861(gg)(2)).
8 "(iv) A clinical social worker (as defined in sec-
9 tion 1861(hh)(1)).
10 "(v) A clinical psychologist (as defined by the
11 Secretary for purposes of section 1861(ii)).
12 "(D) For purposes of this paragraph, a service fur-
13 nished by a practitioner described in subparagraph (C) in-
14 cludes any services and supplies furnished as incident to
15 the service as would otherwise be covered under this part
16 if furnished by a physician or as incident to a physician's
17 service.".
18 (2) CONFORMING AMENDMENTS.—
19 (A) Section 1833 (42 U.S.C. 1395l) is
20 amended—
21 (i) in subsection (l)(5), by striking
22 subparagraph (B) and redesignating sub-
23 paragraph (C) as subparagraph (B);
24 (ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(f) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1), as amended by section 13479(e)(2)—

(A) by striking ''and'' before ''(O)'', and

(B) by inserting before the semicolon at the end the following: '', and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)''; and

(2) in subsection (h)(5)(D)—

(A) by striking ''paragraphs (2) and (3)'' and by inserting ''paragraph (2)'', and

(B) by adding at the end the following: ''Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.''.

(g) EFFECTIVE DATES.—

(1) ENFORCEMENT AND UNIFORM APPLICATION; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a), (d), and (f) shall apply to services furnished on or after the date of the enactment of this Act; except that such amendments made by subsections (a) and (d) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) CARRIER DETERMINATIONS.—The amendments made by subsection (b) shall apply to contracts as of January 1, 1994.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) REPORT.—The amendment made by subsection (c)(2) shall apply to reports for years beginning with 1994.

(5) PRACTITIONERS.—The amendments made by subsection (e) shall apply to services furnished on or after January 1, 1994.

SEC. 13446. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1994, relative values for the full range of pediatric phy-

1 sicians' services which are consistent with the relative val-
2 ues developed for other physicians' services under section
3 1848(c) of the Social Security Act. In developing such val-
4 ues, the Secretary shall conduct such refinements as may
5 be necessary to produce appropriate estimates for such rel-
6 ative values.

7 (b) STUDY.—

8 (1) IN GENERAL.—The Secretary shall conduct
9 a study of the relative values for pediatric and other
10 services to determine whether there are significant
11 variations in the resources used in providing similar
12 services to different populations. In conducting such
13 study, the Secretary shall consult with appropriate
14 organizations representing pediatricians and other
15 physicians.

16 (2) REPORT.—Not later than July 1, 1994, the
17 Secretary shall submit to Congress a report on the
18 study conducted under paragraph (1). Such report
19 shall include any appropriate recommendations re-
20 garding needed changes in coding or other payment
21 policies to ensure that payments for pediatric serv-
22 ices appropriately reflect the resources required to
23 provide these services.

SEC. 13447. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(G),'' after ''(2)(D),''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1995.

SEC. 13448. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

''(4) Neither a carrier nor the Secretary may impose a fee under this title—

''(A) for the filing of claims related to physicians' services,

''(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

''(C) for any appeal under this title with respect to physicians' services,

''(D) for applying for (or obtaining) a unique identifier under subsection (r), or

''(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.''.

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 13449(f), is amended to read as follows: ''(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) 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. 13449. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA–1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking ''(HCPCS codes 19160 and 19162)'' and inserting ''(HCPCS code 19160)'', and

(iii) by striking all that follows ''(HCPCS codes 92250'' and inserting ''and 92260).''.

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA–1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking ''shall be determined as follows:'' and inserting ''shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:'',

(B) in clause (iv), by striking ''LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to'' and inserting ''ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for'',

(C) in clause (vii), by striking ''under this subparagraph'', and

(D) in clause (vii), by inserting ''reduced under this subparagraph by'' after ''shall not be''.

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking ''radiology services'' and all that follows and inserting ''nuclear medicine services.''.

(4) Section 4102(d) of OBRA–1990 is amended by striking ''new paragraph'' and inserting ''new subparagraph''.

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting ''RULE FOR CERTAIN SCANNING SERVICES.—'' after ''(E)''.

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking ''that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989'' and by striking ''provided under such section'' and inserting ''provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989''.

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA–1990).—(1) Section 4103(a) of OBRA–1990 is amended by striking ''REDUCTION IN FEE SCHEDULE'' and inserting ''REDUCTION IN PREVAILING CHARGES''.

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking ''shall be determined as follows:'' and inserting ''shall, subject to clause (iv), be reduced to the ad-

1 justed prevailing charge conversion factor for the lo-
2 cality determined as follows:'', and
3 (B) in clause (iii), by striking ''Subject to
4 clause (iv), the prevailing charge conversion factor to
5 be applied in'' and inserting ''The adjusted prevail-
6 ing charge conversion factor for''.
7 (d) ASSISTANTS AT SURGERY (SECTION 4107 OF
8 OBRA–1990).—(1) Section 4107(c) of OBRA–1990 is
9 amended by inserting ''(a)(1)'' after ''subsection''.
10 (2) Section 4107(a)(2) of OBRA–1990 is amended
11 by adding at the end the following: ''In applying section
12 1848(g)(2)(D) of the Social Security Act for services of
13 an assistant-at-surgery furnished during 1991, the recog-
14 nized payment amount shall not exceed the maximum
15 amount specified under section 1848(i)(2)(A) of such Act
16 (as applied under this paragraph in such year).''.
17 (e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERV-
18 ICES (SECTION 4108 OF OBRA–1990).—Section 1842(b)
19 (42 U.S.C. 1395u(b)) is amended by redesignating para-
20 graph (18), as added by section 4108(a) of OBRA–1990,
21 as paragraph (17) and, in such paragraph, by inserting
22 '', tests specified in paragraph (14)(C)(i),'' after ''diag-
23 nostic laboratory tests''.

(f) RECIPROCAL BILLING ARRANGEMENTS (SECTION 4110 OF OBRA–1990).—Section 1842(b)(6)(D) (42 U.S.C. 1395u(b)(6)(D)) is amended—

(1) by striking ''visit services (including emergency visits and related services)'' and inserting ''physicians' services (and services furnished incident to such services)'';

(2) by striking ''on an occasional, reciprocal basis'' and inserting ''under an arrangement that is informal and reciprocal or involves per diem or other fee-for-time compensation for services'';

(3) by striking ''visit'' in subclauses (i), (ii), and (iv); and

(4) in subclause (iii), by striking ''the claim'' and all that follows through the comma at the end and inserting ''the claim meets the requirements of this clause for payment to the first physician''.

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting ''of the Social Security Act'' after ''1869(b)(2)''; and

(2) by striking ''December 31, 1992'' and inserting ''December 31, 1993''.

(h) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking ''IN GENERAL.—'', and

(B) by striking '', if the'' and all that follows through ''1991, ''; and

(2) by striking subsections (b), (c), and (d).

(i) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking ''FISCAL YEAR''.

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking ''amendments'' and inserting ''amendment'', and

(ii) in paragraph (3), by striking ''amendments made by paragraphs (1) and (2)'' and inserting ''amendment made by paragraph (1)''.

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting ''PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—'' after ''(C)''.

(C) Section 4105(d) of OBRA–1990 is amended by inserting ''PUBLICATION OF PERFORMANCE STANDARD RATES.—'' after ''(d)''.

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking ''prevailing charge'' the first place it appears and inserting ''customary charge''; and

(B) in clause (ii)(III), by striking ''second, third, and fourth'' and inserting ''first, second, and third''.

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)) is amended by striking ''respiratory therapist,''.

(5) Section 4106(c) of OBRA–1990 is amended by inserting ''of the Social Security Act'' after ''1848(d)(1)(B)''.

(6) Section 4114 of OBRA–1990 is amended by striking ''patients'' the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting ''date of the'' after ''since the''.

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking ''is amended''.

(9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking ''subsection (f)(5)(A)'' and inserting ''subsection (f)(5)(A))''.

(10) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking ''In section'' and inserting ''Section''.

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(i) by striking ''apply to'' and inserting ''would otherwise apply to'', and

(ii) by inserting before the period at the end ''but for the application of section 1848(i)(3)''.

(j) EFFECTIVE DATE.—The amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter C—Ambulatory Surgical Center Services

SEC. 13451. DESIGNATION OF CERTAIN HOSPITALS AS EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—

(1) in subparagraph (B)(ii)—

(A) by striking ''the last sentence of this clause'' and inserting ''paragraph (4)'', and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

''(4)(A) In the case of a hospital that—

''(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

''(ii) receives more than 30 percent of its total revenues from outpatient services, and

''(iii) on October 1, 1987—

''(I) was an eye specialty hospital or an eye and ear specialty hospital, or

''(II) was operated as an eye or eye and ear unit (as defined in subparagraph (B)) of a general acute care hospital which, on the date of the application described in clause (i), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital's other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of paragraph (2)(B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

''(B) For purposes of this subparagraph (A)(iii)(II), the term 'eye or eye and ear unit' means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1994.

SEC. 13452. TREATMENT OF INTRAOCULAR LENSES.

(a) EXTENSION OF CAP ON PAYMENTS THROUGH 1994.—

(1) IN GENERAL.—Section 4151(c)(3) of OBRA–1990 is amended by striking ''December 31, 1992'' and inserting ''December 31, 1994''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) this subsection shall be effective as if included in the enactment of OBRA–1990.

(b) STUDY OF COSTS OF INTRAOCULAR LENSES.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study, based on recent data, of the acquisition costs to providers of

intraocular lenses provided to individuals enrolled under part B of the medicare program and shall include in the study an analysis of the impact of the availability of new technology lenses on such costs.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and shall include in the report any recommendations the Secretary considers appropriate regarding the determination of payment amounts for intraocular lenses under part B of the medicare program.

SEC. 13453. TECHNICAL AMENDMENTS.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—

(1) USE OF SURVEY TO DETERMINE INCURRED COSTS.—Section 1833(i)(2)(A)(i) (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 and facilities) taken not later than January 1, 1994, and every 5

1 years thereafter, of the actual audited costs incurred
2 by such centers in providing such services,''.
3 (2) AUTOMATIC APPLICATION OF INFLATION
4 ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C.
5 1395l(i)(2)) is amended—
6 (A) in the second sentence of subpara-
7 graph (A) and the second sentence of subpara-
8 graph (B), by striking ''and may be adjusted by
9 the Secretary, when appropriate,''; and
10 (B) by adding at the end the following new
11 subparagraph:
12 ''(C) Notwithstanding the second sentence of sub-
13 paragraph (A) or the second sentence of subparagraph
14 (B), if the Secretary has not updated amounts established
15 under such subparagraphs with respect to facility services
16 furnished during a fiscal year (beginning with fiscal year
17 1995), such amounts shall be increased by the percentage
18 increase in the consumer price index for all urban consum-
19 ers (U.S. city average) for the 12-month period ending
20 with March of the preceding fiscal year.''.
21 (3) CONSULTATION REQUIREMENT.—The sec-
22 ond sentence of section 1833(i)(1) (42 U.S.C.
23 1395l(i)(1)) is amended by striking the period and
24 inserting the following: '', in consultation with ap-
25 propriate trade and professional organizations.''.

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—

(1) ESTABLISHMENT OF PROCESS FOR REVIEW OF AMOUNTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) FACTORS CONSIDERED.—In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual

1 acuity, more stable postoperative vision, or other
2 comparable clinical advantages.
3 (3) NOTICE AND COMMENT.—The Secretary
4 shall publish notice in the Federal Register from
5 time to time (but no less often than once each year)
6 of a list of the requests that the Secretary has re-
7 ceived for review under this subsection, and shall
8 provide for a 30-day comment period on the lenses
9 that are the subjects of the requests contained in
10 such notice. The Secretary shall publish a notice of
11 his determinations with respect to intraocular lenses
12 listed in the notice within 90 days after the close of
13 the comment period.
14 (4) EFFECTIVE DATE OF ADJUSTMENT.—Any
15 adjustment of a payment amount (or payment limit)
16 made under this subsection shall become effective
17 not later than 30 days after the date on which the
18 notice with respect to the adjustment is published
19 under paragraph (3).
20 (c) TECHNICAL CORRECTION RELATING TO BLEND
21 AMOUNTS FOR AMBULATORY SURGICAL CENTER PAY-
22 MENTS.—
23 (1) IN GENERAL.—Subclauses (I) and (II) of
24 section 1833(i)(3)(B)(ii) (42 U.S.C.
25 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking ''for reporting'' and inserting ''for portions of cost reporting''; and

(B) by striking ''and on or before'' and inserting ''and ending on or before''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

(d) TECHNICAL CORRECTION RELATED TO CATARACT SURGERY.—Effective as if included in the enactment of OBRA–1990, section 4151(c)(3) of such Act is amended by striking ''for the insertion of an intraocular lens'' and inserting ''for an intraocular lens inserted''.

Subchapter D—Durable Medical Equipment

SEC. 13461. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

''(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

''(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after October 1, 1993, for items

1 furnished by a supplier of medical equipment
2 and supplies unless such supplier obtains (and
3 renews at such intervals as the Secretary may
4 require) a supplier number.

5 ''(B) STANDARDS FOR POSSESSING A SUP-
6 PLIER NUMBER.—A supplier may not obtain a
7 supplier number unless—

8 ''(i) for medical equipment and sup-
9 plies furnished on or after October 1,
10 1993, and on or before December 31,
11 1994, the supplier meets standards pre-
12 scribed by the Secretary; and

13 ''(ii) for medical equipment and sup-
14 plies furnished on or after January 1,
15 1995, the supplier meets revised standards
16 prescribed by the Secretary (in consulta-
17 tion with representatives of suppliers of
18 medical equipment and supplies, carriers,
19 and consumers) that shall include require-
20 ments that the supplier—

21 ''(I) comply with all applicable
22 State and Federal licensure and regu-
23 latory requirements;

24 ''(II) maintain a physical facility
25 on an appropriate site;

1 "(III) have proof of appropriate
2 liability insurance; and
3 "(IV) meet such other require-
4 ments as the Secretary may specify.
5 "(C) EXCEPTION FOR ITEMS FURNISHED
6 AS INCIDENT TO A PHYSICIAN'S SERVICE.—
7 Subparagraph (A) shall not apply with respect
8 to medical equipment and supplies furnished as
9 an incident to a physician's service.
10 "(D) PROHIBITION AGAINST MULTIPLE
11 SUPPLIER NUMBERS.—The Secretary may not
12 issue more than one supplier number to any
13 supplier of medical equipment and supplies un-
14 less the issuance of more than one number is
15 appropriate to identify subsidiary or regional
16 entities under the supplier's ownership or con-
17 trol.
18 "(E) PROHIBITION AGAINST DELEGATION
19 OF SUPPLIER DETERMINATIONS.—The Sec-
20 retary may not delegate (other than by contract
21 under section 1842) the responsibility to deter-
22 mine whether suppliers meet the standards nec-
23 essary to obtain a supplier number.
24 "(2) CERTIFICATES OF MEDICAL NECESSITY.—

1 "(A) STANDARDIZED CERTIFICATES.—Not
2 later than October 1, 1993, the Secretary shall,
3 in consultation with carriers under this part,
4 develop one or more standardized certificates of
5 medical necessity (as defined in subparagraph
6 (C)) for medical equipment and supplies for
7 which the Secretary determines that such a cer-
8 tificate is necessary.

9 "(B) PROHIBITION AGAINST DISTRIBUTION
10 BY SUPPLIERS OF CERTIFICATES OF MEDICAL
11 NECESSITY.—

12 "(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), a supplier of medical
14 equipment and supplies may not distribute
15 to physicians or to individuals entitled to
16 benefits under this part for commercial
17 purposes any completed or partially com-
18 pleted certificates of medical necessity on
19 or after October 1, 1993.

20 "(ii) EXCEPTION FOR CERTAIN BILL-
21 ING INFORMATION.—Clause (i) shall not
22 apply with respect to a certificate of medi-
23 cal necessity for any item that is not con-
24 tained on the list of potentially overused
25 items developed by the Secretary under

1 subsection (a)(15)(A) to the extent that
2 such certificate contains only information
3 completed by the supplier of medical equip-
4 ment and supplies identifying such supplier
5 and the beneficiary to whom such medical
6 equipment and supplies are furnished, a
7 description of such medical equipment and
8 supplies, any product code identifying such
9 medical equipment and supplies, and any
10 other administrative information (other
11 than information relating to the bene-
12 ficiary's medical condition) identified by
13 the Secretary. In the event a supplier pro-
14 vides a certificate of medical necessity con-
15 taining information permitted under this
16 clause, such certificate shall also contain
17 the fee schedule amount and the supplier's
18 charge for the medical equipment or sup-
19 plies being furnished prior to distribution
20 of such certificate to the physician.
21 ''(iii) PENALTY.—Any supplier of
22 medical equipment and supplies who know-
23 ingly and willfully distributes a certificate
24 of medical necessity in violation of clause
25 (i) is subject to a civil money penalty in an

1 amount not to exceed $1,000 for each such
2 certificate of medical necessity so distrib-
3 uted. The provisions of section 1128A
4 (other than subsections (a) and (b)) shall
5 apply to civil money penalties under this
6 subparagraph in the same manner as they
7 apply to a penalty or proceeding under sec-
8 tion 1128A(a).
9 "(C) DEFINITION.—For purposes of this
10 paragraph, the term 'certificate of medical ne-
11 cessity' means a form or other document con-
12 taining information required by the Secretary to
13 be submitted to show that a covered item is
14 reasonable and necessary for the diagnosis or
15 treatment of illness or injury or to improve the
16 functioning of a malformed body member.
17 "(3) COVERAGE AND REVIEW CRITERIA.—
18 "(A) DEVELOPMENT AND ESTABLISH-
19 MENT.—Not later than January 1, 1995, the
20 Secretary, in consultation with representatives
21 of suppliers of medical equipment and supplies,
22 individuals enrolled under this part, and appro-
23 priate medical specialty societies, shall develop
24 and establish uniform national coverage and
25 utilization review criteria for 200 items of medi-

cal equipment and supplies selected in accordance with the standards described in subparagraph (B). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(B) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under subparagraph (A) if the Secretary finds that—

"(i) the item is frequently purchased or rented by beneficiaries;

"(ii) the item is frequently subject to a determination that such item is not medically necessary; or

"(iii) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(C) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies

to determine whether items not included among the items selected under subparagraph (A) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) DEFINITION.—The term 'medical equipment and supplies" means—

"(A) durable medical equipment (as defined in section 1861(n));

"(B) prosthetic devices (as described in section 1861(s)(8));

"(C) orthotics and prosthetics (as described in section 1861(s)(9));

"(D) surgical dressings (as described in section 1861(s)(5));

"(E) such other items as the Secretary may determine; and

"(F) for purposes of paragraphs (1) and (3)—

"(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)), and

"(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)).".

(2) CONFORMING AMENDMENT.—Effective October 1, 1993, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than July 1, 1995, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under section 1834(i)(3)(A) of the Social Security Act (as added by subsection (a)) on the utilization of items of medical equipment and supplies by individuals enrolled under part B of the medicare program.

(c) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of

1 such individuals to obtain items of such equipment,
2 including customized items.
3 (2) REPORT.—Not later than May 1, 1994, the
4 Secretary shall submit a report to Congress on the
5 study conducted under paragraph (1), and shall in-
6 clude in the report such recommendations as the
7 Secretary considers appropriate to assure that dis-
8 abled medicare beneficiaries have access to items of
9 durable medical equipment.
10 (d) CRITERIA FOR TREATMENT OF ITEMS AS PROS-
11 THETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—
12 Not later than July 1, 1994, the Secretary of Health and
13 Human Services shall submit a report to the Committees
14 on Ways and Means and Energy and Commerce of the
15 House of Representatives and the Committee on Finance
16 of the Senate describing prosthetic devices or orthotics
17 and prosthetics covered under part B of the medicare pro-
18 gram that do not require individualized or custom fitting
19 and adjustment to be used by a patient. Such report shall
20 include recommendations for an appropriate methodology
21 for determining the amount of payment for such items
22 under such program.

SEC. 13462. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) USE OF CARRIERS TO PROCESS CLAIMS.—

"(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

"(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate regional carrier (as designated by the Secretary).

"(ii) For purposes of clause (i), the term 'appropriate regional carrier' means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after October 1, 1993.

(c) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

SEC. 13463. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual (other than a covered

item the supplier has already furnished to the individual) unless—

"(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

"(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the

1 programs under this Act, in accordance with
2 the procedures set forth in subsections (c), (f),
3 and (g) of section 1128.''.
4 (2) REQUIRING REFUND OF AMOUNTS COL-
5 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
6 (42 U.S.C. 1395m(a)), as amended by paragraph
7 (1), is amended by adding at the end the following
8 new paragraph:
9 ''(18) REFUND OF AMOUNTS COLLECTED FOR
10 CERTAIN DISALLOWED ITEMS.—
11 ''(A) IN GENERAL.—If a nonparticipating
12 supplier furnishes to an individual enrolled
13 under this part a covered item for which no
14 payment may be made under this part by rea-
15 son of paragraph (17)(B), the supplier shall re-
16 fund on a timely basis to the patient (and shall
17 be liable to the patient for) any amounts col-
18 lected from the patient for the item, unless—
19 ''(i) the supplier establishes that the
20 supplier did not know and could not rea-
21 sonably have been expected to know that
22 payment may not be made for the item by
23 reason of paragraph (17)(B), or
24 ''(ii) before the item was furnished,
25 the patient was informed that payment

under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 13464. ANTI-KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting before the semicolon "(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits

1 under part B of title XVIII, or performance of
2 warehousing or stock inventory functions)''.
3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply with respect to services fur-
5 nished on or after the first day of the first month that
6 begins after the expiration of the 60-day period beginning
7 on the date of the enactment of this Act.

8 **SEC. 13465. LIMITATIONS ON BENEFICIARY LIABILITY FOR**
9 **NONCOVERED SERVICES.**

10 (a) IN GENERAL.—Section 1834(i) (42 U.S.C.
11 1395m(i)), as added by section 13461(a)(1), is amended—
12 (1) by redesignating paragraph (4) as para-
13 graph (5), and
14 (2) by inserting after paragraph (3) the follow-
15 ing new paragraph:
16 ''(4) LIMITATION ON PATIENT LIABILITY.—If a
17 supplier of medical equipment and supplies (as de-
18 fined in paragraph (5))—
19 ''(A) furnishes an item or service to a ben-
20 eficiary for which no payment may be made by
21 reason of paragraph (1);
22 ''(B) furnishes an item or service to a ben-
23 eficiary for which payment is denied in advance
24 under subsection (a)(15); or

"(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.".

(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)), as amended by section 13464(a), is amended by striking "1834(i)(4)" and inserting "1834(i)(5)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items or services furnished on or after October 1, 1993.

SEC. 13466. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: ''In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 13467. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking ''ventilators, aspirators, IPPB machines, and nebulizers'' and inserting ''ventilators and IPPB machines''.

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking ''or'' at the end of clause (i),

(2) by adding ''or'' at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

''(iii) which is an accessory used in conjunction with a nebulizer or aspirator,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 13468. PAYMENT FOR OSTOMY SUPPLIES AND OTHER SUPPLIES.

(a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, AND UROLOGICALS.—

(1) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).".

(2) CONFORMING AMENDMENT.—Section 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is amended by striking "subparagraph (C)," and inserting "subparagraphs (C) and (E),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

(b) SURGICAL DRESSINGS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 13461(a), is amended by adding at the end the following new subsection:

"(j) PAYMENT FOR SURGICAL DRESSINGS.—

"(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount

for the purchase of the item in an amount equal to 80 percent of the lesser of—

"(A) the actual charge for the item; or

"(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

"(A) furnished as an incident to a physician's professional service; or

"(B) furnished by a home health agency.".

(2) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 13478(e)(2) and 13445(e)(1), is amended—

(A) by striking "and" before "(P)", and

(B) by inserting before the semicolon at the end the following: ", and (Q) with respect

to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j);''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

(c) REDUCTION IN PAYMENTS FOR TENS DEVICES.—

(1) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking ''15 percent'' the second place it appears and inserting ''45 percent''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after January 1, 1994.

SEC. 13469. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

''(A) for 1991 and 1992, 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 reduced by 1 percentage point; and''.

1 (b) TREATMENT OF POTENTIALLY OVERUSED ITEMS
2 AND ADVANCED DETERMINATIONS OF COVERAGE.—
3 (1) IN GENERAL.—Effective on the date of the
4 enactment of this Act, section 1834(a)(15) (42
5 U.S.C. 1395m(a)(15)) is amended to read as
6 follows:
7 ''(15) SPECIAL TREATMENT FOR POTENTIALLY
8 OVERUSED ITEMS.—
9 ''(A) DEVELOPMENT OF LIST OF ITEMS BY
10 SECRETARY.—The Secretary shall develop and
11 periodically update a list of items for which
12 payment may be made under this subsection
13 that are potentially overused, and shall include
14 in such list seat-lift mechanisms, transcutane-
15 ous electrical nerve stimulators, motorized
16 scooters, decubitus care mattresses, and any
17 such other item determined by the Secretary to
18 be potentially overused on the basis of any of
19 the following criteria—
20 ''(i) the item is marketed directly to
21 potential patients;
22 ''(ii) the item is marketed with an
23 offer to potential patients to waive the
24 costs of coinsurance associated with the
25 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; or

"(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 or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) ADVANCE DETERMINATION BY CARRIERS.—Effective January 1, 1994, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection be-

cause of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) INCLUSION IN CARRIER PERFORMANCE EVALUATIONS.—Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 13448(a), is amended by adding at the end the following new paragraph:

"(5) 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).".

(4) APPLICATION TO PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

1 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL
2 EQUIPMENT SUPPLIER COSTS.—
3 (1) COLLECTION AND ANALYSIS OF SUPPLIER
4 COST DATA.—The Administration of the Health
5 Care Financing Administration shall, in consultation
6 with appropriate organizations, collect data on sup-
7 plier costs of durable medical equipment for which
8 payment may be made under part B of the medicare
9 program, and shall analyze such data to determine
10 the proportions of such costs attributable to the
11 service and product components of furnishing such
12 equipment and the extent to which such proportions
13 vary by type of equipment and by the geographic
14 region in which the supplier is located.
15 (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-
16 MENT INDEX; REPORTS.—Not later than January 1,
17 1995—
18 (A) the Administrator shall submit a re-
19 port to the Committees on Energy and Com-
20 merce and Ways and Means of the House of
21 Representatives and the Committee on Finance
22 of the Senate on the data collected and the
23 analysis conducted under paragraph (1), and
24 shall include in such report the Administrator's
25 recommendations for a geographic cost adjust-

ment 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.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking ''55'' and inserting ''56''.

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990 is amended by striking ''amendment made by subsection (a)'' and inserting ''amendments made by this subsection''.

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking ''1395m(a)(7)(A)'' and inserting ''1395m(a)(7)''.

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking ''clause (v)'' and inserting ''clause (vi)''.

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking ''or paragraph (3)''.

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking ''1834(a)'' and inserting ''1834(h)''.

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking ''Reconiliation'' and inserting ''Reconciliation''.

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking ''(2) through (7)'' each place it appears and inserting ''(2) through (5) and (7)'';

(ii) in paragraph (7), by striking ''(2) through (6)'' and inserting ''(2) through (5)'';

(iii) in paragraph (8), by striking ''paragraphs (6) and (7)'' each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting ''paragraph (7)''; and

(iv) in paragraph (8)(A)(i), by striking ''described—'' and all that follows and inserting ''de-

scribed in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.''.

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

Subchapter E—Other Provisions

SEC. 13471. CLARIFYING PAYMENTS FOR MEDICALLY DIRECTED CERTIFIED REGISTERED NURSE ANESTHETIST SERVICES.

(a) IN GENERAL.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended to read as follows:

''(B) Except as provided in subparagraph (D), the conversion factor used to determine the amount paid under the fee schedule under this subsection for services furnished by a certified registered nurse anesthetist who is medically directed—

''(i) in a year after 1993 and before 1997, shall be $10.75, or

''(ii) in a subsequent calendar year, shall be the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13472. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of OBRA–1986, as amended by section 4164(a)(2) of OBRA–1990, is amended—

(1) in subsection (c)(1), by striking ''4 years'' and inserting ''5 years''; and

(2) in subsection (f), —

(A) by striking ''$55,000,000'' and inserting ''$58,000,000'', and

(B) by striking ''$3,000,000'' and inserting ''$5,000,000''.

SEC. 13473. ORAL CANCER DRUGS.

(a) NEW COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 13478(f)(8)(B), is amended—

(1) by striking ''and'' at the end of subparagraph (N);

(2) by adding ''and'' at the end of subparagraph (O); and

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

"(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;".

(b) UNIFORM COVERAGE OF "OFF-LABEL" ANTICANCER DRUGS.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) by inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

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

"(2)(A) For purposes of paragraph (1), the term 'drugs' also includes any drugs or biologicals used in an anticancer chemotherapeutic regimen for a medically accepted indication (as described in subparagraph (B)).

"(B) In subparagraph (A), the term 'medically accepted indication', with respect to the use of a drug, includes any use which has been approved by the Food and

1 Drug Administration for the drug, and includes another
2 use of the drug if—
3 "(i) the drug has been approved by the Food
4 and Drug Administration, and
5 "(ii) the carrier involved determines, based
6 upon guidance provided by the Secretary to carriers
7 for determining medically accepted uses of drugs,
8 that the use is medically accepted taking into ac-
9 count the uses of such drug which are—
10 "(I) included (or approved for inclusion) in
11 one or more of the following compendia: the
12 American Hospital Formulary Service-Drug In-
13 formation, the American Medical Association
14 Drug Evaluations, and the United States Phar-
15 macopoeia-Drug Information; or
16 "(II) supported by clinical evidence in peer
17 reviewed medical literature appearing in publi-
18 cations which have been specifically approved
19 for purposes of this paragraph by the Sec-
20 retary.".
21 (c) STUDY OF MEDICARE COVERAGE OF PATIENT
22 CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF
23 NEW CANCER THERAPIES.—
24 (1) STUDY.—The Secretary of Health and
25 Human Services shall conduct a study of the effects

of expressly covering under the medicare program the patient care costs for beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an institutional review board. The study shall include—

(A) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(B) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(C) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(D) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. Such report shall include recommendations as to the coverage under the medicare program of patient care costs of beneficiaries enrolled in clinical trials of new cancer therapies.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished on or after January 1, 1994.

SEC. 13474. PART B PREMIUM PAYMENTS FOR LATE ENROLLMENT.

(a) LIMITATION ON MEDICARE PART B LATE ENROLLMENT PENALTY.—

(1) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

''(g) The percent increase in premiums under subsection (b) due to late enrollment under this part shall not exceed 25 percent in the case of an individual who is an annuitant described in subparagraph (A) or (B) of

section 8901(3) of title 5, United States Code (including an individual or survivor described in section 8906(g)(2)(A) of such title) for a month if—

"(1) during the individual's initial enrollment period under section 1837(d)—

"(A) the individual was enrolled in a group health plan (as defined in section 1862(b)(1)(A)(v)) that provided coverage of items and services for which payment may be made under this part, and

"(B) the individual elected not to enroll (or to be deemed enrolled) under this section; and

"(2) due to a change of coverage under such plan, there is no coverage during the month under such plan with respect to items and services for which payment may be made under this part unless the individual is enrolled under this part.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 1992.

(b) PAYMENT OF PART B PREMIUM LATE ENROLLMENT PENALTIES BY STATES.—Section 1839 (42 U.S.C. 1395r), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(h)(1) Upon the request of a State, the Secretary may enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)).

"(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

"(3) In this subsection:

"(A) The term 'eligible individual' means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

"(B) The term 'part B late enrollment premium increase' means any increase in a premium as a result of the application of subsection (b).".

SEC. 13475. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 13478(f)(8)(E), is amend-

1 ed by inserting after subsection (kk) the following new
2 subsection:

3 "Speech-Language Pathology Services; Audiology
4 Services

5 "(ll)(1) The term 'speech-language pathology serv-
6 ices' means such speech, language, and related function
7 assessment and rehabilitation services furnished by a
8 qualified speech-language pathologist as the speech-lan-
9 guage pathologist is legally authorized to perform under
10 State law (or the State regulatory mechanism provided by
11 State law) as would otherwise be covered if furnished by
12 a physician.

13 "(2) The term 'audiology services' means such hear-
14 ing and balance assessment services furnished by a quali-
15 fied audiologist as the audiologist is legally authorized to
16 perform under State law (or the State regulatory mecha-
17 nism provided by State law).

18 "(3) In this subsection:

19 "(A) The term 'qualified speech-language pa-
20 thologist' means an individual with a master's or
21 doctoral degree in speech-language pathology who
22 has performed not less than 9 months of supervised
23 full-time speech-language pathology services after
24 obtaining such degree and who—

"(i) is licensed (or is otherwise certified) as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of speech-language pathologists, has successfully completed a national clinical competency examination in speech-language pathology approved by the Secretary.

"(B) The term 'qualified audiologist' means an individual with a master's or doctoral degree in audiology who has performed not less than 9 months of supervised full-time audiology services after obtaining such degree and who—

"(i) is licensed (or is otherwise certified) as an audiologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of audiologists, has successfully completed a national clinical competency examination in audiology approved by the Secretary.".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) EXTENDED CARE SERVICES.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(2) HOME HEALTH SERVICES.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(3) OUTPATIENT PHYSICAL THERAPY SERVICES.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(4) COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(5) HOSPICE CARE.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking

"therapy or speech-language pathology" and inserting "therapy, or speech-language pathology services".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 13476. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989, is amended—

(1) by striking "December 31, 1993" and inserting "December 31, 1997", and

(2) in the second sentence, by inserting after "beneficiary costs," the following: "costs to the medicaid program and other payers, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,".

SEC. 13477. TREATMENT OF CERTAIN INDIAN HEALTH PROGRAMS AND FACILITIES AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C. 1395x(aa)(4)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

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

"(D) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13478. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting ''and clinical social worker services'' after ''psychologist services''; and

(2) by striking ''psychologist'' the second and third place it appears and inserting ''psychologist or clinical social worker''.

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking ''systems'' each place it appears and inserting ''system''; and

(ii) by striking ''paragraphs (1) and (6)'' and inserting ''paragraph (1)''.

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by inserting ''and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992'' after ''1989''; and

(B) by striking ''1842(b)'' and inserting ''1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)''.

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking ''January 1, 1989'' and inserting ''April 1, 1989''.

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking ''subsection (aa)(3)'' and inserting ''subsection (aa)(5)''; and

(B) by striking ''subsection (aa)(4)'' and inserting ''subsection (aa)(6)''.

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ''and'' before ''(N)''; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking ''(M)'' and inserting '', and (O)'', and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking ''ambulatory'' each place it appears and inserting ''or ambulatory''; and

(B) by striking ''center,'' and inserting ''center''.

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking ''subsection (a)(1)(M)'' and inserting ''subsection (a)(1)(O)''.

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking ''subsection (s)(2)(K)(i)'' and inserting ''clauses (i) or (iii) of subsection (s)(2)(K)''.

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking ''this Act'' and inserting ''this title''.

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking ''1861(s)(2)(K)(i)'' and inserting ''1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)''.

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking ''1861(s)(2)(K)(i)'' and inserting ''1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)''.

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED

PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (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) (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.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows

through ''Section'' and inserting ''(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section''.

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA–1990).—Section 1833(l)(4)(B)(ii)(VII) (42 U.S.C. 1395l(l)(4)(B)(ii)(VII)) is amended by striking ''1997'' and inserting ''1996''.

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking ''certification'' the first place it appears and inserting ''approval''; and

(ii) by striking ''the Secretary's approval or disapproval of the certification'' and inserting ''Secretary's approval or disapproval''.

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting ''and to the Committee on Finance of the Senate'' after ''Representatives''.

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is

amended by striking ''if'' and inserting ''by a home health agency if''.

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking ''but excluding'' and inserting ''and a covered osteoporosis drug (as defined in subsection (kk), but excluding other''.

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding ''and'' at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking ''health services'' and inserting ''health services (other than covered osteoporosis drug (as defined in section 1861(kk)))'';

(ii) by striking ''and'' at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting ''; and''; and

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

''(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);''.

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking ''services'' and inserting ''services (other than covered osteoporosis drug (as defined in section 1861(kk)))''.

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking ''(jj) The term'' and inserting ''(kk) The term''.

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking ''of the Social Security Act''.

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking ''paragraph'' and inserting ''paragraphs''.

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking ''publish'' and inserting ''publish, and shall periodically update,''.

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter F—Part B Premium

SEC. 13481. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by inserting ''and for each month in 1996 and 1997'' after ''January 1991'', and

(2) in paragraph (2), by striking ''1991'' and inserting ''1998''.

CHAPTER 3—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—Elimination of Updates

SEC. 13501. ELIMINATION OF COST-OF-LIVING UPDATE IN PER RESIDENT AMOUNTS FOR DIRECT MEDICAL EDUCATION.

Section 1886(h)(2)(D) (42 U.S.C. 1395ww(h)(2)(D)) is amended by inserting ''(other than in the case of cost reporting periods beginning during fiscal year 1994 or fiscal year 1995)'' after ''updated''.

SEC. 13502. ELIMINATION OF INFLATION UPDATE IN COST LIMITS FOR HOME HEALTH SERVICES.

The Secretary of Health and Human Services shall not provide for any increase, on the basis of inflation or changes in the cost of goods and services, in the per visit cost limits for home health services under section 1861(v)(1)(L) of the Social Security Act for cost reporting periods beginning during fiscal year 1994 or fiscal year 1995.

Subchapter B—Medicare Secondary Payer Provisions

SEC. 13511. EXTENSION OF TRANSFER OF DATA.

(a) EXTENSION OF DATA MATCH PROGRAM.—

(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 ''1995'' and inserting ''1998''.

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

(A) in clause (i), by striking ''1995'' and inserting ''1998'',

(B) in clause (ii)(I), by striking ''1994'' and inserting ''1997'', and

(C) in clause (ii)(II), by striking ''1995'' and inserting ''1998''.

(b) SECONDARY PAYER EXEMPTION FOR MEMBERS OF RELIGIOUS ORDERS.—Effective as if included in the enactment of OBRA–1989, section 6202(e)(2) of such Act is amended by adding at the end the following: ''Such amendment also shall apply to items and services furnished before such date with respect to secondary payer cases which the Secretary of Health and Human Services had not identified as of such date.''.

(c) PERMITTING THE USE OF MINIMUM INCOME THRESHOLDS.—

(1) Section 6103(l)(12)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting '', above an amount (if any) specified by the Secretary

of Health and Human Services,'' after ''section 3401(a))''.

(2) The matter in section 6103(l)(12)(B)(ii) of such Code preceding subclause (I) is amended by inserting '', above an amount (if any) specified by the Secretary of Health and Human Services,'' after ''wages''.

(3) The heading to section 6103(l)(12) of such Code is amended by striking ''TAXPAYER IDENTITY'' and inserting ''RETURN''.

SEC. 13512. 3-YEAR EXTENSION OF MEDICARE SECONDARY PAYER TO DISABLED BENEFICIARIES.

Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking ''1995'' and inserting ''1998''.

SEC. 13513. 3-YEAR EXTENSION OF 18-MONTH RULE FOR ESRD BENEFICIARIES.

Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended by striking ''1996'' and inserting ''1999''.

SEC. 13514. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

''(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.''.

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than November 1, 1993, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.".

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete

a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. 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).''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 1994.

(b) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1396h) is amended by adding at the end the following new subsection:

''(k) An agreement with an agency or organization under this section shall require that such agency or orga-

nization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).''.

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(i) by striking ''and'' at the end of subparagraph (H); and

(ii) by inserting after subparagraph (H) the following new subparagraph:

''(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).''.

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking ''processing'' and inserting ''processing (including the agency's or organization's success in recovering payments made under this title for services for

which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A))''.

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

''(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the Secretary shall establish standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).''.

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: ''If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the

date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).''.

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: ''REPAYMENT REQUIRED.—''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1994.

(c) APPLICATION OF AGGREGATION RULES.—

(1) WORKING AGED.—Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is amended by adding at the end the following new clause:

''(vi) APPLICATION OF AGGREGATION RULES.—All employers treated as a single

employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subparagraph.''.

(2) DISABLED INDIVIDUALS.—Section 5000(b)(2) of the Internal Revenue Code of 1986 (relating to large group health plans) is amended by adding at the end the following: ''All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this paragraph.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act.

(d) APPLICATION OF EXCISE TAX TO FAILURE TO REIMBURSE FEDERAL GOVERNMENT.—

(1) IN GENERAL.—Section 5000(c) of the Internal Revenue Code of 1986 (relating to nonconforming group health plans) is amended by striking ''of section 1862(b)(1)'' and inserting ''of paragraph (1), or with the requirements of paragraph (2), of section 1862(b)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to demands for repay-

ment issued after the date of the enactment of this Act.

(e) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA–1990 is amended—

(A) by striking ''on or before'' and inserting ''before'', and

(B) by striking ''clauses (i) and (ii)'' and inserting ''this subparagraph''.

(2) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting '', without regard to section 5000(d) of such Code'' before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking ''current calendar year or the preceding calendar year'' and inserting ''current calendar year and the preceding calendar year''; and

(C) in the matter in subparagraph (C) after clause (ii), by striking ''taking into account that'' and inserting ''paying benefits secondary to this title when''.

(3) Effective as if included in the enactment of OBRA–1989, section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking ''6103(l)(12)(D)(iii)'' and inserting ''6103(l)(12)(E)(iii)''.

(4) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking ''the application of clause (iii)'' and inserting ''the second sentence'';

(B) by striking ''on individuals'' and all that follows through ''section 226A of such Act'';

(C) in clause (ii), by striking ''clause'' and inserting ''sentence'';

(D) in clause (v), by adding ''and'' at the end; and

(E) in clause (vi)—

(i) by inserting ''of such Act'' after ''1862(b)(1)(C)'', and

(ii) by striking the period at the end and inserting the following: '', without regard to the number of employees covered by such plans.''.

(5) Section 4203(d) of OBRA–1990 is amended by striking ''this subsection'' and inserting ''this section''.

(6) Except as provided in paragraphs (2) and (3), the amendments made by this subsection shall be effective as if included in the enactment of OBRA–1990.

Subchapter C—Physician Ownership and Referral

SEC. 13521. APPLICATION OF MEDICARE BAN ON SELF-REFERRALS TO ALL PAYERS.

(a) IN GENERAL.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking ''for which payment otherwise may be made under this title'' and inserting ''for which a charge is imposed'', and

(B) in paragraph (1)(B), by striking ''under this title'';

(2) by amending paragraph (1) of subsection (g) to read as follows:

''(1) DENIAL OF PAYMENT.—No payment may be made under this title, under another Federal health care program, or under a State health care

program (as defined in section 1128(h)) for a designated health service for which a claim is presented in violation of subsection (a)(1)(B). No individual, third party payer, or other entity is liable for payment for designated health services for which a claim is presented in violation of such subsection.''; and

(3) in subsection (g)(3), by striking ''for which payment may not be made under paragraph (1)'' and inserting ''for which such a claim may not be presented under subsection (a)(1)''.

(b) CONFORMING AMENDMENT TO REPORTING REQUIREMENT.—Section 1877(f) (42 U.S.C. 1395nn(f)) is amended—

(1) by striking ''for which payment may be made under this title'' each place it appears and inserting ''for which a charge is imposed'', and

(2) by striking the third sentence.

SEC. 13522. EXTENSION OF SELF-REFERRAL BAN TO ADDITIONAL SPECIFIED SERVICES.

Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking ''clinical laboratory service'', ''clinical laboratory services'', and ''CLINICAL LABORATORY SERVICES'' and inserting ''designated health service'', ''designated health services'', and

1 ''DESIGNATED HEALTH SERVICES'', respectively,
2 each place each appears in subsections (a)(1),
3 (b)(2)(A)(ii), (b)(4), (d)(1), (d)(2), (d)(3), (f),
4 (g)(1), and (h)(7)(B); and
5 (2) by adding at the end the following new sub-
6 section:
7 ''(i) DESIGNATED HEALTH SERVICES DEFINED.—In
8 this section, the term 'designated health services' means
9 any of the following items or services:
10 ''(1) clinical laboratory services;
11 ''(2) physical and occupational therapy services;
12 ''(3) radiology services, including magnetic reso-
13 nance imaging, computerized axial tomography
14 scans, and ultrasound services;
15 ''(4) radiation therapy services;
16 ''(5) durable medical equipment;
17 ''(6) parenteral and enteral nutrition equipment
18 and supplies;
19 ''(7) prosthetic devices and orthotics and pros-
20 thetics;
21 ''(8) outpatient prescription drugs;
22 ''(9) home infusion therapy services, home dial-
23 ysis, and home health services;
24 ''(10) ambulance services;
25 ''(11) inpatient and outpatient hospital services;

"(12) comprehensive outpatient rehabilitation facility services;

"(13) contact lenses and eyeglasses; and

"(14) hearing aids.".

SEC. 13523. EXCEPTIONS FOR BOTH OWNERSHIP AND COMPENSATION ARRANGEMENTS.

(a) MODIFICATION TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended—

(1) by inserting "(other than durable medical equipment, parenteral and enteral nutrition equipment and supplies, and ambulance services)" after "services" the first place it appears, and

(2) in subparagraph (A)(ii)(II), by striking "centralized provision" and inserting "provision of some or all".

(b) MODIFICATION OF RURAL PROVIDER EXCEPTION.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(A) by redesignating paragraph (5) as paragraph (6), and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) RURAL PROVIDERS.—In the case of designated health services if—

"(A) the entity furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)), and

"(B) substantially all of the services (as defined by the Secretary) furnished by the entity are furnished to individuals who reside in such a rural area.".

(2) CONFORMING AMENDMENTS.—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

SEC. 13524. EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT.

(a) PUBLICLY-TRADED SECURITIES.—Section 1877(c)(2) (42 U.S.C. 1395nn(c)(2)) is amended by striking "total assets" and inserting "stockholder equity".

(b) RURAL PROVIDERS.—For amendment to exception relation to rural providers, see section 13523(b).

SEC. 13525. EXCEPTIONS RELATED ONLY TO COMPENSATION ARRANGEMENTS.

(a) RENTAL OF OFFICE SPACE AND EQUIPMENT.—

(1) IN GENERAL.—Paragraph (1) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

"(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

"(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

"(ii) the aggregate space rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease for at least one year,

"(iv) the aggregate rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the premises leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

"(ii) the equipment rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease of at least one year,

"(iv) the aggregate rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,

"(vi) the lease covers all of the equipment leased between the parties for the period of the lease, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(2) CONFORMING AMENDMENT.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by striking paragraphs (5) and (6).

(b) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended—

(1) in paragraph (2)—

(A) by striking ''EMPLOYMENT'' and all that follows through ''if'' and inserting ''BONA FIDE EMPLOYMENT RELATIONSHIPS.—Any amount paid by an employer to a physician (or immediate family member) who has a bona fide employment relationship with the employer for the provision of services if'';

(B) in subparagraphs (A), (B), and (D), by striking ''arrangement'' and inserting ''employment'';

(C) in subparagraph (C), by striking ''to the hospital''; and

(D) by adding at the end the following: ''Subparagraph (B)(ii) shall not be construed as prohibiting the payment of remuneration in the form of shares of overall profits or in the form of a productivity bonus based on services performed personally by the physician or family member, if the amount of the remuneration is not determined in a manner that takes into account directly the volume or value of any referrals by the referring physician.''; and

(2) in paragraph (5)(A), by striking ''in the same manner as they apply to a hospital''.

(c) PERSONAL SERVICE ARRANGEMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

''(3) PERSONAL SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

''(A) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

''(B) the arrangement covers all of the services to be provided by the physician (or family member) to the entity,

''(C) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

''(D) the term of the arrangement is for at least one year,

''(E) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account directly or indirectly the volume or value of any referrals or other business generated between the parties,

"(F) the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any State or Federal law, and

"(G) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(2) HEALTH SERVICES FURNISHED UNDER CERTAIN HOSPITAL ARRANGEMENTS.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

"(7) CERTAIN GROUP PRACTICE ARRANGEMENTS WITH A HOSPITAL.—

"(A) IN GENERAL.—An arrangement between a hospital and a group for the provision of designated health services by the group but billed in the name of the hospital if—

"(i) the group would be a group practice, but for the fact that it bills for such services in the name of the hospital;

"(ii) with respect to services provided to an inpatient of the hospital, the arrangement is

pursuant to the provision of inpatient hospital services under section 1861(b)(3);

"(iii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

"(iv) the group provides substantially all of the designated health services furnished under the arrangement to the hospital's patients;

"(v) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement;

"(vi) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;

"(vii) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(viii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(d) PHYSICIAN RECRUITMENT.—Section 1877(e)(4) (42 U.S.C. 1395nn(e)(4)) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraph (B) through (D), and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) the remuneration arrangement is set out in writing, signed by the parties, and specifies the benefits provided by the hospital, the terms under which the benefits are to be provided, and the obligations of the parties,".

(e) ISOLATED TRANSACTIONS.—Section 1877(e)(5) (42 U.S.C. 1395nn(e)(5)) is amended—

(1) by striking "ISOLATED" and inserting "ONE-TIME",

(2) by striking "isolated" and inserting "one-time", and

(3) by inserting "or practice" after "one-time sale of property".

(f) NEW EXCEPTION FOR PAYMENTS BY PHYSICIAN.—Section 1877(e) (42 U.S.C. 1395nn(e)), as amend-

ed by subsection (c)(2), is further amended by adding at the end the following new paragraph:

"(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

"(A) to a laboratory in exchange for the provision of clinical laboratory services, or

"(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value.".

SEC. 13526. CLARIFICATION CONCERNING CIVIL MONEY PENALTY SANCTIONS.

Section 1877(g)(3) (42 U.S.C. 1395nn(g)(3)) is amended by inserting "(including a referring physician)" after "Any person".

SEC. 13527. REQUIREMENTS FOR GROUP PRACTICE.

(a) ADDITIONAL REQUIREMENTS.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

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

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (vii), respectively;

(3) by inserting "(A)" after ".—";

(4) by inserting after clause (iii), as so redesignated, the following:

"(iv) subject to subparagraph (B), no physician who is a member of the group receives compensation based on the volume or value of referrals by the physician;

"(v) there are no less than, on average, 5 physicians for each office location (as defined in subparagraph (C)), except where there is only a single office location for the entire group practice;

"(vi) members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and"; and

(5) by adding at the end the following new subparagraphs:

"(B) A physician in a group practice may be paid a share of overall profits of the group or a productivity bonus (based on services personally performed or personally supervised by the physician or by another physician in the group) so long as the share or bonus is not determined in any manner which is directly related to the volume or value of referrals by that physician.

"(C)(i) Except as provided in clauses (ii) through (iv), the term 'office location' means an office where physician services are offered to patients.

"(ii) Such term does not include a location consisting solely of a diagnostic facility, nursing facility, or treatment facility (such as a physical or occupational therapy center), or administrative services affiliated with the group practice.

"(iii) Any office location which is located immediately adjacent to another office location shall be treated as the same office location.

"(iv) The term 'office location' does not include an office located in a rural area (as defined in section 1886(d)(2)(D)) if at least 85 percent of the physician services at the location are provided to individuals who reside in such a rural area.".

(b) USE OF BILLING NUMBERS, ETC.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (b)(2)(B), by inserting "under a billing number assigned to the group practice" after "member",

(2) in subsection (h)(4)(A)(ii), as redesignated by subsection (a)(2), by inserting "and under a billing number assigned to the group" after "in the name of the group", and

(3) in subsection (h)(4)(A)(iii), as redesignated by subsection (a)(2), by striking ''by members of the group''.

(c) TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.—The last sentence of section 1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as redesignated by subsection (a)(2), is amended by inserting '', institution of higher education, or medical school'' after ''hospital''.

SEC. 13538. NO FEDERAL PREEMPTION OF MORE RESTRICTIVE STATE LAWS.

Section 1877 (42 U.S.C. 1395nn), as amended by section 13522(2), is amended by adding at the end the following new subsection:

''(j) NO FEDERAL PREEMPTION OF MORE RESTRICTIVE STATE LAWS.—Nothing in this section shall preempt provisions of State law—

''(1) that relate to referrals not covered by this section, or

''(2) that relate to referrals covered by this section and are more restrictive with respect to such referrals than the provisions of this section.''.

SEC. 13529. MISCELLANEOUS PROVISIONS.

(a) INDIRECT FINANCIAL RELATIONSHIPS.—The last sentence of section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by inserting before the period the following:

"and includes an interest in an entity that holds an ownership or investment in another entity".

(b) MINOR REMUNERATION.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) in subparagraph (A), by inserting before the period at the end the following: "(other than an arrangement involving only remuneration described in subparagraph (C))", and

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

"(C) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

"(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly performed tests or procedures, or the correction of minor billing errors.

"(ii) The provision of items, devices, or supplies that are used solely to—

"(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

"(II) communicate the results of tests or procedures for such entity.".

(c) REFERRING PHYSICIAN.—Section 1877(h)(7)(C) (42 U.S.C. 1395nn(h)(7)(C)) is amended—

(1) by inserting ''a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy,'' after ''examination services,'', and

(2) by inserting '', radiologist, or radiation oncologist'' after ''pathologist'' the second place it appears.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is further amended—

(1) in the next to last sentence of subsection (f)—

(A) by striking ''provided'' and inserting ''furnished'', and

(B) by striking ''provides'' and inserting ''furnish'';

(2) in the last sentence of subsection (f)—

(A) by striking ''providing'' each place it appears and inserting ''furnishing'',

(B) by striking ''with respect to the providers'' and inserting ''with respect to the entities'', and

(C) by striking ''diagnostic imaging services of any type'' and inserting ''magnetic resonance imaging, computerized axial tomography scans, and ultrasound services''; and

(3) in subsection (a)(2)(B), by striking ''subsection (h)(1)(A)'' and inserting ''subsection (h)(1)''.

SEC. 13530. EFFECTIVE DATES.

(a) EXPANSION OF PAYERS AND SERVICES.—The amendments made by sections 13521 and 13522 shall apply with respect to a referral by a physician made on or after December 31, 1994.

(b) OTHER PROVISIONS.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by sections 13523 through 13529 shall apply to referrals made on or after January 1, 1992.

(2) DELAY IN EFFECTIVENESS FOR MORE RESTRICTIVE PROVISIONS.—The amendments made by the following sections shall apply with respect to a referral by a physician made on or after December 31, 1994:

(A) Section 13523(b) (relating to the rural provider exception).

(B) Section 13524(a) (relating to publicly-traded securities).

(C)(i) Section 13525(a) (relating to an exception for office rental and equipment), other than the exception relating to equipment.

(ii) Section 13525(c)(1) (relating to exception for personal services arrangements).

(iii) Section 13525(d) (relating to physician recruitment).

(D) Section 13526 (relating to civil money penalty).

(E) Section 13527 (relating to requirements for group practices), other than subsection (c) (relating to faculty plans).

(F) Section 13528 (relating to non-preemption).

(G) Section 13529(a) (relating to indirect financial relationships).

Subchapter D—Other Provisions

SEC. 13551. DIRECT GRADUATE MEDICAL EDUCATION.

(a) ADJUSTMENT IN GME BASE-YEAR COSTS OF FEDERAL INSURANCE CONTRIBUTIONS ACT.—

(1) IN GENERAL.—In determining the amount of payment to be made under section 1886(h) of the Social Security Act in the case of a hospital described in paragraph (2) for cost reporting periods beginning on or after October 1, 1992, the Secretary

of Health and Human Services shall redetermine the approved FTE resident amount to reflect the amount that would have been paid the hospital if, during the hospital's base cost reporting period, the hospital had been liable for FICA taxes or for contributions to the retirement system of a State, a political subdivision of a State, or an instrumentality of such a State or political subdivision with respect to interns and residents in its medical residency training program.

(2) HOSPITALS AFFECTED.—A hospital described in this paragraph is a hospital that did not pay FICA taxes with respect to interns and residents in its medical residency training program during the hospital's base cost reporting period, but is required to pay FICA taxes or make contributions to a retirement system described in paragraph (1) with respect to such interns and residents because of the amendments made by section 11332(b) of OBRA–1990.

(3) DEFINITIONS.—In this subsection:

(A) The ''base cost reporting period'' for a hospital is the hospital's cost reporting period that began during fiscal year 1984.

(B) The term ''FICA taxes'' means, with respect to a hospital, the taxes under section 3111 of the Internal Revenue Code of 1986.

(b) PUBLICLY-FUNDED FAMILY PRACTICE RESIDENCY PROGRAMS.—

(1) IN GENERAL.—Section 1886(h)(5) (42 U.S.C. 1395ww(h)(5)) is amended by adding at the end the following new subparagraph:

''(I) ADJUSTMENTS FOR CERTAIN FAMILY PRACTICE RESIDENCY PROGRAMS.—

''(i) IN GENERAL.—In the case of an approved medical residency training program (meeting the requirements of clause (ii)) of a hospital which received payments from the United States, a State, or a political subdivision of a State or an instrumentality of such a State or political subdivision (other than payments under this title or a State plan under title XIX) for the program during the cost reporting period that began during fiscal year 1984, the Secretary shall—

''(I) provide for an average amount under paragraph (2)(A) that takes into account the Secretary's es-

timate of the amount that would have been recognized as reasonable under this title if the hospital had not received such payments, and

"(II) reduce the payment amount otherwise provided under this subsection in an amount equal to the proportion of such program payments during the cost reporting period involved that is allocable to this title.

"(ii) ADDITIONAL REQUIREMENTS.—A hospital's approved medical residency program meets the requirements of this clause if—

"(I) the program is limited to training for family and community medicine;

"(II) the program is the only approved medical residency program of the hospital; and

"(III) the average amount determined under paragraph (2)(A) for the hospital (as determined without regard to the increase in such amount

described in clause (i)(I)) does not exceed $10,000.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments under section 1886(h) of the Social Security Act for cost reporting periods beginning on or after October 1, 1990.

(c) PREVENTIVE CARE RESIDENCIES.—

(1) ELIGIBILITY OF PREVENTIVE CARE RESIDENCY PROGRAMS FOR EXPANDED INITIAL RESIDENCY PERIODS.—Section 1886(h)(5)(F)(ii) (42 U.S.C. 1395ww(h)(5)(F)(ii)) is amended by inserting after ''fellowship program'' the following: ''or a preventive care residency or fellowship program''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1993.

SEC. 13552. IMMUNOSUPPRESSIVE DRUG THERAPY.

Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking ''title, within'' and all that follows and inserting the following: ''title, but only in the case of drugs furnished—

''(i) before 1994, within 12 months after the date of the transplant procedure,

"(ii) during 1994, within 18 months after the date of the transplant procedure,

"(iii) during 1995, within 24 months after the date of the transplant procedure,

"(iv) during 1996, within 30 months after the date of the transplant procedure, and

"(v) during any year after 1997, within 36 months after the date of the transplant procedure;".

SEC. 13553. REDUCTION IN PAYMENTS FOR ERYTHROPOIENTIN.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(1) by striking "1991" and inserting "1994"; and

(2) by striking "$11" and inserting "$10".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to erythropoietin furnished on or after January 1, 1994.

SEC. 13554. QUALIFIED MEDICARE BENEFICIARY OUTREACH.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be

eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 13555. EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION DEMONSTRATIONS.

(a) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of OBRA–1987, as amended by section 4207(b)(4)(B) of OBRA–1990, is amended—

(1) in paragraph (1) by striking ''December 31, 1995'' and inserting ''December 31, 1997''; and

(2) in paragraph (4) by striking ''March 31, 1996'' and inserting ''March 31, 1998''.

(b) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(1) in the last sentence of subsection (a) by striking ''12 months'' and inserting ''36 months''; and

(2) in subsection (b)(1)(B)—

(A) by striking ''or'' at the end of clause (iii); and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or".

(c) EXPANSION OF NUMBER OF MEMBERS PER SITE.—The Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The section following section 4206 of OBRA–1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subtitle is referred to as section 4207 of OBRA–1990.

(2) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking ''12907(c)(4)(A)'' and inserting ''4207(b)(4)(B)(i)'', and

(B) by striking ''feasibilitly'' and inserting ''feasibility''.

(3) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(4) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking ''12907(c)(4)(A)'' each place it appears and inserting ''4207(b)(4)(B)''.

(5) Section 4207(c)(2) of OBRA–1990 is amended by striking ''the Committee on Ways and Means'' each place it appears and inserting ''the Committees on Ways and Means and Energy and Commerce''.

(6) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(7) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking ''residents'' and inserting ''patients''.

(8) Section 4207(j) of OBRA–1990 is amended by striking ''title'' each place it appears and inserting ''subtitle''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–90.

SEC. 13556. HOSPICE NOTIFICATION TO HOME HEALTH BENEFICIARIES.

(a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

''(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).''.

(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 one year after the date of the enactment of this Act.

SEC. 13557. INTEREST PAYMENTS.

(a) IN GENERAL.—Sections 1816(c)(2)(B)(ii)(IV) and 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied with respect to claims received in the 12-month period beginning October 1, 1992, by substituting ''30 calendar days'' for ''24 calendar days'' and ''17 calendar days''.

(b) EFFECTIVE DATE.—Subsection (a) shall be in effect during the period that begins on the date of the enactment of this Act and ends on September 30, 1993.

SEC. 13558. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c–13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c–3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking clause (G);

(iii) in subsection (a)(2)(A), by striking ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "basis," and inserting "basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding ''or'' at the end of paragraph (14),

(ii) by striking ''; or'' at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking '', with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking ''whehter'' and inserting ''whether''.

(2) Section 1154(a)(9)(B) (42 U.S.C. 1320c–3(a)(9)(B)) is amended by striking ''this subsection'' and inserting ''section 1156(a)''.

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking ''amendments'' and inserting ''amendment''.

(4) Section 1160(d) (42 U.S.C. 1320c–9(d)) is amended by striking ''subpena'' and inserting ''subpoena''.

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking ''amendments'' and inserting ''amendment'' and by striking ''all''.

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

(B) The amendment made by paragraph (2) (relating to the requirement on reporting of information to State licensing boards) shall take effect on the date of the enactment of this Act.

SEC. 13559. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN APPLICATION OF SECONDARY PAYER PROVISIONS.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: ''In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the

area with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA–1990 is amended to read as follows:

''(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than October 1, 1993, the Secretary of Health and Human Services (in this subsection referred to as the 'Secretary') shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1995 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

''(B) In proposing the revisions required under subparagraph (A) the Secretary shall consider—

''(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA–1990 is amended by striking ''final''.

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking ''PLAN'' and inserting ''PLAN OR A LARGE GROUP HEALTH PLAN'';

(B) by striking ''group health plan'' and inserting ''group health plan or a large group health plan'';

(C) by striking '', unless such incentive is also offered to all individuals who are eligible for coverage under the plan''; and

(D) by striking ''the first sentence of subsection (a) and other than subsection (b)'' and inserting ''subsections (a) and (b)''.

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 13560. MEDICARE ADMINISTRATION BUDGET PROCESS.

(a) ADJUSTMENTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) MEDICARE ADMINISTRATIVE COSTS.—To the extent that appropriations are enacted that provide additional new budget authority (as compared with a base level of $1,526,000,000 for new budget authority) for the administration of the Medicare program by fiscal intermediaries and carriers pursuant to sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed—

"(i) for fiscal year 1994, $198,000,000 in new budget authority and $198,000,000 in outlays; and

"(ii) for fiscal year 1995, $220,000,000 in new budget authority and $220,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph.".

(b) CONFORMING AMENDMENTS.—

(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking "section

251(b)(2)(E)(i)'' and inserting ''section 251(b)(2)(F)(i)''.

(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking ''section 251(b)(2)(E)(i)'' and inserting ''section 251(b)(2)(F)(i)''; and

(B) in paragraph (2), by inserting ''251(b)(2)(E),'' after ''251(b)(2)(D),''.

SEC. 13561. OTHER PROVISIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking ''title'' and inserting ''title (other than any fee relating to section 353 of the Public Health Service Act)''; and

(B) in the first sentence of subsection (a), by striking ''1861(s) or'' and all that follows through ''Service Act,'' and inserting ''1861(s),''.

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining

whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTION.—Section 4202 of OBRA–1990 is amended—

(1) in subsection (b)(1)(A), by striking ''home hemodialysis staff assistant'' and inserting ''qualified home hemodialysis staff assistant (as described in subsection (d))'';

(2) in subsection (b)(2)(B)(ii)(I), by striking ''(as adjusted to reflect differences in area wage levels);

(3) in subsection (c)(1)(A), by striking ''skilled''; and

(4) in subsection (c)(1)(E), by striking ''(b)(4)'' and inserting ''(b)(2)''.

(c) OTHER TECHNICAL AMENDMENTS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking ''1833(r)'' and inserting ''1833(s)''.

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by

section 13478(f)(8)(B)(iii)(II) of this title, two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking ''1861(s)(2)(Q)'' and inserting ''1861(s)(2)(P)''.

(5) Section 4201(d)(2) of OBRA–1990 is amended by striking ''(B) by striking'', ''(C) by striking'', and ''(3) by adding'' and inserting ''(i) by striking'', ''(ii) by striking'', and ''(B) by adding'', respectively.

(6)(A) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after ''such review.''.

(B) Section 4207(a)(4) of OBRA–1990 is amended by striking ''this subsection'' and inserting ''paragraphs (2) and (3)''.

(C) Section 4207(b)(1) of OBRA–1990 is amended by striking ''section 3(7)'' and inserting ''section 601(a)(1)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

CHAPTER 4—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 13571. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA–1990 is amended by striking ''(a) IN GENERAL.—''.

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking ''promulgates'' and inserting ''changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate'',

(ii) by striking ''(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'),', and

(iii) by striking ''included a reference to the NAIC standards'' and inserting ''were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation re-

ferred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking ''NAIC or Federal standards'' and inserting ''1991 NAIC Model Regulation or 1991 Federal Regulation'';

(E) in paragraph (2)(C), by striking ''(5)(B)'' and inserting ''(4)(B)'';

(F) in paragraph (4)(A)(i), by inserting ''or paragraph (6)'' after ''(B)'';

(G) in paragraph (4), by striking ''applicable standards'' each place it appears and inserting ''applicable 1991 NAIC Model Regulation or 1991 Federal Regulation'';

(H) in paragraph (6), by striking ''in regard to the limitation of benefits described in paragraph (4)'' and inserting ''described in clauses (i) through (iii) of paragraph (1)(A)'';

(I) in paragraph (7), by striking ''policyholder'' and inserting ''policyholders'';

(J) in paragraph (8), by striking ''after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection'' and inserting ''on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991

NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)''; (K) in paragraph (9), by adding at the end the following new subparagraph:

''(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).''; and

(L) in paragraph (10), by striking ''this subsection'' and inserting ''paragraph (1)(A)(i)''.

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking ''paragraph (2)'' and inserting ''paragraph (4)'', and

(2) in paragraph (4), by striking ''the succeeding issuer'' and inserting ''issuer of the replacement policy''.

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking ''NAIC standards or the Federal standards''

and inserting ''1991 NAIC Model Regulation or 1991 Federal Regulation'', and

(B) by striking ''after the effective date of the NAIC or Federal standards with respect to the policy'' and inserting ''on and after the effective date specified in subsection (p)(1)(C)''.

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking ''The report'' and inserting ''Each report'',

(B) by inserting ''and requirements'' after ''standards'',

(C) by striking ''and'' after ''compliance,'', and

(D) by striking the comma after ''Commissioners''.

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking ''Panel'' and inserting ''Secretary''.

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking ''the the Secretary'' and inserting ''the Secretary''.

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

''(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

''(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

''(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

''(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.'';

(B) by designating the second sentence as clause (ii) and, in such clause, by striking ''the previous sentence'' and inserting ''clause (i)'';

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking ''the previous sentence'' and inserting ''clause (i) with respect to

the sale of a medicare supplemental policy'', and

(ii) by striking ''and the statement'' and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking ''65 years of age or older'',

(B) in clause (iii)(I), by striking ''another medicare'' and inserting ''a medicare'',

(C) in clause (iii)(I), by striking ''such a policy'' and inserting ''a medicare supplemental policy'',

(D) in clause (iii)(II), by striking ''another policy'' and inserting ''a medicare supplemental policy'', and

(E) by amending subclause (III) of clause (iii) to read as follows:

''(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan

1 under such title pays the premiums for the policy, or, in
2 the case of a qualified medicare beneficiary described in
3 section 1905(p)(1), if the State pays less than the full
4 amount of medicare cost-sharing as described in subpara-
5 graphs (B), (C), and (D) of section 1905(p)(3) for such
6 individual.''.

7 (3)(A) Section 1882(d)(3)(C) (42 U.S.C.
8 1395ss(d)(3)(C)) is amended—

9 (i) by striking ''the selling'' and inserting
10 ''(i) the sale or issuance'', and

11 (ii) by inserting before the period at the
12 end the following: '', (ii) the sale or issuance of
13 a policy or plan described in subparagraph
14 (A)(i)(I) (other than a medicare supplemental
15 policy to an individual entitled to any medical
16 assistance under title XIX) under which all the
17 benefits are fully payable directly to or on be-
18 half of the individual without regard to other
19 health benefit coverage of the individual but
20 only if (for policies sold or issued more than 60
21 days after the date the statements are pub-
22 lished or promulgated under subparagraph (D))
23 there is disclosed in a prominent manner as
24 part of (or together with) the application the
25 applicable statement (specified under subpara-

graph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual''.

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

''(D)(i) If—

''(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

1 "(II) the Secretary approves all the statements
2 submitted as meeting the requirements of subclause
3 (I),
4 each such statement shall be (for purposes of subpara-
5 graph (C)) the statement specified under this subpara-
6 graph for the type of policy involved. The Secretary shall
7 review and approve (or disapprove) all the statements sub-
8 mitted under subclause (I) within 30 days after the date
9 of their submittal. Upon approval of such statements, the
10 Secretary shall publish such statements.
11 "(ii) If the Secretary does not approve the statements
12 under clause (i) or the statements are not submitted with-
13 in the 90-day period specified in such clause, the Secretary
14 shall promulgate (after consultation with consumer and
15 insurance industry representatives and not later than 90
16 days after the date of disapproval or the end of such 90-
17 day period (as the case may be)) a statement for each
18 of the types of health insurance policies (other than medi-
19 care supplemental policies and including, as separate types
20 of policies, policies paying directly to the beneficiary fixed,
21 cash benefits) which are sold to persons entitled to health
22 benefits under this title, of the extent to which benefits
23 payable under the policy or plan duplicate benefits under
24 this title, and each such statement shall be (for purposes

of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.''.

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date of the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) are amended by striking ''of the Social Security Act''.

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking ''or sold'' and inserting ''or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))'';

(B) in paragraph (1)(A), by inserting ''for periods after the effective date of these provisions'' after ''the policy can be expected'';

(C) in paragraph (1)(A), by striking ''Commissioners,'' and inserting ''Commissioners)'';

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 13571(m)(4) of the Omnibus Budget Reconciliation Act of 1993.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking ''in order'' and all that follows through ''are effective'';

(I) by adding at the end of paragraph (2)(A), the following new sentence: ''In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 13571(m)(4) of the Omnibus Budget Reconciliation Act of 1993.'';

(J) in paragraph (2), by striking ''policy year'' each place it appears and inserting ''calendar year'';

(K) in paragraph (4), by striking ''February'', ''disllowance'', ''loss-ratios'' each place it appears, and ''loss-ratio'' and inserting ''October'', ''disallowance'', ''loss ratios'', and ''loss ratio'', respectively;

(L) in paragraph (6)(A), by striking ''issues a policy in violation of the loss ratio requirements of this subsection'' and ''such violation'' and inserting ''fails to provide refunds or credits as required in paragraph (1)(B)'' and ''policy issued for which such failure occurred'', respectively; and

(M) in paragraph (6)(B), by striking ''to policyholders'' and inserting ''to the policyholder or, in the case of a group policy, to the certificate holder''.

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking ''subsection (F)'' and inserting ''subparagraph (F)''.

(3) Section 4355(d) of OBRA–1990 is amended by striking ''sold or issued'' and all that follows and inserting ''issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of such Act.''.

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking ''a health maintenance organization or other direct service organization'' and all that follows through ''1833'' and inserting ''an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983,

section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1994, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)''.

(2) Section 4356(b) of OBRA–1990 is amended by striking ''on the date of the enactment of this Act'' and inserting ''on the date specified in section 1882(p)(1)(C) of the Social Security Act''.

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking ''for which an application is submitted'' and inserting ''in the case of an individual for whom an application is submitted prior to or'',

(2) in paragraph (2)(A), by striking ''in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B'' and inserting ''as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B'', and

(3) in paragraph (2)(B), by striking ''before it'' and inserting ''before the policy''.

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting ''medicare supplemental'' after ''If a'',

(B) in paragraph (1), by striking ''NAIC Model Standards'' and inserting ''1991 NAIC Model Regulation or 1991 Federal Regulation'',

(C) in paragraph (1)(A), by inserting ''or agreements'' after ''contracts'',

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking ''NAIC standards'' and inserting ''standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation'', and

(E) in paragraph (2), by inserting ''the issuer'' before ''is subject to a civil money penalty''.

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c–3(a)(4)(B)) is amended—

(A) by inserting ''that is'' after ''(or'', and

(B) by striking ''1882(t)'' and inserting ''1882(t)(3)''.

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking ''Act'' and inserting ''Act)'';

(2) in subsection (b)(2)(D), by striking ''services'' and inserting ''counseling'';

(3) in subsection (b)(2)(I), by striking ''assistance'' and inserting ''referrals'';

(4) in subsection (c)(1), by striking ''and that such activities will continue to be maintained at such level'';

(5) in subsection (d)(3), by striking ''to the rural areas'' and inserting ''eligible individuals residing in rural areas'';

(6) in subsection (e)—

(A) by striking ''subsection (c) or (d)'' and inserting ''this section'',

(B) by striking ''and annually thereafter, issue an annual report'' and inserting ''and annually thereafter during the period of the grant, issue a report'', and

(C) in paragraph (1), by striking ''Statewide'';

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: ''; MEDICARE AND MEDIGAP INFORMATION'',

(B) by inserting ''(a)'' after ''1804.'', and

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

''(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.''.

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

''(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).''.

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

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

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E)

of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1994, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1994, and who were not covered under such section before January 1, 1994, the 6-month period specified in that section shall begin January 1, 1994).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in

this subsection referred to as the ''NAIC'') modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with ''unless'', such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1994 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 on or after January 1, 1994. 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.

Subtitle D—Customs and Trade Provisions

SEC. 13601. CUSTOMS AND TRADE AGENCY AUTHORIZATIONS FOR FISCAL YEARS 1994 AND 1995.

(a) UNITED STATES INTERNATIONAL TRADE COMMISSION.—Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

"(i) $45,416,000 for fiscal year 1994.

"(ii) $45,974,000 for fiscal year 1995.

"(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.".

(b) UNITED STATES CUSTOMS SERVICE.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

"(A) $540,783,000 for fiscal year 1994.

"(B) $527,000,000 for fiscal year 1995.

"(2) FOR COMMERCIAL OPERATIONS.—(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

"(i) $771,036,000 for fiscal year 1994.

"(ii) $748,000,000 for fiscal year 1995.

"(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under sec-

tion 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

"(3) FOR AIR AND MARINE INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air and marine interdiction programs of the Customs Service not to exceed the following:

"(A) $95,156,000 for fiscal year 1994.

"(B) $128,000,000 for fiscal year 1995.".

(c) OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:

"(i) $20,143,000 for fiscal year 1994.

"(ii) $20,419,000 for fiscal year 1995.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

"(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $2,500,000 shall remain available until expended.".

SEC. 13602. EXTENSION OF AUTHORITY TO LEVY CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1998".

SEC. 13603. GENERALIZED SYSTEM OF PREFERENCES.

(a) TREATMENT OF COUNTRIES FORMERLY WITHIN THE UNION OF SOVIET SOCIALIST REPUBLICS.—The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Union of Soviet Socialist Republics".

(b) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—

(1) IN GENERAL.—Section 505(a) of the Trade Act of 1974 (19 U.S.C. 2465(a)) is amended by striking out "July 4, 1993" and inserting "September 30, 1994".

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days

after the date of the enactment of this Act, the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 4, 1993, and

(B) that was made after July 4, 1993, and before such date of enactment,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this paragraph, the term ''entry'' includes a withdrawal from warehouse for consumption.

SEC. 13604. EXTENSION OF, AND AUTHORIZATION OF APPROPRIATIONS FOR, THE WORKER TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION.—Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding 2271) is amended—

(1) by striking out ''No'' and all that follows thereafter down through ''chapter 2, no'' in subsection (b) and inserting ''No''; and

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

"(c) No assistance, vouchers, allowances, or other payments may be provided under chapter 2 after September 30, 1996.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "and 1993," and inserting "1993, 1994, 1995, and 1996,".

SEC. 13605. EXTENSION OF URUGUAY ROUND TRADE AGREEMENT NEGOTIATING AND PROCLAMATION AUTHORITY AND OF "FAST TRACK" PROCEDURES TO IMPLEMENTING LEGISLATION.

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) is amended by inserting at the end the following new subsection:

"(e) SPECIAL PROVISIONS REGARDING URUGUAY ROUND TRADE NEGOTIATIONS.—

"(1) IN GENERAL.—Notwithstanding the time limitations in subsections (a) and (b), if the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade has not resulted in trade agreements by May 31, 1993, the President may, during the period after May 31, 1993, and before April 16, 1994, enter into, under subsections (a) and (b), trade agreements resulting from such negotiations.

"(2) APPLICATION OF TARIFF PROCLAMATION AUTHORITY.—No proclamation under subsection (a) to carry out the provisions regarding tariff barriers of a trade agreement that is entered into pursuant to paragraph (1) may take effect before the effective date of a bill that implements the provisions regarding nontariff barriers of a trade agreement that is entered into under such paragraph.

"(3) APPLICATION OF IMPLEMENTING AND 'FAST TRACK' PROCEDURES.—Section 1103 applies to any trade agreement negotiated under subsection (b) pursuant to paragraph (1), except that—

"(A) in applying subsection (a)(1)(A) of section 1103 to any such agreement, the phrase 'at least 120 calendar days before the day on which he enters into the trade agreement (but not later than December 15, 1993),' shall be substituted for the phrase 'at least 90 calendar days before the day on which he enters into the trade agreement; and

"(B) no provision of subsection (b) of section 1103 other than paragraph (1)(A) applies to any such agreement and in applying such paragraph, 'April 16, 1994;' shall be substituted for 'June 1, 1991;'.

"(4) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement provided for under paragraph (1) shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 1103(a)(1)(A) of his intention to enter into the agreement (but before January 15, 1994).".

SEC. 13606. REPEAL OF EAST-WEST TRADE STATISTICS MONITORING SYSTEM.

(a) REPEAL.—Section 410 of the Trade Act of 1974 (19 U.S.C. 2440) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for such Act of 1974 is amended by striking out the following:

"Sec. 410. East-West Trade Statistics Monitoring System.".

Subtitle E—Customs Officer Pay Reform

SEC. 13701. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:

"SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

"(a) OVERTIME PAY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

"(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—

"(A) MINIMUM DURATION.—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment and ends at least 1 hour before the beginning of the following regularly scheduled work assignment.

"(B) COMPENSATION FOR COMMUTING TIME.—

"(i) IN GENERAL.—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

"(ii) EXCEPTION.—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1)—

"(I) does not commence within 16 hours of the customs officer's last regularly scheduled work assignment, or

"(II) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

"(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

"(1) NIGHT WORK DIFFERENTIAL.—

"(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If the majority of the hours of regularly scheduled

work of a customs officer occur during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(C) 7:30 P.M. TO 3:30 A.M. SHIFTWORK.—If the regularly scheduled work assignment of a customs officer is 7:30 p.m. to 3:30 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate for the period from 7:30 p.m. to 11:30 p.m. and at the officer's

hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate for the period from 11:30 p.m. to 3:30 a.m.

"(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.

"(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

"(c) LIMITATIONS.—

"(1) FISCAL YEAR CAP.—The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) and premium pay under subsection (b) that a customs officer may be paid in any fiscal year may not exceed $25,000; except that the Commissioner of

Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

"(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

"(d) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as are necessary or appropriate to carry out this section, including regulations—

"(1) to ensure that callback work assignments are commensurate with the overtime pay authorized for such work; and

"(2) to prevent the disproportionate assignment of overtime work to customs officers who are near to retirement.

"(e) DEFINITIONS.—As used in this section:

"(1) The term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable

standards as may be promulgated by the Office of Personnel Management.

"(2) The term 'holiday' means any day designated as a holiday under a Federal statute or Executive order.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out "at night" in the section heading and inserting "during overtime hours";

(B) by striking out "at night" and inserting "during overtime hours"; and

(C) by inserting "aircraft," immediately before "vessel".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after October 1, 1993.

SEC. 13702. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR CUSTOMS OFFICERS.

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in

section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

SEC. 13703. APPROPRIATIONS REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows: ''(i) in—

''(I) paying overtime compensation under section 5(a) of the Act of February 13, 1911,

''(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the cost of the premium pay for that year calculated under such section 5(b) as amended by section 13701 of the Omnibus Budget Reconciliation Act of 1993 and the cost of such pay calculated under subchapter V of chapter 55 of title 5, United States Code,

"(III) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I), and

"(IV) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and";

(2) by inserting before the flush sentence appearing after clause (ii) of subparagraph (A) the following sentence: "The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), and (IV) of clause (i).";

(3) by striking out "except for costs described in subparagraph (A)(i) (I) and (II)," in subparagraph (B)(i); and

(4) by amending subparagraph (C)—

(A) by striking out "to fully reimburse inspectional overtime and preclearance costs" in clause (i) and inserting "to reimburse costs described in subparagraph (A)(i)"; and

(B) by inserting after clause (ii) of subparagraph (C) the following:

"(iii) For each fiscal year, the Secretary of the Treasury shall calculate the difference between—

"(I) the estimated cost for overtime compensation that would have been incurred during that fiscal year for inspectional services if section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267), as in effect before the enactment of section 13701 of the Omnibus Budget Reconciliation Act of 1993, had governed such costs, and

"(II) the actual cost for overtime compensation, premium pay, and agency retirement contributions that is incurred during that fiscal year in regard to such services under section 5 of the Act of February 13, 1991, as amended by section 13701 of the Omnibus Budget Reconciliation Act of 1993, and under section 8331(3) of title 5, United States Code, as amended by section 13704 of such Act of 1993,

and shall transfer from the Customs User Fee Account to the General Fund of the Treasury an amount equal to the difference calculated under this clause, or $18,000,000, whichever amount is less. Transfers shall be made under this clause at least quarterly and on the basis of estimates to the same

extent as are reimbursements under subparagraph (B)(iii).''.

SEC. 13704. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFICERS FOR RETIREMENT PURPOSES.

(a) IN GENERAL.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking out ''and'' at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting ''; and'';

(3) by adding after subparagraph (D) the following:

''(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;''; and

(4) by striking out ''subparagraphs (B), (C), and (D) of this paragraph,'' and inserting ''subparagraphs (B), (C), (D), and (E) of this paragraph''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment

of this Act and apply only with respect to service performed on or after such date.

SEC. 13705. REPORTS.

(a) CUSTOMS USER FEE ACCOUNT REPORTS.—Subparagraph (D) of section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(D)) is amended to read as follows:

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives—

"(i) containing a detailed accounting of all expenditures from the Customs User Fee Account during such year, including a summary of the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii);

"(ii) containing a listing of all call-back assignments of customs officers for which overtime compensation was paid under section 5(a) of the Act of February 13, 1911, and that were less than 1 hour in duration; and

"(iii) containing a listing of all customs officers who were paid $25,000 or more under subsections 5(a) and 5(b) of the Act of February 13, 1911, including a listing of the total compensation paid to each of those customs officers under all other statutory authority.".

(b) OTHER REPORTS.—

(1) GAO REPORT.—The Comptroller General of the United States shall undertake—

(A) an evaluation of the appropriateness and efficiency of the customs user fee laws for financing the provision of customs inspectional services; and

(B) a study to determine whether cost savings in the provision of overtime inspectional services could be realized by the United States Customs Service through the use of additional inspectors as opposed to continuing the current practice of relying on overtime pay.

The Comptroller General shall submit a report on the evaluation and study required under this subsection to the Committees by no later than the 1st anniversary of the date of the enactment of this Act.

(2) TREASURY RECOMMENDATION.—On the day that the President submits the budget for the United States Government for fiscal year 1995 to the Congress under section 1105(a) of title 31, United States Code, the Secretary of the Treasury shall submit to the Committees recommended legislative proposals for improving the operation of customs user fee laws in financing the provision of customs inspectional services.

(3) DEFINITION OF COMMITTEES.—For purposes of this subsection, the term ''Committees'' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE XIV—REVENUE PROVISIONS

SEC. 14001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the ''Revenue Reconciliation Act of 1993''.

(b) AMENDMENT TO 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 in the case of the amendments made by section 14221 (relating to corporate rate increase), 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) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this title.

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Subtitle A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

SEC. 14101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) PERMANENT EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

(d) TRANSITION RULES.—

(1) WAIVER OF INTEREST AND PENALTIES.—No interest, penalty, or addition to tax shall be imposed or required to be paid solely by reason of a failure, before the date of the enactment of this Act,

to treat educational assistance in a manner consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as in effect before the amendments made by subsection (a)).

(2) SPECIAL RULES FOR 1992.—

(A) EMPLOYMENT TAXES.—If—

(i) an employer provided an employee with educational assistance during the period beginning on July 1, 1992, and ending on December 31, 1992,

(ii) consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as so in effect), such employer treated such assistance as taxable for purposes of any employment tax and as a result of such treatment there was an increase in taxable wages for purposes of such tax,

(iii) on or after the date of the enactment of this Act and before January 1, 1994, such employer pays such employee amounts which are taxable wages for purposes of such tax and which equal or exceed the increase referred to in clause (ii), and

(iv) such employee did not treat such assistance for purposes of such employment tax (or for purposes of chapter 1 of the Internal Revenue Code of 1986 in the case of employment tax imposed by chapter 24 of such Code) in a manner inconsistent with the employer's treatment of such assistance,

the amendments made by subsection (a) shall not apply to such educational assistance for purposes of such employment tax, but, for purposes of applying such employment tax (and for purposes of the reporting requirements imposed by chapter 61 of such Code), the taxable wages of the employee referred to in clause (iii) shall be reduced by the amount of the increase referred to in clause (ii). For purposes of clause (iv), an employer may assume that the employee treated the assistance in a manner consistent with the employer's treatment unless such employer has actual knowledge to the contrary.

(B) REPORTING REQUIREMENT.—An employer shall separately report the amounts of any reduction under subparagraph (A) as non-

taxable income on any returns or receipts required under chapter 61 of such Code for calendar year 1993.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) EMPLOYMENT TAX.—The term ''employment tax'' means any tax imposed by subtitle C of such Code.

(ii) TAXABLE WAGES.—The term ''taxable wages''means—

(I) wages (as defined in section 3121(a) of such Code) in the case of the taxes imposed by chapter 21 of such Code,

(II) compensation (as defined in section 3231(e) of such Code) in the case of the taxes imposed by chapter 22 of such Code,

(III) wages (as defined in section 3306(b) of such Code) in the case of the taxes imposed by chapter 23 of such Code, and

(IV) wages (as defined in section 3401(a) of such Code) in the case of

the taxes imposed by chapter 24 of such Code.

(3) INCOME TAX TREATMENT.—If—

(A) subparagraph (A) of paragraph (2) applies to any educational assistance referred to in such paragraph provided to any employee, and

(B) such employee included such assistance in his taxable income for purposes of the tax imposed by chapter 1 of such Code,

the amendments made by subsection (a) shall not apply to such assistance for purposes of such chapter 1, but the amount included in the gross income of such employee by reason of wages received from the employer referred to in subparagraph (A) of paragraph (2) during 1993 shall be reduced in the manner provided in such subparagraph (A).

SEC. 14102. TARGETED JOBS CREDIT.

(a) PERMANENT EXTENSION OF CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after June 30, 1992.

(b) CREDIT FOR PARTICIPANTS IN APPROVED SCHOOL-TO-WORK PROGRAMS.—

(1) IN GENERAL.—Subparagraph (I) of section 51(d)(1) (defining members of targeted group) is amended to read as follows:

"(I) a qualified participant in an approved school-to-work program, or".

(2) QUALIFIED PARTICIPANT IN AN APPROVED SCHOOL-TO-WORK PROGRAM.—Paragraph (10) of section 51(d) is amended to read as follows:

"(10) QUALIFIED PARTICIPANT IN AN APPROVED SCHOOL-TO-WORK PROGRAM DEFINED.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified participant in an approved school-to-work program' means any individual who is certified under an approved school-to-work program as—

"(i) having attained age 16 but not having attained age 21, and

"(ii) being enrolled in and making satisfactory progress in completing such approved school-to-work program.

"(B) LIMITATION ON NUMBER OF PARTICIPANTS.—

"(i) IN GENERAL.—Any individual who begins work for the employer during any calendar year shall not be treated as a qualified participant in an approved school-to-work program unless the individual is certified under such program as an eligible participant with respect to such calendar year.

"(ii) LIMITATION ON CERTIFICATIONS.—The aggregate number of individuals certified under an approved school-to-work program as eligible participants with respect to any calendar year shall not exceed the portion of the national school-to-work program limitation for such calendar year allocated under subsection (l) to such program.

"(C) APPROVED SCHOOL-TO-WORK PROGRAM.—The term 'approved school-to-work program' means any program which—

"(i) is a planned program of structured job training designed to integrate academic instruction provided by an educational institution and work-based learning provided by an employer, and

"(ii) is approved by the Secretaries of Labor and Education.

"(D) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—For purposes of applying this subpart to wages paid or incurred to any qualified participant in an approved school-to-work program, subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

"(E) WAGES.—In the case of remuneration attributable to services performed while the individual meets the requirements of subparagraph (A), wages, and unemployment insurance wages, shall be determined without regard to section 3306(c)(10)(C)."

(3) OVERALL LIMITATIONS.—Section 51 is amended by adding at the end thereof the following new subsection:

"(l) OVERALL LIMITATION ON APPROVED SCHOOL-TO-WORK PROGRAM PARTICIPANTS.—

"(1) IN GENERAL.—For purposes of subsection (d)(10), the national school-to-work program limitation—

"(A) for calendar year 1994 is 125,000,

"(B) for calendar year 1995 is 140,000,

"(C) for calendar year 1996 is 160,000,

"(D) for calendar year 1997 is 180,000, and

"(E) for calendar year 1998 and any subsequent calendar year is 200,000.

"(2) ALLOCATION TO STATES.—The national school-to-work program limitation for any calendar year shall be allocated among the States in proportion to the number of their eligible participants that are estimated to be served in approved school-to-work programs for that year. Such estimates shall be published by the Secretaries of Labor and Education before the beginning of the calendar year to which the allocation applies.

"(3) ALLOCATION TO APPROVED SCHOOL-TO-WORK PROGRAMS.—The portion of the national school-to-work program limitation for any calendar year which is allocated to any State shall be allocated among the approved school-to-work programs in such State in such manner as the Secretaries of Labor and Education shall prescribe."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply in the case of individuals who begin work for the employer after December 31, 1993.

PART II—INVESTMENT INCENTIVES

Subpart A—Research Credit

SEC. 14111. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 14112. MODIFICATION OF FIXED BASE PERCENTAGE FOR STARTUP COMPANIES.

(a) GENERAL RULE.—Clause (ii) of section 41(c)(3)(B) is amended to read as follows:

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

"(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

"(II) in the case of the taxpayer's 6th such taxable year, 1/6 of

the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(III) in the case of the taxpayer's 7th such taxable year, 1/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(IV) in the case of the taxpayer's 8th such taxable year, 1/2 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(V) in the case of the taxpayer's 9th such taxable year, 2/3 of the percentage which the aggregate qualified

research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(VI) in the case of the taxpayer's 10th such taxable year, 5/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

"(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the taxpayer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 41(c)(3)(B) is amended by striking "clause (i)" and inserting "clauses (i) and (ii)".

(2) Subparagraph (D) of section 41(c)(3) is amended by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) and (B)(ii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Capital Gain Provisions

SEC. 14113. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

''SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

''(a) 50-PERCENT EXCLUSION.—In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

''(b) PER-ISSUER LIMITATION ON TAXPAYER'S ELIGIBLE GAIN.—

''(1) IN GENERAL.—If the taxpayer has eligible gain for the taxable year from 1 or more dispositions of stock issued by any corporation, the aggregate amount of such gain from dispositions of stock is-

sued by such corporation which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

"(A) $10,000,000 reduced by the aggregate amount of eligible gain taken into account under subsection (a) for prior taxable years and attributable to dispositions of stock issued by such corporation, or

"(B) 10 times the aggregate adjusted bases of qualified small business stock issued by such corporation and disposed of by the taxpayer during the taxable year.

For purposes of subparagraph (B), the adjusted basis of any stock shall be determined without regard to any addition to basis after the date on which such stock was originally issued.

"(2) ELIGIBLE GAIN.—For purposes of this subsection, the term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) TREATMENT OF MARRIED INDIVIDUALS.—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000'.

"(B) ALLOCATION OF EXCLUSION.—In the case of any joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(c) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a C corporation which is originally issued after December 31, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (f) and (h), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services provided to such corporation (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT; ETC.—

"(A) IN GENERAL.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e) and such corporation is a C corporation.

"(B) SPECIAL RULE FOR CERTAIN SMALL BUSINESS INVESTMENT COMPANIES.—

"(i) WAIVER OF ACTIVE BUSINESS REQUIREMENT.—Notwithstanding any provision of subsection (e), a corporation shall be treated as meeting the active business requirements of such subsection for any period during which such corporation qualifies as a specialized small business investment company.

"(ii) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.—For purposes of clause (i), the term 'specialized small busi-

ness investment company' means any eligible corporation (as defined in subsection (e)(4)) which is licensed to operate under section 301(d) of the Small Business Investment Act of 1958 (as in effect on May 13, 1993).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) REDEMPTIONS FROM TAXPAYER OR RELATED PERSON.—Stock acquired by the taxpayer shall not be treated as qualified small business stock if, at any time during the 4–year period beginning on the date 2 years before the issuance of such stock, the corporation issuing such stock purchased (directly or indirectly) any of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(B) SIGNIFICANT REDEMPTIONS.—Stock issued by a corporation shall not be treated as qualified business stock if, during the 2–year period beginning on the date 1 year before the issuance of such stock, such corporation made 1 or more purchases of its stock with an aggregate value (as of the time of the respective pur-

chases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2–year period.

"(C) ACQUISITIONS BY RELATED PERSONS.—For purposes of this paragraph, the purchase by any person related (within the meaning of section 267(b) or 707(b)) to the issuing corporation of any stock in the issuing corporation shall be treated as a purchase by the issuing corporation.

"(d) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation which is a C corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after January 1, 1993, and before the issuance did not exceed $50,000,000,

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts received in the issuance) does not exceed $50,000,000, and

"(C) such corporation agrees to submit such reports to the Secretary and to shareholders as the Secretary may require to carry out the purposes of this section.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(A) stock and debt of any subsidiary (as defined in subsection (e)(5)(C)) held by such corporation shall be disregarded, and

"(B) such corporation shall be treated as holding its ratable share of the assets of such

subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(e) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—For purposes of subsection (c)(2), the requirements of this subsection are met by a corporation for any period if during such period—

"(A) at least 80 percent (by value) of the assets of such corporation are used by such corporation in the active conduct of a qualified trade or business, and

"(B) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future qualified trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) QUALIFIED TRADE OR BUSINESS.—For purposes of this subsection, the term 'qualified trade or business' means any trade or business other than—

"(A) any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any other trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees,

"(B) any banking, insurance, financing, leasing, investing, or similar business,

"(C) any farming business (including the business of raising or harvesting trees),

"(D) any business involving the production or extraction of products of a character with re-

spect to which a deduction is allowable under section 613 or 613A, and

"(E) any business of operating a hotel, motel, restaurant, or similar business.

"(4) ELIGIBLE CORPORATION.—For purposes of this subsection, the term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(A) a DISC or former DISC,

"(B) a corporation with respect to which an election under section 936 is in effect,

"(C) a regulated investment company, real estate investment trust, or REMIC, and

"(D) a cooperative.

"(5) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any pe-

riod during which more than 10 percent of the value of its assets (in excess of liabilities) consists of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (6)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(6) WORKING CAPITAL.—For purposes of paragraph (1)(A), any assets which—

"(A) are held as a part of the reasonably required working capital needs of a qualified trade or business of the corporation, or

"(B) are held for investment and are reasonably expected to be used within 2 years to finance future research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business,

shall be treated as used in the active conduct of a qualified trade or business. For periods after the

corporation has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the corporation qualify as used in the active conduct of a qualified trade or business by reason of this paragraph.

"(7) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

"(8) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

"(f) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock in a corporation is acquired solely through the conversion of other stock in such cor-

1 poration which is qualified small business stock in the
2 hands of the taxpayer—
3 "(1) the stock so acquired shall be treated as
4 qualified small business stock in the hands of the
5 taxpayer, and
6 "(2) the stock so acquired shall be treated as
7 having been held during the period during which the
8 converted stock was held.
9 "(g) TREATMENT OF PASS-THRU ENTITIES.—
10 "(1) IN GENERAL.—If any amount included in
11 gross income by reason of holding an interest in a
12 pass-thru entity meets the requirements of para-
13 graph (2)—
14 "(A) such amount shall be treated as gain
15 described in subsection (a), and
16 "(B) for purposes of applying subsection
17 (b), such amount shall be treated as gain from
18 a disposition of stock in the corporation issuing
19 the stock disposed of by the pass-thru entity
20 and the taxpayer's proportionate share of the
21 adjusted basis of the pass-thru entity in such
22 stock shall be taken into account.
23 "(2) REQUIREMENTS.—An amount meets the
24 requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity (determined by treating such entity as an individual) and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(h) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer described in paragraph (2), the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) DESCRIPTION OF TRANSFERS.—A transfer is described in this subsection if such transfer is—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner of stock with respect to which requirements similar to the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding period requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified small business stock is exchanged for other stock which would not qualify as qualified small business stock but for this subparagraph, such other stock shall be treated as qualified small business stock acquired on the date on which the exchanged stock was acquired.

"(B) LIMITATION.—This section shall apply to gain from the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph

(A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was exchanged.

"(i) BASIS RULES.—For purposes of this section—

"(1) STOCK EXCHANGED FOR PROPERTY.—In the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) TREATMENT OF CONTRIBUTIONS TO CAPITAL.—If the adjusted basis of any qualified small business stock is adjusted by reason of any contribution to capital after the date on which such stock was originally issued, in determining the amount of the adjustment by reason of such contribution, the basis of the contributed property shall in no event be treated as less than its fair market value on the date of the contribution.

"(j) TREATMENT OF CERTAIN SHORT POSITIONS.—

"(1) IN GENERAL.—If the taxpayer has an offsetting short position with respect to any qualified small business stock, subsection (a) shall not apply to any gain from the sale or exchange of such stock unless—

"(A) such stock was held by the taxpayer for more than 5 years as of the first day on which there was such a short position, and

"(B) the taxpayer elects to recognize gain as if such stock were sold on such first day for its fair market value.

"(2) OFFSETTING SHORT POSITION.—For purposes of paragraph (1), the taxpayer shall be treated as having an offsetting short position with respect to any qualified small business stock if—

"(A) the taxpayer has made a short sale of substantially identical property,

"(B) the taxpayer has acquired an option to sell substantially identical property at a fixed price, or

"(C) to the extent provided in regulations, the taxpayer has entered into any other transaction which substantially reduces the risk of loss from holding such qualified small business stock.

For purposes of the preceding sentence, any reference to the taxpayer shall be treated as including a reference to any person who is related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, or otherwise."

(b) ONE-HALF OF EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by

adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to one-half of the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) PENALTY FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS.—Section 6652 is amended by inserting before the last subsection thereof the following new subsection:

"(k) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTION 1202.—In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to $50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting '$100' for '$50'. In the

case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years.''

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) 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 includable on account of gains from sales or exchanges of capital assets; and

''(B) the exclusion 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)''.

(2) Paragraph (4) of section 642(c) is amended to read as follows:

''(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section

1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).''

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: ''The exclusion under section 1202 shall not be taken into account.''.

(4) Paragraph (4) of section 691(c) is amended by striking ''1201, and 1211'' and inserting ''1201, 1202, and 1211''.

(5) 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 and'' after ''except that''.

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

''Sec. 1202. 50-percent exclusion for gain from certain small business stock.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after December 31, 1992.

SEC. 14114. ROLLOVER OF GAIN FROM SALE OF PUBLICLY TRADED SECURITIES INTO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end the following new section:

"SEC. 1044. ROLLOVER OF PUBLICLY TRADED SECURITIES GAIN INTO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

"(a) NONRECOGNITION OF GAIN.—In the case of the sale of any publicly traded securities with respect to which the taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any common stock or partnership interest in a specialized small business investment company purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

"(b) LIMITATIONS.—

"(1) LIMITATION ON INDIVIDUALS.—In the case of an individual, the amount of gain which may

be excluded under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $50,000, or

"(B) $500,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.

"(2) LIMITATION ON C CORPORATIONS.—In the case of a C corporation, the amount of gain which may be excluded under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $250,000, or

"(B) $1,000,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.

"(3) SPECIAL RULES FOR MARRIED INDIVIDUALS.—For purposes of this subsection—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1) shall be applied by substituting '$25,000' for '$50,000' and '$250,000' for '$500,000'.

"(B) ALLOCATION OF GAIN.—In the case of any joint return, the amount of gain excluded under subsection (a) for any taxable year shall be allocated equally between the

spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(4) SPECIAL RULES FOR C CORPORATION.—For purposes of this subsection—

"(A) all corporations which are members of the same controlled group of corporations (within the meaning of section 52(a)) shall be treated as 1 taxpayer, and

"(B) any gain excluded under subsection (a) by a predecessor of any C corporation shall be treated as having been excluded by such C corporation.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PUBLICLY TRADED SECURITIES.—The term 'publicly traded securities' means securities which are traded on an established securities market.

"(2) PURCHASE.—The term 'purchase' has the meaning given such term by section 1043(b)(4).

"(3) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.—The term 'specialized small busi-

ness investment company' means any partnership or corporation which is licensed by the Small Business Administration under section 301(d) of the Small Business Investment Act of 1958 (as in effect on May 13, 1993).

"(4) CERTAIN ENTITIES NOT ELIGIBLE.—This section shall not apply to any estate, trust, partnership, or S corporation.

"(d) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any common stock or partnership interest in any specialized small business investment company which is purchased by the taxpayer during the 60-day period described in subsection (a). This subsection shall not apply for purposes of section 1202."

(b) CONFORMING AMENDMENT.—Paragraph (24) of section 1016(a) is amended—

(1) by striking "section 1043" and inserting "section 1043 or 1044", and

(2) by striking "section 1043(c)" and inserting "section 1043(c) or 1044(d), as the case may be".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1044. Rollover of publicly traded securities gain into specialized small business investment companies."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on and after the date of the enactment of this Act, in taxable years ending on and after such date.

Subpart C—Modifications To Minimum Tax Depreciation Rules

SEC. 14115. MODIFICATION TO MINIMUM TAX DEPRECIATION RULES.

(a) GENERAL RULE.—Paragraph (1) of section 56(a) (relating to depreciation) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) TREATMENT OF CERTAIN PERSONAL PROPERTY PLACED IN SERVICE AFTER 1993.—

"(i) IN GENERAL.—In the case of any property to which this subparagraph applies, the depreciation deduction allowable under section 167 shall be determined as provided in section 168(a), except that the method of depreciation used shall be—

"(I) the 120 percent declining balance method switching to the straight line method for the 1st tax-

able year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance, or

"(II) the straight line method in the case of property for which the applicable depreciation method under section 168(a) is the straight line method.

"(ii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any tangible property placed in service after December 31, 1993, except that this subparagraph shall not apply to—

"(I) any residential rental property or nonresidential real property (within the meaning of section 168(e)), and

"(II) any other property for which the depreciation deduction provided by section 167(a) for purposes of the regular tax is computed under the alternative depreciation system of section 168(g).

"(iii) COORDINATION WITH SUBPARAGRAPH (A).—Subparagraph (A) shall not apply to any property to which this subparagraph applies."

(b) ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property to which subsection (a)(1)(B) applies, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(B).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 168(b) is amended to read as follows:

"(2) SPECIAL RULE FOR DECLINING BALANCE METHOD IN CERTAIN CASES.—

"(A) 150 PERCENT METHOD FOR CERTAIN PROPERTY.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(i) any 15-year or 20-year property, or

"(ii) any property used in a farming business (within the meaning of section 263A(e)(4)).

"(B) ELECTION TO USE MINIMUM TAX METHOD.—In the case of any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this subparagraph apply, paragraph (1) shall be applied by substituting '120 percent' for '200 percent' (and subparagraph (A) of this paragraph shall not apply)."

(2) Paragraph (5) of section 168(b) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(B)".

(3) Subsection (c) of section 168 is amended—

(A) by striking paragraph (2), and

(B) by striking so much of such subsection as precedes the table contained in paragraph (1) and inserting the following:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1993.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (D)(i) thereof (as redesignated by subsection (a) of this section).

Subpart D—Increase in Expense Treatment for Small Businesses

SEC. 14116. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking ''$10,000'' and inserting ''$25,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

PART III—TAX-EXEMPT BOND PROVISIONS

SEC. 14121. HIGH-SPEED INTERCITY RAIL FACILITY BONDS EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exemption for certain bonds) is amended by striking ''75 percent of''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1993.

SEC. 14122. PERMANENT EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

> ''(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—
>
> ''(i) any manufacturing facility, or
>
> ''(ii) any land or property in accordance with section 147(c)(2).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

PART IV—EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT

SEC. 14131. EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of the earned income amount, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

"(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—

"(1) PERCENTAGES.—The credit percentage and the phaseout percentage shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34.37	16.16
2 or more qualifying children	39.66	19.83
No qualifying children	7.65	7.65

"(B) TRANSITIONAL PERCENTAGES.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	26.60	16.16
2 or more qualifying children	31.59	15.79
No qualifying children	7.65	7.65

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,500	$11,000
No qualifying children	$4,000	$5,000

"(B) TRANSITIONAL AMOUNTS.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$7,750	$11,000
2 or more qualifying children	$8,500	$11,000
No qualifying children	$4,000	$5,000".

(b) ELIGIBLE INDIVIDUAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(A) IN GENERAL.—The term 'eligible individual' means—

"(i) any individual who has a qualifying child for the taxable year, or

"(ii) any other individual who does not have a qualifying child for the taxable year, if—

"(I) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

"(II) such individual (or, if the individual is married, the individual's spouse) has attained age 22 before the close of the taxable year, and

"(III) such individual (or, if the individual is married, the individual's spouse) is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year."

(c) INFLATION ADJUSTMENTS.—Section 32(i) (relating to inflation adjustments) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1993' for 'calendar year 1992'.", and

(2) by redesignating paragraph (3) as paragraph (2).

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 32(c)(3) is amended—

(A) by striking ''clause (i) or (ii)'' in clause (iii) and inserting ''clause (i)'',

(B) by striking clause (ii), and

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

(2) Paragraph (3) of section 162(l) is amended to read as follows:

''(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).''

(3) Section 213 is amended by striking subsection (f).

(4) Subsection (b) of section 3507 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) certifies that the employee has 1 or more qualifying children (within the meaning of section 32(c)(3)) for such taxable year,''.

(5) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) of not more than the credit percentage in effect under section 32(b)(1) for an eligible individual with 1 qualifying child and with earned income not in excess of the earned income amount in effect under section 32(b)(2) for such an eligible individual, which

"(ii) phases out at the phaseout percentage in effect under section 32(b)(1) for such an eligible individual between the phaseout amount in effect under section 32(b)(2) for such an eligible individual and the amount of earned income at which the credit under section 32(a) phases out for such an eligible individual, or".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

PART V—INCENTIVES FOR INVESTMENT IN REAL ESTATE

Subpart A—Extension of Qualified Mortgage Bonds and Low-Income Housing Credit

SEC. 14141. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 14142. PERMANENT EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(b) HOME ASSISTANCE NOT TO RESULT IN CERTAIN BUILDINGS BEING FEDERALLY SUBSIDIZED.—Paragraph (2) of section 42(i) (relating to determination of whether building is federally subsidized) is amended by adding at the end thereof the following new subparagraph:

"(E) BUILDINGS RECEIVING HOME ASSISTANCE.—Assistance provided under the HOME Investment Partnerships Act (as in effect on the date of the enactment of this subparagraph) with respect to any building shall not be taken under subparagraph (D) if 40 percent or more of the residential units in the building are occupied by individuals whose income is 50 percent or less of area median gross income. Subsection (d)(5)(C) shall not apply to any building to which the preceding sentence applies.".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to periods after June 30, 1992.

(2) The amendment made by subsection (b) shall apply to periods after the date of the enactment of this Act.

Subpart B—Modification of Passive Loss Rules

SEC. 14143. APPLICATION OF PASSIVE LOSS RULES TO RENTAL REAL ESTATE ACTIVITIES.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Subsection (c) of section 469 (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity. Nothing in the preceding provisions of this subparagraph shall be construed as affecting the determination of whether the taxpayer materially participates with respect to any interest in a limited partnership as a limited partner.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(D) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property

trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 469(c) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(2) Clause (iv) of section 469(i)(3)(E) is amended by inserting "or any loss allowable by reason of subsection (c)(7)" after "loss".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 14144. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building (or complex of buildings) is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution if—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the present value (determined as of the time of the sale and by using the applicable Federal rate determined under section 1274(d)) of the maximum amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property cannot exceed 30 percent of the total purchase price of the property (including the contingent payments).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property

at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured.''.

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): ''For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.'', and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after January 1, 1994.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after January 1, 1994.

SEC. 14145. REPEAL OF SPECIAL TREATMENT OF PUBLICLY TREATED PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking ''paragraph (1) or (2)'' in paragraph (2) (as so redesignated) and inserting ''paragraph (1)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to partnership years beginning on or after January 1, 1994.

SEC. 14146. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

''(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

''(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the

Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income.''

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: ''Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1994.

SEC. 14147. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

''(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

''(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after January 1, 1994.

SEC. 14148. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration

for entering into agreements to make loans,'' before ''and annuities''.

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended—

(1) by striking ''all gains on'' and inserting ''all gains or losses recognized, in connection with the organization's investment activities, from'',

(2) by striking '', written by the organization in connection with its investment activities,'' and

(3) by inserting ''or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities'' before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after January 1, 1994.

SEC. 14149. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

''(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity

qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income (less direct expenses related thereto) of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income (less direct expenses related thereto) of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) PENSION-HELD REIT.—The purposes of subparagraph (C)—

"(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 per-

cent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart D—Discharge of Indebtedness

SEC. 14150. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) in the case of a taxpayer other than a C corporation, the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATIONS.—

"(A) INDEBTEDNESS IN EXCESS OF VALUE.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

"(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(ii) the fair market value of the real property described in paragraph (3)(A) (as

of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

"(B) OVERALL LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—The term 'qualified real property business indebtedness' means indebtedness which—

"(A) was incurred or assumed by the taxpayer in connection with real property used in a trade or business and is secured by such real property,

"(B) was incurred or assumed before January 1, 1993, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

"(C) with respect to which such taxpayer makes an election to have this paragraph apply. Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

"(4) QUALIFIED ACQUISITION INDEBTEDNESS.—For purposes of paragraph (3)(B), the term 'qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

"(5) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 is amended—

(A) by striking "subsections (a), (b), and (g)" in paragraphs (6) and (7)(A) and inserting "subsections (a), (b), (c), and (g)",

(B) by striking "SUBSECTIONS (a), (b), AND (g)" in the subsection heading and inserting "CERTAIN PROVISIONS", and

(C) by striking "SUBSECTIONS (a), (b), AND (g)" in the headings of paragraphs (6) and (7)(A) and inserting "CERTAIN PROVISIONS".

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) is amended by inserting ''or under paragraph (3)(B) of subsection (c)'' after ''subsection (b)''.

(6) Paragraph (2) of section 1017(a) is amended by striking ''or (b)(5)'' and inserting '', (b)(5), or (c)(1)''.

(7) Subparagraph (A) of section 1017(b)(3) is amended by inserting ''or (c)(1)'' after ''subsection (b)(5)''.

(8) Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULES FOR QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

''(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

''(ii) subparagraph (E) shall not apply, and

''(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately

before disposition if earlier than the time under subsection (a).''

(9) Paragraph (1) of section 703(b) is amended by striking ''subsection (b)(5)'' and inserting ''subsection (b)(5) or (c)(3)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1992, in taxable years ending after such date.

Subpart E—Increase in Recovery Period for Nonresidential Real Property

SEC. 14151. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

''Nonresidential real property ..... 39 years.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after February 25, 1993.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1994, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 25, 1993, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 25, 1993.

For purposes of this paragraph, the term ''qualified person'' means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

PART VI—LUXURY TAX

SEC. 14161. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

''Sec. 4001. Imposition of tax.
''Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.
''Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

''(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 this subchapter, 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.

1 "(d) EXEMPTION FOR LAW ENFORCEMENT USES,
2 ETC.—No tax shall be imposed by this section on the sale
3 of any passenger vehicle—
4 "(1) to the Federal Government, or a State or
5 local government, for use exclusively in police, fire-
6 fighting, search and rescue, or other law enforce-
7 ment or public safety activities, or in public works
8 activities, or
9 "(2) to any person for use exclusively in provid-
10 ing emergency medical services.
11 "(e) INFLATION ADJUSTMENT.—
12 "(1) IN GENERAL.—In the case of any calendar
13 year after 1992, the $30,000 amount in subsection
14 (a) and section 4003(a) shall be increased by an
15 amount equal to—
16 "(A) $30,000, multiplied by
17 "(B) the cost-of-living adjustment under
18 section 1(f)(3) for such calendar year, deter-
19 mined by substituting 'calendar year 1990' for
20 'calendar year 1992' in subparagraph (B)
21 thereof.
22 "(2) ROUNDING.—If any amount as adjusted
23 under paragraph (1) is not a multiple of $100, such
24 amount shall be rounded to the nearest multiple of
25 $100 (or, if such amount is a multiple of $50 and

not of $100, such amount shall be rounded to the next highest multiple of $100).

''(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

''SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

''(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 a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

''(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) 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 vehicles 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 a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of

a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle 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 long-term lease if the lessee's use of the vehicle under such

lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(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, and

"(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.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE 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 passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle 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 was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

The price of any part or accessory (and its installation) to which paragraph (1) does not apply by rea-

son of this paragraph shall not be taken into account under paragraph (2)(A).

"(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.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle 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 a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) 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) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 14162. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect on the day before the date of the enactment of this Act, is amended—

(1) by striking ''or'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C),

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or'', and

(4) by inserting after subparagraph (C) the following flush sentence:

''The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

(c) PERIOD FOR FILING CLAIMS.—If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 14163. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking ''or a diesel-powered train'' and inserting '', a diesel-powered train, or a diesel-powered boat''.

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking ''diesel-powered highway vehicle'' each place it appears and inserting

"diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN BOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) in the case of diesel fuel, a boat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation."

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

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

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end there-

of the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

PART VII—OTHER CHANGES

SEC. 14171. ALTERNATIVE MINIMUM TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 (as amended by section 14113) is amended by striking paragraph (6) (relating to appreciated property charitable deduction) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) EFFECT ON ADJUSTED CURRENT EARNINGS.—Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings."

(c) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) (as amended by section 14113) is amended by striking "(5), (6), and (8)" and inserting "(5), and (7)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

(e) REPORT ON ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied. Such report shall address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the

procedure only to items with significant artistic or cultural value, and recommendations for legislative action needed to implement the proposed procedure.

SEC. 14172. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

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 ''with respect to benefits received before October 1, 1992''.

SEC. 14173. TEMPORARY EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF–EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—

(1) EXTENSION.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking ''June 30, 1992'' and inserting ''December 31, 1993''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after June 30, 1992.

(b) DETERMINATION OF ELIGIBILITY FOR EMPLOYER-SPONSORED HEALTH PLAN.—

(1) IN GENERAL.—Paragraph (2)(B) of section 162(l) is amended to read as follows:

"(B) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1992.

Subtitle B—Revenue Increases

PART I—PROVISIONS AFFECTING INDIVIDUALS

Subpart A—Rate Increases

SEC. 14201. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(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 $36,900	15% of taxable income.
Over $36,900 but not over $89,150.	$5,535, plus 28% of the excess over $36,900.
Over $89,150 but not over $140,000.	$20,165, plus 31% of the excess over $89,150.
Over $140,000	$35,928.50, plus 36% of the excess over $140,000.

"(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 $29,600	15% of taxable income.
Over $29,600 but not over $76,400.	$4,440, plus 28% of the excess over $29,600.
Over $76,400 but not over $127,500.	$17,544, plus 31% of the excess over $76,400.
Over $127,500	$33,385, plus 36% of the excess over $127,500.

"(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

1 7703) a tax determined in accordance with the following
2 table:

"If taxable income is:	The tax is:
Not over $22,100	15% of taxable income.
Over $22,100 but not over $53,500.	$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000.	$12,107, plus 31% of the excess over $53,500.
Over $115,000	$31,172, plus 36% of the excess over $115,000.

3 "(d) MARRIED INDIVIDUALS FILING SEPARATE RE-
4 TURNS.—There is hereby imposed on the taxable income
5 of every married individual (as defined in section 7703)
6 who does not make a single return jointly with his spouse
7 under section 6013, a tax determined in accordance with
8 the following table:

"If taxable income is:	The tax is:
Not over $18,450	15% of taxable income.
Over $18,450 but not over $44,575.	$2,767.50, plus 28% of the excess over $18,450.
Over $44,575 but not over $70,000.	$10,082.50, plus 31% of the excess over $44,575.
Over $70,000	$17,964.25, plus 36% of the excess over $70,000.

9 "(e) ESTATES AND TRUSTS.—There is hereby im-
10 posed on the taxable income of—
11 "(1) every estate, and
12 "(2) every trust,
13 taxable under this subsection a tax determined in accord-
14 ance with the following table:

"If taxable income is:	The tax is:
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500	$225, plus 28% of the excess over $1,500.

"If taxable income is:	The tax is:
Over $3,500 but not over $5,500 ..	$785, plus 31% of the excess over $3,500.
Over $5,500	$1,405, plus 36% of the excess over $5,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 531 is amended by striking "28 percent" and inserting "36 percent".

(2) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(3)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting"1993", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1992".

(B) Subsection (f) of section 1 is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN BRACKETS.—

"(A) CALENDAR YEAR 1994.—In prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).

"(B) LATER CALENDAR YEARS.—In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be determined under paragraph (3) by substituting '1993' for '1992'."

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1992".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1992".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1992".

(F) Subparagraph (B) of section 132(f)(6) is amended by striking ", determined by substituting" and all that follows down through the period at the end thereof and inserting a period.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1992".

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 14202. SURTAX ON HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—

(1) Subsection (a) of section 1 (as amended by section 14201) is amended by striking the last item in the table contained therein and inserting the following:

Over $140,000 but not over $250,000.	$35,928.50, plus 36% of the excess over $140,000.
Over $250,000	$75,528.50, plus 39.6% of the excess over $250,000.''

(2) Subsection (b) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $127,500 but not over $250,000.	$33,385, plus 36% of the excess over $127,500.
Over $250,000	$77,485, plus 39.6% of the excess over $250,000.''

(3) Subsection (c) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $115,000 but not over $250,000.	$31,172, plus 36% of the excess over $115,000.
Over $250,000	$79,772, plus 39.6% of the excess over $250,000.''

(4) Subsection (d) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $70,000 but not over $125,000.	$17,964.25, plus 36% of the excess over $70,000.
Over $125,000	$37,764.25, plus 39.6% of the excess over $125,000.''

1 (5) Subsection (e) of section 1 (as so amended)
2 is amended by striking the last item in the table
3 contained therein and inserting the following:

Over $5,500 but not over $7,500 ..	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500.''

4 (b) TECHNICAL AMENDMENT.—Sections 531 and
5 541 (as amended by section 1420) are each amended by
6 striking ''36 percent'' and inserting ''39.6 percent''.
7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1992.

10 **SEC. 14203. MODIFICATIONS TO ALTERNATIVE MINIMUM**
11 **TAX RATES AND EXEMPTION AMOUNTS.**

12 (a) INCREASE IN RATE.—Paragraph (1) of section
13 55(b) (defining tentative minimum tax) is amended to
14 read as follows:
15 ''(1) AMOUNT OF TENTATIVE TAX.—
16 ''(A) NONCORPORATE TAXPAYERS.—
17 ''(i) IN GENERAL.—In the case of a
18 taxpayer other than a corporation, the ten-
19 tative minimum tax for the taxable year is
20 the sum of—

"(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus

"(II) 28 percent of so much of the taxable excess as exceeds $175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

"(ii) TAXABLE EXCESS.—For purposes of clause (i), the term 'taxable excess' means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

"(iii) MARRIED INDIVIDUAL FILING SEPARATE RETURN.—In the case of a married individual filing a separate return, clause (i) shall be applied by substituting '$87,500' for '$175,000' each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

"(B) CORPORATIONS.—In the case of a corporation, the tentative minimum tax for the taxable year is—

"(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(ii) the alternative minimum tax foreign tax credit for the taxable year."

(b) INCREASE IN EXEMPTION AMOUNTS.—Paragraph (1) of section 55(d) (defining exemption amount) is amended—

(1) by striking "$40,000" in subparagraph (A) and inserting "$45,000",

(2) by striking "$30,000" in subparagraph (B) and inserting "$33,750", and

(3) by striking "$20,000" in subparagraph (C) and inserting "$22,500".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 55(d)(3) is amended by striking "$155,000 or (ii) $20,000" and inserting "$165,000 or (ii) $22,500".

(2)(A) Subparagraph (A) of section 897(a)(2) is amended by striking "the amount determined under section 55(b)(1)(A) shall not be less than 21

percent of'' and inserting ''the taxable excess for purposes of section 55(b)(1)(A) shall not be less than''.

(B) The heading for paragraph (2) of section 897(a) is amended by striking ''21-PERCENT''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 14204. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS MADE PERMANENT.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is hereby repealed.

SEC. 14205. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS MADE PERMANENT.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 14206. PROVISIONS TO PREVENT CONVERSION OF ORDINARY INCOME TO CAPITAL GAIN.

(a) INTEREST EMBEDDED IN FINANCIAL TRANSACTIONS.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1258. RECHARACTERIZATION OF GAIN FROM CERTAIN FINANCIAL TRANSACTIONS.

"(a) GENERAL RULE.—In the case of any gain—

"(1) which (but for this section) would be treated as gain from the sale or exchange of a capital asset, and

"(2) which is recognized on the disposition of any property which was held as part of a conversion transaction,

such gain (to the extent such gain does not exceed the applicable imputed income amount) shall be treated as ordinary income.

"(b) APPLICABLE IMPUTED INCOME AMOUNT.—For purposes of subsection (a), the term 'applicable imputed income amount' means, with respect to any disposition referred to in subsection (a), an amount equal to—

"(1) the amount of interest which would have accrued on the taxpayer's net investment in the conversion transaction for the period ending on the date of such disposition (or, if earlier, the date on which the requirements of subsection (c) ceased to be satisfied) at a rate equal to 120 percent of the applicable rate, reduced by

"(2) the amount treated as ordinary income under subsection (a) with respect to any prior dis-

position of property which was held as a part of such transaction.

The Secretary shall by regulations provide for such reductions in the applicable imputed income amount as may be appropriate by reason of amounts capitalized under section 263(g), ordinary income received, or otherwise.

"(c) CONVERSION TRANSACTION.—For purposes of this section, the term 'conversion transaction' means any of the following where substantially all of the taxpayer's expected return from the transaction is attributable to the time value of the taxpayer's net investment in such transaction:

"(1) The holding of any property (whether or not actively traded), and the entering into a contract to sell such property (or substantially identical property) at a price determined in accordance with such contract, but only if such property was acquired and such contract was entered into on a substantially contemporaneous basis.

"(2) Any applicable straddle.

"(3) Any other transaction which is marketed or sold as producing capital gains.

"(4) Any other transaction specified in regulations prescribed by the Secretary.

1 "(d) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—
3 "(1) APPLICABLE STRADDLE.—The term 'appli-
4 cable straddle' means any straddle (within the mean-
5 ing of section 1092(c)); except that the term 'per-
6 sonal property' shall include stock.
7 "(2) APPLICABLE RATE.—The term 'applicable
8 rate' means—
9 "(A) the applicable Federal rate deter-
10 mined under section 1274(d) (compounded
11 semiannually) as if the conversion transaction
12 were a debt instrument, or
13 "(B) if the term of the conversion trans-
14 action is indefinite, the Federal short-term
15 rates in effect under section 6621(b) during the
16 period of the conversion transaction
17 (compounded daily).
18 "(3) TREATMENT OF PROPERTY WITH BUILT-IN
19 LOSS.—
20 "(A) IN GENERAL.—If any property with a
21 built-in loss becomes part of a conversion
22 transaction—
23 "(i) for purposes of applying this sub-
24 title to such property for periods after such
25 property becomes part of such transaction,

the adjusted basis of such property shall be its fair market value as of the time it became part of such transaction, except that

"(ii) upon the disposition of such property in a transaction in which gain or loss is recognized, such built-in loss shall be recognized and shall have a character determined without regard to this section.

"(B) BUILT-IN LOSS.—For purposes of subparagraph (A), the term 'built-in loss' means the excess (if any) of the adjusted basis of any property over its fair market value (determined as of the date on which such property became part of such transaction).

"(4) PROPERTY TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—In determining the taxpayer's net investment in any conversion transaction, there shall be included the fair market value of any property which becomes part of such transaction (determined as of the date on which such property became part of such transaction)."

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is

amended by adding at the end thereof the following new item:

"Sec. 1258. Recharacterization of gain from certain financial transactions."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to conversion transactions entered into after April 30, 1993.

(b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET DISCOUNT RULES.—

(1) MARKET DISCOUNT BONDS ISSUED ON OR BEFORE JULY 18, 1984.—The following provisions are hereby repealed:

(A) Section 1276(e).

(B) Section 1277(d).

(2) TAX-EXEMPT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended—

(i) by striking clause (ii) of subparagraph (B) and redesignating subclauses (iii) and (iv) of such subparagraph as clauses (ii) and (iii), respectively,

(ii) by redesignating subparagraph (C) as subparagraph (D), and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) SECTION 1277 NOT APPLICABLE TO TAX-EXEMPT OBLIGATIONS.—For purposes of section 1277, the term 'market discount bond' shall not include any tax-exempt obligation (as defined in section 1275(a)(3))."

(B) CONFORMING AMENDMENT.—Sections 1276(a)(4) and 1278(b)(1) are each amended by striking "sections 871(a)" and inserting "sections 103, 871(a),".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations purchased (within the meaning of section 1272(d)(1) of the Internal Revenue Code of 1986) after April 30, 1993.

(c) TREATMENT OF STRIPPED PREFERRED STOCK.—

(1) IN GENERAL.—Section 305 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF PURCHASER OF STRIPPED PREFERRED STOCK.—

"(1) IN GENERAL.—If any person purchases after April 30, 1993 any stripped preferred stock, then such person, while holding such stock, shall include in gross income amounts equal to the amounts

which would have been so includible if such stripped preferred stock were a bond issued on the purchase date and having original issue discount equal to the excess, if any, of—

"(A) the redemption price for such stock, over

"(B) the price at which such person purchased such stock.

The preceding sentence shall also apply in the case of any person whose basis in such stock is determined by reference to the basis in the hands of such purchaser.

"(2) BASIS ADJUSTMENTS.—Appropriate adjustments to basis shall be made for amounts includible in gross income under paragraph (1).

"(3) TAX TREATMENT OF PERSON STRIPPING STOCK.—If any person strips the rights to 1 or more dividends from any stock described in paragraph (5)(B) and after April 30, 1993 disposes of such dividend rights, for purposes of paragraph (1), such person shall be treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to such person's adjusted basis in such stripped preferred stock.

"(4) AMOUNTS TREATED AS ORDINARY INCOME.—Any amount included in gross income under paragraph (1) shall be treated as ordinary income.

"(5) STRIPPED PREFERRED STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'stripped preferred stock' means any stock described in subparagraph (B) if there has been a separation in ownership between such stock and any dividend on such stock which has not become payable.

"(B) DESCRIPTION OF STOCK.—Stock is described in this subsection if such stock—

"(i) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and

"(ii) has a fixed redemption price.

"(6) PURCHASE.—For purposes of this subsection, the term 'purchase' means—

"(A) any acquisition of stock, where

"(B) the basis of such stock is not determined in whole or in part by the reference to the adjusted basis of such stock in the hands of the person from whom acquired."

(2) COORDINATION WITH SECTION 167(e).—Paragraph (2) of section 167(e) is amended to read as follows:

"(2) COORDINATION WITH OTHER PROVISIONS.—

"(A) SECTION 273.—This subsection shall not apply to any term interest to which section 273 applies.

"(B) SECTION 305(e).—This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 30, 1993.

(d) TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

"(ii) the excess (if any) of—

"(I) the net gain attributable to the disposition of property held for investment, over

"(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

"(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause."

(2) COORDINATION WITH SPECIAL CAPITAL GAINS RATE.—Subsection (h) of section 1 is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(e) TREATMENT OF CERTAIN APPRECIATED INVENTORY.—

(1) Paragraph (1) of section 751(d) is amended to read as follows:

"(1) SUBSTANTIAL APPRECIATION.—

"(A) IN GENERAL.—Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

"(B) CERTAIN PROPERTY EXCLUDED.—For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this section relating to inventory items."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales, exchanges, and distributions after April 30, 1993.

Subpart B—Other Provisions

SEC. 14207. REPEAL OF LIMITATION ON AMOUNT OF WAGES SUBJECT TO HEALTH INSURANCE EMPLOYMENT TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) Paragraph (1) of section 3121(a) (defining wages) is amended—

(A) by inserting ''in the case of the taxes imposed by sections 3101(a) and 3111(a)'' after ''(1)'',

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

(C) by striking ''such applicable contribution base'' and inserting ''such contribution and benefit base''.

(2) Section 3121 is amended by striking subsection (x).

(b) SELF-EMPLOYMENT TAX.—

(1) Subsection (b) of section 1402 is amended—

(A) by striking ''that part of the net'' in paragraph (1) and inserting ''in the case of the

tax imposed by section 1401(a), that part of the net'',

(B) by striking ''applicable contribution base (as determined under subsection (k))'' in paragraph (1) and inserting ''contribution and benefit base (as determined under section 230 of the Social Security Act)'',

(C) by inserting ''and'' after ''section 3121(b),'', and

(D) by striking ''and (C) includes'' and all that follows through ''3111(b)''.

(2) Section 1402 is amended by striking subsection (k).

(c) RAILROAD RETIREMENT TAX.—

(1) Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

''(iii) HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

''(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

''(II) so much of the rate applicable under section 3211(a)(1) as does

not exceed the rate of tax in effect under section 1402(b).''

(2) Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

''(i) TIER 1 TAXES.—Except as provided 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.''

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6413(c) is amended by striking ''section 3101 or section 3201'' and inserting ''section 3101(a) or section 3201(a) (to the extent the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))''.

(2) Subparagraphs (B) and (C) of section 6413(c)(2) are each amended by striking ''section 3101'' each place it appears and inserting ''section 3101(a)''.

(3) Subsection (c) of section 6413 is amended by striking paragraph (3).

(4) Sections 3122 and 3125 of such Code are each amended by striking ''applicable contribution

base limitation'' and inserting ''contribution and benefit base limitation''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1994 and later calendar years.

SEC. 14208. TOP ESTATE AND GIFT TAX RATES MADE PERMANENT.

(a) GENERAL RULE.—The table contained in paragraph (1) of section 2001(c) is amended by striking the last item and inserting the following new items:

''Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000	$1,290,800, plus 55% of the excess over $3,000,000.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 2001 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (2) of section 2001(c), as redesignated by paragraph (1), is amended by striking ''($18,340,000 in the case of decedents dying, and gifts made, after 1992)''.

(3) The last sentence of section 2101(b) is amended by striking ''section 2001(c)(3)'' and inserting ''section 2001(c)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 14209. REDUCTION IN DEDUCTIBLE PORTION OF BUSINESS MEALS AND ENTERTAINMENT.

(a) GENERAL RULE.—Paragraph (1) of section 274(n) (relating to only 80 percent of meal and entertainment expenses allowed as deduction) is amended by striking ''80 percent'' and inserting ''50 percent''.

(b) CONFORMING AMENDMENT.—The subsection heading for section 274(n) is amended by striking ''80'' and inserting ''50''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14210. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

''(3) DENIAL OF DEDUCTION FOR CLUB DUES.—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose. The preceding sentence shall not apply in the case of an airline or hotel club.''

(b) EXCEPTION FOR EMPLOYEE RECREATIONAL EXPENSES NOT TO APPLY.—Paragraph (4) of section 274(e) is amended by adding at the end thereof the following: ''This paragraph shall not apply for purposes of subsection (a)(3).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 14211. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

''(1) IN GENERAL.—In the case of any publicly held corporation, no deduction shall be allowed under this chapter for applicable employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) PUBLICLY HELD CORPORATION.—For purposes of this subsection, the term 'publicly held corporation' means any corporation issuing any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934.

"(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means any employee of the taxpayer if—

"(A) as of the close of the taxable year, such employee is the chief executive officer of the taxpayer or an individual acting in such a capacity, or

"(B) the total compensation for the taxable year of such employee is required to be reported to shareholders under the Securities Exchange Act of 1934 by reason of such employee being among the 4 highest compensated officers for the taxable year (other than the chief executive officer).

"(4) APPLICABLE EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'applicable employee remuneration' means, with respect to

any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) EXCEPTION FOR REMUNERATION PAYABLE ON COMMISSION BASIS.—The term 'applicable employee remuneration' shall not include any remuneration payable on a commission basis solely on account of income generated directly by the individual performance of the individual to whom such remuneration is payable.

"(C) OTHER PERFORMANCE-BASED COMPENSATION.—The term 'applicable employee remuneration' shall not include any remuneration payable solely on account of the attainment of one or more performance goals but only if—

"(i) the performance goals are determined by a compensation committee of the board of directors of the taxpayer which is comprised solely of 2 or more independent directors,

"(ii) the material terms under which the remuneration is to be paid, including

the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of such remuneration, and

"(iii) before any payment of such remuneration, the compensation committee referred to in clause (i) certifies that the performance goals and any other material terms were in fact satisfied.

"(D) EXCEPTION FOR EXISTING BINDING CONTRACTS.—The term 'applicable employee remuneration' shall not include any remuneration payable under a written binding contract which was in effect on February 17, 1993, and which was not modified thereafter in any material respect before such remuneration is paid.

"(E) REMUNERATION.—For purposes of this paragraph, the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof, and

"(ii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under this chapter.

For purposes of clause (i), section 3121(a)(5) shall be applied without regard to section 3121(v)(1).

"(F) COORDINATION WITH DISALLOWED GOLDEN PARACHUTE PAYMENTS.—The dollar limitation contained in paragraph (1) shall be reduced (but not below zero) by the amount (if any) which would have been included in the applicable employee remuneration of the covered employee for the taxable year but for being disallowed under section 280G."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts which would otherwise be deductible for taxable years beginning on or after January 1, 1994.

SEC. 14212. REDUCTION IN COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Sections 401(a)(17), 404(l), and 505(b)(7) are each amended—

(1) by striking "$200,000" in the first sentence and inserting "$150,000", and

(2) by striking the second sentence and inserting "In the case of years beginning after 1994, the Secretary shall adjust the $150,000 amount at the same time and in the same manner as under section 415(d), except that the base period for purposes of section 415(d)(1)(A) shall be the calendar quarter beginning October 1, 1994."

(b) SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Paragraphs (3)(C) and (6)(D)(ii) of section 408(k) are each amended by striking "$200,000" and inserting "$150,000".

(2) COST-OF-LIVING.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) at the same time and in the same manner as under section 415(d) and shall adjust the $150,000 amount in paragraphs (3)(C) and (6)(D)(ii) at the

same time and by the same amount as the adjustment to the $150,000 amount in section 401(a)(17).''

(c) CONFORMING AMENDMENT.—The heading for section 505(b)(7) is amended by striking ''$200,000''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits accruing in plan years beginning after December 31, 1993.

SEC. 14213. MODIFICATION TO DEDUCTION FOR CERTAIN MOVING EXPENSES.

(a) REPEAL OF DEDUCTION FOR QUALIFIED RESIDENCE SALE, ETC., EXPENSES.—

(1) IN GENERAL.—Paragraph (1) of section 217(b) (defining moving expenses) is amended by inserting ''or'' at the end of subparagraph (C), by striking '', or'' at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 217 is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(B) Paragraph (2) of section 217(b) (as redesignated by subparagraph (A)) is amended—

(i) by striking the last sentence of subparagraph (A), and

(ii) by striking ", and by" in subparagraph (B) and all that follows down through the period at the end of subparagraph (B) and inserting a period.

(C) Paragraph (1) of section 217(h) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) subsection (b)(2)(A) shall be applied by substituting '$4,500' for '$1,500', and

"(C) subsection (b)(2)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500".' "

(D) Section 217 is amended by striking subsection (e).

(b) DEDUCTION DISALLOWED FOR MEAL EXPENSES.—Paragraph (1) of section 217(b) is amended—

(1) by striking "meals and lodging" in subparagraphs (B), (C) and (D) and inserting "lodging", and

(2) by adding at the end thereof the following new sentence:

"Such term shall not include any expenses for meals.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred after December 31, 1993.

SEC. 14214. SIMPLIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR BASED ON LAST YEAR'S TAX.

(a) IN GENERAL.—Paragraph (1) of section 6654(d) (relating to amount of required estimated tax installments) is amended by striking subparagraphs (C), (D), (E), and (F) and by inserting the following new subparagraph:

"(C) LIMITATION ON USE OF PRECEDING YEAR'S TAX.—

"(i) IN GENERAL.—If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting '110 percent' for '100 percent'.

"(ii) SEPARATE RETURNS.—In the case of a married individual (within the

meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting '$75,000' for '$150,000'.

''(iii) SPECIAL RULE.—In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6654(j)(3) is amended by striking ''and subsection (d)(1)(C)(iii) shall not apply'',

(2) Paragraph (4) of section 6654(l) is amended by striking ''paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)'' and inserting ''subsection (d)(2)(B)(i)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14215. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) IN GENERAL.—Subsections (a) (1) and (2) of section 86 (relating to social security and tier 1 railroad re-

1 tirement benefits) are each amended by striking ''one-
2 half'' and inserting ''85 percent''.
3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to taxable years beginning after
5 December 31, 1993.
6 (c) ADDITIONAL RECEIPTS RETAINED IN GENERAL
7 FUND.—
8 (1) Subsection (e) of section 121 of the Social
9 Security Amendments of 1983 is amended by adding
10 at the end the following new paragraph:
11 ''(5) CERTAIN INCREASED RECEIPTS RETAINED
12 IN GENERAL FUND.—In determining the amount ap-
13 propriated to any payor fund under paragraph (1),
14 there shall be excluded any increase in tax liability
15 to the extent such increase is attributable to the
16 amendments made to section 86 of the Internal Rev-
17 enue Code of 1986 by the Revenue Reconciliation
18 Act of 1993.''.
19 (2) Paragraph (4) of subsection (e) of such sec-
20 tion 121 is amended by redesignating subparagraphs
21 (A) and (B) as subparagraphs (B) and (C) and by
22 inserting before subparagraph (B) (as so redesig-
23 nated) the following new subparagraph:
24 ''(A) the total aggregate increase in tax li-
25 ability under chapter 1 of the Internal Revenue

Code of 1986 which is attributable to the application of sections 86 and 871(a)(3) of such Code,''.

PART II—PROVISIONS AFFECTING BUSINESSES

SEC. 14221. INCREASE IN TOP MARGINAL RATE UNDER SECTION 11.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended—

(1) by striking ''and'' at the end of subparagraph (B),

(2) by striking subparagraph (C) and inserting the following:

''(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

''(D) 35 percent of so much of the taxable income as exceeds $10,000,000.'', and

(3) by adding at the end thereof the following new sentence: ''In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000.''.

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) is amended by striking "34 percent" and inserting "35 percent".

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "65 percent".

(2) Subsection (a) of section 1201 is amended by striking "34 percent" each place it appears and inserting "35 percent".

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking "34 percent" and inserting "35 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1993; except that the amendment made by subsection (c)(3) shall take effect on the date of the enactment of this Act.

SEC. 14222. DENIAL OF DEDUCTION FOR LOBBYING EXPENSES.

(a) DISALLOWANCE OF DEDUCTION.—Section 162(e) (relating to appearances, etc., with respect to legislation) is amended to read as follows:

"(e) DENIAL OF DEDUCTION FOR CERTAIN LOBBYING AND POLITICAL EXPENDITURES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any amount paid or incurred—

"(A) in connection with influencing legislation,

"(B) for participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office, or

"(C) in connection with any attempt to influence the general public, or segments thereof, with respect to elections.

"(2) APPLICATION TO DUES.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for the portion of dues or other similar amounts (paid by the taxpayer with respect to an organization) which is allocable to the expenditures described in paragraph (1).

"(B) ALLOCATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), expenditures described in paragraph (1) shall be treated as paid out of dues or other similar amounts.

"(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—For

purposes of this paragraph, if expenditures described in paragraph (1) exceed the dues or other similar amounts for any calendar year, such excess shall be treated as expenditures described in paragraph (1) which are paid or incurred by the organization during the following calendar year.

"(3) INFLUENCING LEGISLATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'influencing legislation' means—

"(i) any attempt to influence the general public, or segments thereof, with respect to legislation, and

"(ii) any attempt to influence any legislation through communication with any member or employee of the legislative body, or with any government official or employee who may participate in the formulation of the legislation.

"(B) EXCEPTION FOR CERTAIN TECHNICAL ADVICE.—The term 'influencing legislation' shall not include the providing of technical advice or assistance to a governmental body or to a committee or other subdivision thereof in

response to a specific written request by such governmental entity to the taxpayer which specifies the nature of the advice or assistance requested.

"(C) LEGISLATION.—The term 'legislation' has the meaning given such term by section 4911(e)(2).

"(4) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in paragraph (1), paragraph (1) shall not apply to expenditures of the taxpayer in conducting such activities on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

"(5) CROSS REFERENCE.—

"For reporting requirements related to this subsection, see section 6050O."

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

"SEC. 6050O. RETURNS RELATING TO LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

"(a) REQUIREMENT OF REPORTING.—Each organization referred to in section 162(e)(2) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the names and addresses of persons paying dues to the organization, the amount of the dues paid by such person, and the portion of such dues which is nondeductible under section 162(e)(2).

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Any organization required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the organization, and

"(2) the dues paid by the person during the calendar year and the portion of such dues which is nondeductible under section 162(e)(2).

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the persons on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall

be in such form as the Secretary may prescribe by regulations.

"(c) WAIVER.—The Secretary may waive the reporting requirements of this section with respect to any organization or class of organizations if the Secretary determines that such reporting is not necessary to carry out the purposes of section 162(e).

"(d) DUES.—For purposes of this section, the term 'dues' includes other similar amounts."

(2) PENALTIES.—

(A) RETURNS.—Subparagraph (A) of section 6724(d)(1) (defining information return) is amended by striking "or" at the end of clause (xi), by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma, by redesignating the clause (xii) relating to section 338(h)(10) as clause (xiii), by striking the period at the end of clause (xiii) (as so redesignated) and inserting ", or", and by adding at the end the following new clause:

"(xiv) section 6050O(a) (relating to information on nondeductible lobbying expenditures)."

(B) PAYEE STATEMENTS.—Paragraph (2) of section 6724(d) (defining payee statement) is amended by striking ''or'' at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting '', or'', and by adding at the end the following new subparagraph:

''(T) section 6050O(b) (relating to returns on nondeductible lobbying expenditures).''

(C) EXCESSIVE UNDERREPORTING.—Section 6721 (relating to failure to file correct information returns) is amended by adding at the end the following new subsection:

''(f) PENALTY IN CASE OF EXCESSIVE UNDERREPORTING ON NONDEDUCTIBLE DUES.—If the aggregate amount of nondeductible dues which is reported on the return required to be filed under section 6050O(a) for any calendar year is less than 75 percent of the aggregate amount required to be so reported—

''(1) subsections (b), (c), and (d) shall not apply, and

''(2) the penalty imposed under subsection (a) shall be equal to the product of—

''(A) the amount required to be reported which was not so reported, and

"(B) the highest rate of tax imposed by section 11 for taxable years beginning in such calendar year."

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050O. Returns relating to lobbying expenditures of certain organizations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 14223. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B)(i) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and (ii) any obligation to acquire a security described in clause

(i) if such obligation is entered into in the ordinary course of such trade or business and is not held for sale, and

"(C) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to

any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(C) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in connection with its activities as a dealer in securities, or

"(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking ''section 1256'' and inserting ''section 475 or 1256'', and

(B) by striking ''1092 and 1256'' and inserting ''475, 1092, and 1256''.

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

''Sec. 475. Mark to market accounting method for dealers in securities.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) except as provided in paragraph (3), the net amount of the adjustments required to be taken into account by the taxpayer under

section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(3) SPECIAL RULE FOR FLOOR SPECIALISTS AND MARKET MAKERS.—

(A) IN GENERAL.—If—

(i) a taxpayer used the last-in first-out (LIFO) method of accounting with respect to any qualified securities for its last taxable year ending before December 31, 1993, and

(ii) any portion of the net amount described in paragraph (2)(C) is attributable to the use of such method of accounting,

then paragraph (2)(C) shall be applied by taking such portion into account ratably over the 20-taxable year period beginning with the first taxable year ending on or after December 31, 1993 (or, if shorter, the period of taxable years equal to the greater of 5 years or the number of taxable years before such first taxable year for which the taxpayer (or any predecessor) used such method of accounting).

(B) QUALIFIED SECURITY.—For purposes of this paragraph, the term ''qualified security'' means any security acquired—

(i) by a floor specialist (as defined in section 1236(d)(2) of the Internal Revenue Code of 1986) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

(I) the security is included on the National Association of Security Dealers Automated Quotation System,

(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

(III) as of the last day of the taxable year preceding the taxpayer's first taxable year ending on or after December 31, 1993, the taxpayer (or any predecessor) has been actively

and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date).

SEC. 14224. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term ''FSLIC assistance'' means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending on or after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was

sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 14225. MODIFICATION OF CORPORATE ESTIMATED TAX RULES.

(a) INCREASE IN REQUIRED INSTALLMENT BASED ON CURRENT YEAR TAX.—

(1) IN GENERAL.—Clause (i) of section 6655(d)(1)(B) (relating to amount of required installment) is amended by striking ''91 percent'' each place it appears and inserting ''100 percent''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 6655 is amended—

(i) by striking paragraph (3), and

(ii) by striking ''91 PERCENT'' in the paragraph heading of paragraph (2) and inserting ''100 PERCENT''.

(B) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following:

"In the case of the following required installments:	The applicable percentage is:
1st	25
2nd	50
3rd	75
4th	100."

(C) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting '2 months' for '3 months',

"(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(III) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year."

(3) The last sentence of section 6655(f)(3)(A) is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14226. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended—

(1) by striking "as provided in paragraph (3)" in paragraph (1) and inserting "as otherwise provided in this section";

(2) by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON CREDIT.—

"(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

"(B) CREDIT FOR INVESTMENT INCOME.—

"(i) IN GENERAL.—If—

"(I) the QPSII assets of the possession corporation for any taxable year, exceed

"(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable

1 year (determined without regard to this
2 subparagraph) as—
3 "(I) the excess determined under
4 clause (i), bears to
5 "(II) the QPSII assets of the
6 possession corporation for such tax-
7 able year.
8 "(C) CROSS REFERENCE.—

"For definitions and special rules applicable to this paragraph, see subsection (i)."

9 (b) DEFINITIONS AND SPECIAL RULES.—Section 936
10 is amended by adding at the end thereof the following new
11 subsection:
12 "(i) DEFINITIONS AND SPECIAL RULES RELATING
13 TO LIMITATIONS OF SUBSECTION (a)(4).—
14 "(1) QUALIFIED POSSESSION WAGES.—For
15 purposes of this section—
16 "(A) IN GENERAL.—The term 'qualified
17 possession wages' means wages paid or incurred
18 by the possession corporation during the tax-
19 able year to any employee for services per-
20 formed in a possession of the United States,
21 but only if such services are performed while
22 the principal place of employment of such em-
23 ployee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the

Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) QPSII ASSETS.—For purposes of this section—

"(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

"(B) QUALIFIED INVESTMENT ASSETS.—The term 'qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

"(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

"(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(4) RELOCATED BUSINESSES.—

"(A) IN GENERAL.—In determining—

"(i) the possession corporation's qualified possession wages for any taxable year, and

"(ii) the possession corporation's qualified tangible business investment for such taxable year,

there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

"(B) DISQUALIFIED RELOCATED BUSINESS.—For purposes of subparagraph (A), the term 'disqualified relocated business' means any trade or business commenced by the possession corporation after May 13, 1993, or any addition after such date to an existing trade or business of such possession corporation unless—

"(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

"(ii) there is no reason to believe that such commencement or addition was done with the intention of closing down operations of an existing business located in the United States.

"(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

"(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations

which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

"(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

"(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c),

such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect.

"(8) TRANSITIONAL RULE.—If any possession corporation elects the benefits of this paragraph for any taxable year beginning in 1994 or 1995—

"(A) subsection (a)(4) shall not apply to such taxable year, and

"(B) the credit determined under subsection (a)(1) for such taxable year shall be the following percentage of the credit which would otherwise have been determined under such subsection:

"(i) 80 percent in the case of a taxable year beginning in 1994.

"(ii) 60 percent in the case of a taxable year beginning in 1995.

A possession corporation which elects the benefits of this paragraph shall be entitled to the benefits of paragraph (6) for taxes allocable to taxable income the tax on which is not offset by reason of this paragraph."

(c) MINIMUM TAX TREATMENT.—

(1) IN GENERAL.—Clause (ii) of section 56(g)(4)(C) (relating to treatment of special rule for certain dividends) is amended by striking "sections 936 and 921" and inserting "sections 936 (including subsection (a)(4) thereof) and 921".

(2) TREATMENT OF FOREIGN TAXES.—Clause (iii) of section 56(g)(4)(C) is amended by adding at the end thereof the following subclauses:

"(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income re-

ferred to in a subparagraph of section 904(d)(1).

"(V) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(d) CONFORMING AMENDMENT.—Paragraph (4) of section 904(b) is amended by inserting before the period at the end thereof the following: "(without regard to subsection (a)(4) thereof)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14227. MODIFICATION TO LIMITATION ON DEDUCTION FOR CERTAIN INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(j) (defining disqualified interest) is amended to read as follows:

"(3) DISQUALIFIED INTEREST.—For purposes of this subsection, the term 'disqualified interest' means—

"(A) any interest paid or accrued by the taxpayer (directly or indirectly) to a related person if no tax is imposed by this subtitle with respect to such interest, and

"(B) any interest paid or accrued by the taxpayer with respect to any indebtedness to a person who is not a related person if—

"(i) there is a disqualified guarantee of such indebtedness, and

"(ii) no gross basis tax is imposed by this subtitle with respect to such interest."

(b) DEFINITIONS.—Paragraph (6) of section 163(j) is amended by adding at the end thereof the following new subparagraphs:

"(D) DISQUALIFIED GUARANTEE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'disqualified guarantee' means any guarantee by a related person which is—

"(I) an organization exempt from taxation under this subtitle, or

"(II) a foreign person.

"(ii) EXCEPTIONS.—The term 'disqualified guarantee' shall not include a guarantee—

"(I) in any circumstances identified by the Secretary by regulation, where the interest on the indebtedness would have been subject to a net basis tax if the interest had been paid to the guarantor, or

"(II) if the taxpayer owns a controlling interest in the guarantor.

For purposes of subclause (II), except as provided in regulations, the term 'a controlling interest' means direct or indirect ownership of at least 80 percent of the total voting power and value of all classes of stock of a corporation, or 80 percent of the profit and capital interests in any other entity. For purposes of the preceding sentence, the rules of paragraphs (1) and (5) of section 267(c) shall apply; except that such rules shall also apply to interest in entities other than corporations.

"(iii) GUARANTEE.—Except as provided in regulations, the term 'guarantee'

includes any arrangement under which a person (directly or indirectly through an entity or otherwise) assures, on a conditional or unconditional basis, the payment of another person's obligation under any indebtedness.

"(E) GROSS BASIS AND NET BASIS TAXATION.—

"(i) GROSS BASIS TAX.—The term 'gross basis tax' means any tax imposed by this subtitle which is determined by reference to the gross amount of any item of income without any reduction for any deduction allowed by this subtitle.

"(ii) NET BASIS TAX.—The term 'net basis tax' means any tax imposed by this subtitle which is a not a gross basis tax."

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 163(j)(5) is amended by striking "to a related person".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest paid or accrued in taxable years beginning after December 31, 1993.

PART III—FOREIGN TAX PROVISIONS

Subpart A—Current Taxation of Certain Earnings of Controlled Foreign Corporations

SEC. 14231. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) GENERAL RULE.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) 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 amount determined under section 956A with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(3)).''

(b) AMOUNT OF INCLUSION.—Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 956 the following new section:

''SEC. 956A. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

''(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

''(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the amount of the controlled foreign corporation's excess passive assets for such taxable year, over

"(B) the amount of earnings and profits described in section 959(c)(1)(B) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation determined after the application of section 951(a)(1)(B).

"(b) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the amounts referred to in sections 316(a)(1) and 316(a)(2) (but reduced by distributions made during the taxable year), reduced by the earnings and profits described in section 959(c)(1).

"(c) EXCESS PASSIVE ASSETS.—For purposes of this section—

"(1) IN GENERAL.—The excess passive assets of any controlled foreign corporation for any taxable year is the excess (if any) of—

"(A) the average of the amounts of passive assets held by such corporation as of the close of each quarter of such taxable year, over

"(B) 25 percent of the average of the amounts of total assets held by such corporation as of the close of each quarter of such taxable year.

For purposes of the preceding sentence, the amount taken into account with respect to any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(2) PASSIVE ASSET.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the term 'passive asset' means any asset held by the controlled foreign corporation which produces passive income (as defined in section 1296(b)) or is held for the production of such income.

"(B) COORDINATION WITH SECTION 956.—The term 'passive asset' shall not include any United States property (as defined in section 956).

"(3) LOOK-THRU RULES MADE APPLICABLE.—For purposes of this subsection, the rules of section 1296(c) shall apply.

"(4) LEASING RULES MADE APPLICABLE.—For purposes of this subsection, the rules of section 1297(d) shall apply.

"(d) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION DURING TAXABLE YEAR.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(1) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation, and

"(2) the amount of such corporation's excess passive assets for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(3) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

"(e) TRANSITION RULE.—In the case of any taxable year of a controlled foreign corporation beginning after September 30, 1993, and before October 1, 1997, the amount determined under subsection (a) shall be the ap-

1 plicable percentage (determined under the following table)
2 of the amount which would otherwise be determined under
3 such subsection:

"In the case of a taxable year beginning during the 1-year period beginning on:	The applicable percentage is:
October 1, 1993	20
October 1, 1994	25
October 1, 1995	35
October 1, 1996	50.

4 "(f) REGULATIONS.—The Secretary shall prescribe
5 such regulations as may be necessary to carry out the pur-
6 poses of this section, including regulations to prevent the
7 avoidance of the provisions of this section through reorga-
8 nizations or otherwise."
9 (c) PREVIOUSLY TAXED INCOME RULES.—
10 (1) IN GENERAL.—Subsection (a) of section
11 959 (relating to exclusion from gross income of pre-
12 viously taxed earnings and profits) is amended by
13 striking "or" at the end of paragraph (1), by adding
14 "or" at the end of paragraph (2), and by inserting
15 after paragraph (2) the following new paragraph:
16 "(3) such amounts would, but for this sub-
17 section, be included under section 951(a)(1)(C) in
18 the gross income of,".
19 (2) ALLOCATION RULES.—
20 (A) Subsection (a) of section 959 is
21 amended by adding at the end thereof the fol-
22 lowing new sentence: "The rules of subsection

(c) shall apply for purposes of paragraph (1) of this subsection and the rules of subsection (f) shall apply for purposes of paragraphs (2) and (3) of this subsection.''.

(B) Section 959 is amended by adding at the end thereof the following new subsection:

''(f) ALLOCATION RULES FOR CERTAIN INCLUSIONS.—

''(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) or (C) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).

''(2) TREATMENT OF DISTRIBUTIONS.—In applying this section, actual distributions shall be taken into account before amounts that would be included under subparagraphs (B) and (C) of section 951(a)(1) (determined without regard to this section).''

(C) Paragraph (1) of section 959(c) is amended to read as follows:

''(1) first to the aggregate of—

"(A) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2) of this section), and

"(B) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(C) (or which would have been included except for subsection (a)(3) of this section),

with any distribution being allocated between earnings and profits described in subparagraph (A) and earnings and profits described in subparagraph (B) proportionately on the basis of the respective amounts of such earnings and profits,".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a) and (b) of section 959 are each amended by striking "earnings and profits for a taxable year" and inserting "earnings and profits".

(B) Paragraph (2) of section 959(c) is amended to read as follows:

"(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included

under subparagraph (B) or (C) of section 951(a)(1) because of the exclusions in paragraphs (2) and (3) of subsection (a) of this section), and''

(C) Subsection (b) of section 989 is amended by striking ''section 951(a)(1)(B)'' and inserting ''subparagraph (B) or (C) of section 951(a)(1)''.

(d) MODIFICATIONS TO PASSIVE FOREIGN INVESTMENT COMPANY RULES.—

(1) ADJUSTED BASIS USED IN CERTAIN DETERMINATIONS.—Subsection (a) of section 1296 is amended by striking the material following paragraph (2) and inserting the following:

''In the case of a controlled foreign corporation (or any other foreign corporation if such corporation so elects), the determination under paragraph (2) shall be based on the adjusted bases (as determined for purposes of computing earnings and profits) of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.''

(2) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Subsection (b) of section 1297 is amended by adding at the end thereof the following new paragraph:

"(9) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Any amount included in gross income under subparagraph (B) or (C) of section 951(a)(1) shall be treated as a distribution received with respect to the stock."

(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—Subsection (b) of section 1296 is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—

"(A) IN GENERAL.—In the case of any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)), the term 'passive income' does not include any income derived in the active conduct of a securities business by such corporation if such corporation is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act. To the extent provided in regulations, such term shall not include any income derived in the active conduct of a securi-

ties business by a controlled foreign corporation which is not so registered.

"(B) APPLICATION OF LOOK-THRU RULES.—For purposes of paragraph (2)(C), rules similar to the rules of subparagraph (A) shall apply in determining whether any income of a related person (whether or not a corporation) is passive income.

"(C) LIMITATION.—The preceding provisions of this paragraph shall only apply in the case of persons who are United States shareholders (as defined in section 951(b)) in the controlled foreign corporation."

(4) LEASING RULES.—Section 1297 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of this part:

"(1) IN GENERAL.—Any tangible personal property with respect to which a foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF ADJUSTED BASIS.—

"(A) IN GENERAL.—The adjusted basis of any asset to which paragraph (1) applies shall be the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in section 954(d)(3)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this section."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 14232. MODIFICATION TO TAXATION OF INVESTMENT IN UNITED STATES PROPERTY.

(a) GENERAL RULE.—Section 956 (relating to investment of earnings in United States property) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the controlled foreign corporation as of the close of each quarter of such taxable year, over

"(B) the amount of earnings and profits described in section 959(c)(1)(A) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation.

The amount taken into account under paragraph (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

"(b) ADJUSTMENTS FOR CERTAIN DISTRIBUTIONS; OTHER SPECIAL RULES.—

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' has the meaning given to such term by section 956A(b).

"(2) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—Rules similar to the rules of section 956A(d) shall apply for purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 951(a)(1) is amended to read as follows:

"(B) the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(2)); and"

(2) Subsection (a) of section 951 is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

(d) STUDY OF INVESTMENTS BY CONTROLLED FOREIGN CORPORATIONS IN UNITED STATES PROPERTY.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of the tax treatment of investments by controlled foreign corporations in obligations of United States persons other than corporations. Such study shall include the Secretary's views as to whether the treatment of such investments should be changed, along with a discussion of the merits and consequences of any such change.

(2) REPORT.—Not later than December 31, 1993, the Secretary of the Treasury 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.

SEC. 14233. OTHER MODIFICATIONS TO SUBPART F.

(a) SAME COUNTRY EXCEPTION NOT TO APPLY TO CERTAIN DIVIDENDS.—

(1) IN GENERAL.—Paragraph (3) of section 954(c) (relating to certain income received from related persons) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN DIVIDENDS.—Subparagraph (A)(i) shall not apply to any dividend with respect to any stock which is attributable to earnings and profits of the distributing corporation accumulated during any period during which the person receiving such dividend did not hold such stock."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States

shareholders in which or with which such taxable years of controlled foreign corporations end.

(b) SIMPLIFICATION OF SECTION 960(b).—

(1) IN GENERAL.—Subsection (b) of section 960 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and

(B) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

''(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

''(A) either (i) chose to have the benefits of subpart A of this part for a taxable year beginning after September 30, 1993, in which he was required under section 951(a) to include any amount in his gross income, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States,

''(B) chooses to have the benefits of subpart A of this part for any taxable year in which he receives 1 or more distributions or amounts which are excludable from gross income under section 959(a) and which are at-

tributable to amounts included in his gross income for taxable years referred to in subparagraph (A), and

"(C) for the taxable year in which such distributions or amounts are received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distributions or amounts,

the limitation under section 904 for the taxable year in which such distributions or amounts are received shall be increased by the lesser of the amount of such taxes paid, or deemed paid, or accrued with respect to such distributions or amounts or the amount in the excess limitation account as of the beginning of such taxable year.

"(2) EXCESS LIMITATION ACCOUNT.—

"(A) ESTABLISHMENT OF ACCOUNT.—Each taxpayer meeting the requirements of paragraph (1)(A) shall establish an excess limitation account. The opening balance of such account shall be zero.

"(B) INCREASES IN ACCOUNT.—For each taxable year beginning after September 30,

1993, the taxpayer shall increase the amount in the excess limitation account by the excess (if any) of—

"(i) the amount by which the limitation under section 904(a) for such taxable year was increased by reason of the total amount of the inclusions in gross income under section 951(a) for such taxable year, over

"(ii) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for such taxable year and which would not have been allowable but for the inclusions in gross income described in clause (i).

Proper reductions in the amount added to the account under the preceding sentence for any taxable year shall be made for any increase in the credit allowable under section 901 for such taxable year by reason of a carryback if such increase would not have been allowable but for

the inclusions in gross income described in clause (i).

"(C) DECREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, for which the limitation under section 904 was increased under paragraph (1), the taxpayer shall reduce the amount in the excess limitation account by the amount of such increase.

"(3) DISTRIBUTIONS OF INCOME PREVIOUSLY TAXED IN YEARS BEGINNING BEFORE OCTOBER 1, 1993.—If the taxpayer receives a distribution or amount in a taxable year beginning after September 30, 1993, which is excluded from gross income under section 959(a) and is attributable to any amount included in gross income under section 951(a) for a taxable year beginning before October 1, 1993, the limitation under section 904 for the taxable year in which such amount or distribution is received shall be increased by the amount determined under this subsection as in effect on the day before the date of the enactment of the Revenue Reconcilation Act of 1993."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1993.

Subpart B—Allocation of Research and Experimental Expenditures

SEC. 14234. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Subparagraph (B) of section 864(f)(1) (relating to allocation of research and experimental expenditures) is amended by striking ''64 percent'' each place it appears and inserting ''50 percent''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 864 is amended by striking paragraph (5) and inserting the following:

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including regulations relating to the determination of whether any expenses are attributable to activities conducted in the United States or outside the United States and regulations providing such adjustments to the provisions of this subsection as may be appropriate in the case of cost-sharing arrangements and contract research.''

(2) Subparagraph (D) of section 864(f)(4) is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B) or (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act; except that such amendments shall not apply in the case of any taxable year to which Revenue Procedure 92–56 applies or would apply if the taxpayer elected the benefits of such Revenue Procedure.

Subpart C—Other Provisions

SEC. 14235. REPEAL OF CERTAIN EXCEPTIONS FOR WORKING CAPITAL.

(a) PROVISIONS RELATING TO OIL AND GAS INCOME.—

(1) AMENDMENTS TO SECTION 907.—

(A) Paragraph (1) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

''Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).''.

(B) Paragraph (2) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(2) SEPARATE APPLICATION OF FOREIGN TAX CREDIT.—Clause (iii) of section 904(d)(2)(A) is amended by inserting "and" at the end of subclause (II), by striking ", and" at the end of subclause (III) and inserting a period, and by striking subclause (IV).

(3) TREATMENT UNDER SUBPART F.—

(A) Paragraph (1) of section 954(g) is amended by adding at the end thereof the following new flush sentence:

Such term shall not include any foreign personal holding company income (as defined in subsection (c)).".

(B) Paragraph (8) of section 954(b) is amended by striking "(1),".

(b) TREATMENT OF SHIPPING INCOME.—Subsection (f) of section 954 is amended by adding at the end thereof the following new sentence: "Such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 14236. MODIFICATIONS OF ACCURACY-RELATED PENALTY.

(a) THRESHOLD REQUIREMENT.—Clause (ii) of section 6662(e)(1)(B) (relating to substantial valuation misstatement under chapter 1) is amended to read as follows:

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts."

(b) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—Subparagraph (B) of section 6662(e)(3) is amended to read as follows:

"(B) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

"(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

"(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations pre-

scribed under section 482 and that the taxpayer's use of such method was reasonable,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

"(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if—

"(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to deter-

mine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

"(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a

trade or business within the United States.''

(b) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—Paragraph (3) of section 6662(e) is amended by adding at the end thereof the following new subparagraph:

''(D) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion.''

(c) CONFORMING AMENDMENT.—Clause (iii) of section 6662(h)(2)(A) is amended to read as follows:

''(iii) in paragraph (1)(B)(ii)—

''(I) '$20,000,000' for '$5,000,000', and

''(II) '20 percent' for '10 percent'.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14237. DENIAL OF PORTFOLIO INTEREST EXEMPTION FOR CONTINGENT INTEREST.

(a) GENERAL RULE.—

(1) Subsection (h) of section 871 (relating to repeal of tax on interest of nonresident alien individuals received from certain portfolio debt investments) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'portfolio interest' shall not include—

''(i) any interest if the amount of such interest is determined by reference to—

''(I) any receipts, sales or other cash flow of the debtor or a related person,

''(II) any income or profits of the debtor or a related person,

''(III) any change in value of any property of the debtor or a related person, or

"(IV) any dividend, partnership distributions, or similar payments made by the debtor or a related person, or

"(ii) any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

"(B) RELATED PERSON.—The term 'related person' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

"(C) EXCEPTIONS.—Subparagraph (A)(i) shall not apply to—

"(i) any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,

"(ii) any amount of interest solely by reason of the fact that the interest is paid

with respect to nonrecourse or limited recourse indebtedness,

"(iii) any amount of interest all or substantially all of which is determined by reference to any other amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

"(iv) any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to reduce the risk of interest rate or currency fluctuations with respect to such interest,

"(v) any amount of interest determined by reference to—

"(I) changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

"(II) the yield on property described in subclause (I), other than a debt instrument that pays interest de-

scribed in subparagraph (A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

"(III) changes in any index of the value of property described in subclause (I) or of the yield on property described in subclause (II), and

"(vi) any other type of interest identified by the Secretary by regulation.

"(D) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.—Subparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term—

"(i) which was issued on or before April 7, 1993, or

"(ii) which was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued."

(2) Subsection (c) of section 881 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection, the term 'portfolio interest' shall not include any interest which is treated as not being portfolio interest under the rules of section 871(h)(4)."

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 871(h)(2)(B) is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(2) Clause (ii) of section 881(c)(2)(B) is amended by striking "section 871(h)(4)" and inserting "section 871(h)(5)".

(3) Paragraph (6) of section 881(c) (as redesignated by subsection (a)) is amended by striking "section 871(h)(5)" each place it appears and inserting "section 871(h)(6)".

(4) Paragraph (9) of section 1441(c) is amended by striking "section 871(h)(3)" and inserting "section 871(h)(3) or (4)".

(5) Subsection (a) of section 1442 is amended—

(A) by striking "871(h)(3)" and inserting "871(h)(3) or (4)", and

(B) by striking "881(c)(3)" and inserting "881(c)(3) or (4)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received after December 31, 1993.

SEC. 14238. REGULATIONS DEALING WITH CONDUIT ARRANGEMENTS.

Section 7701 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) REGULATIONS RELATING TO CONDUIT ARRANGEMENTS.—The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title."

PART IV—ENERGY TAX PROVISIONS

Subpart A—Energy Tax Based on Btu Content

SEC. 14241. IMPOSITION OF ENERGY TAX BASED ON BTU CONTENT.

(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—ENERGY TAXES

"Part I. Imposition of tax on refined petroleum products.
"Part II. Imposition of taxes on natural gas, coal, and electricity.
"Part III. Tax rates.
"Part IV. Use taxes; floor stocks taxes; administrative provisions; definitions and special rules.
"Part V. Tax on imported products with high embedded energy costs.

"PART I—IMPOSITION OF TAX ON REFINED PETROLEUM PRODUCTS

"Sec. 4441. Taxable refined petroleum products.
"Sec. 4442. Tax-free transfers and uses; refunds for certain sales and uses.

"SEC. 4441. TAXABLE REFINED PETROLEUM PRODUCTS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax on any taxable refined petroleum product—

"(A) removed from any refinery in the United States,

"(B) removed from any terminal in the United States,

"(C) entered into the United States for consumption, use, or warehousing, and

"(D) sold to any person who is not registered under section 4453(d).

No tax shall be imposed by subparagraph (D) if there was a prior taxable removal or entry under subparagraph (A), (B), or (C).

"(2) EXCEPTION FOR BULK TRANSFERS TO REGISTERED REFINERIES OR TERMINALS.—The tax imposed by paragraph (1) shall not apply to any removal or entry of any taxable refined petroleum product transferred in bulk to a refinery or terminal if the person removing or entering such product and the operator of such refinery or terminal are registered under section 4453(d).

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on each barrel of any taxable refined petroleum product shall be the sum of—

"(A) the base rate, and

"(B) the supplemental rate,

multiplied by the applicable per unit Btu factor for such product.

"(2) ONLY BASE RATE APPLIES TO QUALIFIED HEATING OIL, DIESEL FUEL USED ON FARMS, AND LIQUEFIED PETROLEUM GASES.—

"(A) IN GENERAL.—Subparagraph (B) of paragraph (1) shall not apply to—

"(i) qualified heating oil,

"(ii) qualified farm diesel fuel, and

"(iii) any liquefied petroleum gas.

"(B) QUALIFIED HEATING OIL.—For purposes of subparagraph (A), the term 'qualified heating oil' means No. 2 distillate fuel oil (including any kerosene in a mixture with such oil) which—

"(i) is indelibly dyed (or dyed and marked) in accordance with regulations that the Secretary shall prescribe, and

"(ii) is delivered (or is to be delivered) to any building to heat the building.

"(C) QUALIFIED FARM DIESEL FUEL.—For purposes of subparagraph (A), the term 'qualified farm diesel fuel' means any diesel fuel which—

"(i) is indelibly dyed (or dyed and marked) in accordance with regulations that the Secretary shall prescribe, and

"(ii) is used (or to be used) on a farm for farming purposes (determined under section 6420(c)).

"(c) LIABILITY FOR TAX.—The determination of who is liable for the tax imposed by subsection (a) shall be made under the rules applicable in determining liability for the tax imposed by section 4081. Section 4103 shall

apply to the tax imposed by subsection (a) in the same manner as it applies to the tax imposed by section 4081.

"(d) TAXABLE REFINED PETROLEUM PRODUCT.—For purposes of this subchapter, the term 'taxable refined petroleum product' means—

"(1) aviation gasoline,

"(2) motor gasoline (including blending components of gasoline),

"(3) kerosene-type jet fuel,

"(4) naphtha-type jet fuel,

"(5) distillate fuel oil,

"(6) kerosene,

"(7) residual fuel oil,

"(8) petroleum coke,

"(9) butane,

"(10) propane,

"(11) ethanol,

"(12) methanol, and

"(13) to the extent provided in regulations prescribed by the Secretary, any other refined petroleum product.

"(e) APPLICABLE PER UNIT BTU FACTOR.—For purposes of this subchapter—

"(1) IN GENERAL.—

"In the case of:	The applicable per unit Btu factor is the following amount per barrel:
Aviation gasoline	5.048
Motor gasoline (including blending components of gasoline)	5.267
Kerosene-type jet fuel	5.670
Naphtha-type jet fuel	5.355
Distillate fuel oil	5.852
Kerosene	5.670
Residual fuel oil	6.486
Petroleum coke	6.024
Ethanol	3.500
Methanol	3.500
Butane	4.326
Propane	3.836

1 "(2) MIXTURES.—Any mixture which includes a
2 taxable refined petroleum product shall be treated as
3 specified in paragraph (1) and—
4 "(A) if more than 1 such product is in-
5 cluded in such mixture, the applicable per unit
6 Btu factor shall be the weighted average of the
7 applicable per unit Btu factors for the taxable
8 refined petroleum products included in the mix-
9 ture, and
10 "(B) if any substance is included in the
11 mixture which is not a taxable refined petro-
12 leum product, the applicable per unit Btu factor
13 for the portion of such mixture's volume which
14 is attributable to such substance shall be zero.
15 "(3) CROSS REFERENCE.—

"For authority to adjust per unit Btu amounts, see section 4453(e).

1 "(f) OTHER DEFINITIONS.—For purposes of this
2 subchapter—
3 "(1) REFINERY.—The term 'refinery' means
4 any facility—
5 "(A) at which crude oil or any petroleum
6 product is refined,
7 "(B) which is a natural gas processing or
8 fractionation plant, or
9 "(C) at which ethanol or methanol is pro-
10 duced for use as a fuel.
11 "(2) BLENDING COMPONENTS.—The term
12 'blending components' does not include ethanol or
13 methanol.
14 "(3) ETHANOL AND METHANOL.—The terms
15 'ethanol' and 'methanol' include ether derivatives of
16 ethanol and methanol, respectively.
17 "(4) BARREL.—The term 'barrel' means 42
18 United States gallons determined with such tem-
19 perature adjustments as the Secretary may pre-
20 scribe. In the case of a taxable refined petroleum
21 product which is not a liquid, the term 'barrel'
22 means a volume determined under regulations pre-
23 scribed by the Secretary on the basis of an equiva-
24 lence to a barrel of oil.

"(g) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable refined petroleum product establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such product, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"SEC. 4442. TAX-FREE TRANSFERS AND USES; REFUNDS FOR CERTAIN SALES AND USES.

"(a) TAX-FREE SALES, ETC.—

"(1) IN GENERAL.—No tax shall be imposed by section 4441—

"(A) on any taxable refined petroleum product which is used in an exempt use by the person otherwise liable for such tax, or

"(B) by reason of a removal, entry, or sale of such product for an exempt use by the person receiving the product.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means—

"(A) export,

"(B) any use in the generation of electricity,

"(C) any qualified feedstock use, and

"(D) any use in the manufacture or production of synthetic natural gas or any other synthetic fuel specified in regulations prescribed by the Secretary.

"(3) QUALIFIED FEEDSTOCK USE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any qualified feedstock use, only the exempt percentage of any taxable refined petroleum product shall be exempt from tax under paragraph (1).

"(B) QUALIFIED FEEDSTOCK USE.—The term 'qualified feedstock use' means use of any taxable refined petroleum product in the manufacture or production of any substance.

"(C) EXEMPT PERCENTAGE.—For purposes of subparagraph (A), the term 'exempt percentage' means the percentage (determined on the basis of chemical structure) of the taxable refined petroleum product which is incorporated into the substance manufactured or produced.

"(4) REGISTRATION REQUIREMENTS.—To the extent provided by the Secretary, paragraph (1) shall not apply to any taxable event unless—

"(A) such persons with respect to such event as the Secretary may specify are registered under section 4453(d), and

"(B) in the case of a sale, the purchaser's name and address, and the purchaser's registration number for purposes of this subchapter, are provided to the seller.

"(5) REFUNDS OF PRODUCTS PURCHASED TAX-PAID.—If tax was imposed under section 4441 with respect to any taxable refined petroleum product and such product is used by any person in an exempt use, the Secretary shall pay to such person an amount equal to the tax so imposed (or, in the case of a qualified feedstock use, the exempt percentage of the tax so imposed).

"(6) CROSS REFERENCE.—

"For tax on fuel used to produce steam at facility which also generates electricity, see section 4451(e).

"(b) REFUNDS TO ULTIMATE VENDORS IN CERTAIN CASES.—Under regulations prescribed by the Secretary—

"(1) HEATING OIL.—If the supplemental rate of tax was imposed under section 4441 with respect to any No. 2 distillate fuel oil (including any ker-

osene in a mixture with such oil) and such fuel oil is delivered to any building to heat the building, the Secretary shall pay to the ultimate vendor of such fuel oil an amount equal to the product of the supplemental rate and the applicable per unit Btu factor per barrel of the fuel oil (and kerosene) so delivered.

"(2) INTERNATIONAL COMMERCIAL TRANSPORTATION.—

"(A) IN GENERAL.—If tax was imposed under section 4441 with respect to any taxable refined petroleum product and such product is sold for use or used by the purchaser for international commercial transportation, the Secretary shall pay to the ultimate vendor of such product an amount equal to the tax so imposed.

"(B) INTERNATIONAL COMMERCIAL TRANSPORTATION.—For purposes of subparagraph (A), the term 'international commercial transportation' means transportation in the trade or business of transporting persons or property for hire—

"(i) by any vessel actually engaged in foreign trade or trade between the United States and any of its possessions, or

"(ii) by aircraft from a point within the United States to a point outside the United States and outside the 225-mile zone (as defined in section 4262(c)(2)).

"(3) VENDOR REQUIREMENTS.—A payment may be made under this subsection to a vendor only if the vendor establishes that such vendor—

"(A)(i) has not included the tax in the price of the product, and

"(ii) has not collected the tax from the purchaser of such product, or

"(B) has agreed to repay the tax to the purchaser.

"(c) PRODUCTION OF CALCINED COKE.—If tax was imposed under section 4441 with respect to any petroleum product and such product is used by any person to produce calcined coke, the Secretary shall pay to such person an amount equal to the sum of the base rate and the supplemental rate for each million Btu's of the actual Btu content of the coke produced.

"(d) CROSS REFERENCE.—

"For refunds of gasoline and diesel fuel used on farms, see sections 6420(a) and 6427(m).

"PART II—IMPOSITION OF TAXES ON NATURAL GAS, COAL, AND ELECTRICITY

"Sec. 4444. Natural gas.

"Sec. 4445. Coal.
"Sec. 4446. Electricity.

"SEC. 4444. NATURAL GAS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax on natural gas—

"(A) removed from any pipeline in the United States,

"(B) entered into the United States for consumption, use, or warehousing, and

"(C) entered into any pipeline the operator of which is not registered under section 4453(d).

"(2) EXCEPTION FOR TRANSFERS TO REGISTERED PIPELINES.—

"(A) PIPELINE TO PIPELINE TRANSFERS.—The tax imposed by paragraph (1) shall not apply to any removal from a pipeline to another pipeline if the operators of both pipelines are registered under section 4453(d).

"(B) ENTRY INTO UNITED STATES TO PIPELINE TRANSFERS.—The tax imposed by paragraph (1) shall not apply to any entry into the United States if—

"(i) pursuant to such entry the natural gas is entered into any pipeline, and

"(ii) the operator of such pipeline is registered under section 4453(d).

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on each MCF of natural gas shall be the base rate multiplied by the applicable per unit Btu factor.

"(2) AUTHORITY TO USE ACTUAL BTU CONTENT.—To the extent provided in regulations prescribed by the Secretary, the amount of the tax imposed by subsection (a) shall be the base rate for each million Btu's of the actual Btu content of the natural gas.

"(c) LIABILITY FOR, AND COLLECTION OF, TAX.—

"(1) IN GENERAL.—The tax imposed by subsection (a)(1)(A)—

"(A) shall be paid by the person receiving the natural gas, and

"(B) shall be collected by the operator of the pipeline.

"(2) IMPORTATION.—The tax imposed by subsection (a)(1)(B) shall be paid by the person entering the natural gas into the United States for consumption, use, or warehousing.

"(3) ENTRY INTO UNREGISTERED PIPELINES.—The tax imposed by subsection (a)(1)(C) shall be paid by the person entering the natural gas.

"(4) COLLECTION OF TAX.—

"(A) IN GENERAL.—In the case of natural gas removed from a local distribution system, the operator shall also be liable for any tax imposed by subsection (a) which is not collected from the person receiving the natural gas.

"(B) EXCEPTION FOR LARGE USERS FROM LOCAL DISTRIBUTION SYSTEMS.—Subparagraph (A) shall not apply to natural gas received by any person during any month from a local distribution system if the value (exclusive of taxes) of the natural gas received by such person from such system during the 12-month period ending before such month exceeded $3,500,000.

"(d) DEFINITIONS.—For purposes of this subchapter—

"(1) APPLICABLE PER UNIT BTU FACTOR.—

"(A) IN GENERAL.—The applicable per unit Btu factor with respect to natural gas is 1.031 per MCF.

"(B) CROSS REFERENCE.—

"For authority to adjust per unit Btu amounts, see section 4453(e).

"(2) PIPELINE.—The term 'pipeline' includes a local distribution system. To the extent provided in regulations prescribed by the Secretary, such term includes a gathering system.

"(3) NATURAL GAS.—The term 'natural gas' includes synthetic natural gas produced from coal or from any petroleum product.

"(4) MCF.—The term 'MCF' means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

"(e) EXEMPTION FROM TAX FOR CERTAIN USES.—

"(1) IN GENERAL.—No tax shall be imposed by subparagraph (A) or (B) of subsection (a)(1)—

"(A) on any natural gas which is used in an exempt natural gas use by the person otherwise liable for such tax, or

"(B) by reason of a removal or entry of natural gas for an exempt natural gas use by the person receiving the natural gas.

"(2) EXEMPT NATURAL GAS USE.—For purposes of this subsection, the term 'exempt natural gas use' means—

"(A) use in the generation of electricity,

"(B) any qualified feedstock use, or

"(C) use in enhanced heavy oil recovery.

"(3) QUALIFIED FEEDSTOCK USE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any qualified feedstock use, only the exempt percentage of the natural gas shall be exempt from tax under paragraph (1).

"(B) QUALIFIED FEEDSTOCK USE; EXEMPT PERCENTAGE.—The terms 'qualified feedstock use' and 'exempt percentage' have the respective meanings given such terms by section 4442(a)(3) determined by substituting 'natural gas' for 'taxable refined petroleum product' each place it appears.

"(4) ENHANCED HEAVY OIL RECOVERY.—For purposes of this subsection—

"(A) IN GENERAL.—Natural gas shall be treated as used in enhanced heavy oil recovery if such gas is used in an enhanced oil recovery project in the United States for the recovery of oil having a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

"(B) ENHANCED OIL RECOVERY PROJECT.—For purposes of subparagraph (A),

the term 'enhanced oil recovery project' means any project which involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered.

"(5) REGISTRATION REQUIREMENTS.—To the extent provided by the Secretary, paragraph (1) shall not apply to any taxable event unless the requirements of section 4442(a)(4) are met with respect to such event.

"(6) REFUNDS OF NATURAL GAS PURCHASED TAX-PAID.—If tax was imposed by this section with respect to any natural gas and such gas is used by any person in an exempt natural gas use, the Secretary shall pay to such person an amount equal to the tax so imposed (or, in the case of a qualified feedstock use, the exempt percentage of the tax so imposed).

"(7) CROSS REFERENCE.—

"For tax on fuel used to produce steam at facility which also generates electricity, see section 4451(e).

"(f) METHANE RECOVERED FROM BIOMASS OR COAL MINING.—

"(1) IN GENERAL.—If—

"(A) methane is recovered from biomass or in conjunction with room and pillar or long wall coal mining operations, and

"(B) such methane is entered into any natural gas pipeline,

the Secretary shall pay to the person so entering such methane an amount equal to the amount of tax which would be imposed under this section on such methane if such entry were a taxable event under such section.

"(2) RECAPTURE OF CREDIT FOR METHANE RECOVERED FROM COAL MINING IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the Secretary has made a payment under paragraph (1) to any person with respect to methane recovered from coal mining operations before the date the actual mining commences, and

"(ii)(I) such person disposes of his interest in such coal mining operations, or

"(II) the actual mining commences more than 10 years after the date such methane was first recovered,

then the tax under chapter 1 of such person for the taxable year in which such disposition occurs (or, in a case to which clause (ii)(II) applies, such 10th year ends) shall be increased by the aggregate of such payments to such person plus interest at the underpayment rate under section 6621 for the periods beginning on the dates such payments were made.

"(B) NO FURTHER PAYMENTS UNTIL MINING COMMENCES.—If there is an increase in tax under subparagraph (A) with respect to any payments for methane recovered from any site, no further payments shall be made under this subsection with respect to methane recovered from such site until actual mining commences at such site.

"(C) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this paragraph shall not be taken into account in determining the amount of any credit allowable under part IV of subchapter A of chapter 1 or in determining the amount of the tax imposed by section 55.

"(D) CHANGES IN FORM OF BUSINESS DISREGARDED.—A person shall not be treated as disposing of an interest in coal mining oper-

ations by reason of a mere change in the form of conducting the trade or business so long as the coal mining operations are retained in such trade or business and the taxpayer retains a substantial interest in such trade or business.

''(g) REFUNDS IN CERTAIN CASES.—A rule similar to the rule of section 4441(g) shall apply to the tax imposed by this section.

"SEC. 4445. COAL.

''(a) GENERAL RULE.—There is hereby imposed a tax on coal received at any facility in the United States for use as a fuel at such facility.

''(b) RATE OF TAX.—The amount of the tax imposed by subsection (a) shall be the base rate for each million Btu's of the actual Btu content of the coal. For purposes of the preceding sentence, the actual Btu content of any coal shall be determined under procedures prescribed by the Secretary.

''(c) LIABILITY FOR TAX.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the tax imposed by subsection (a) shall be paid by the operator of the facility.

''(2) COAL RECEIVED AT SMALL FACILITIES.—If the ultimate vendor of coal received at a facility

receives a certificate from the operator of such facility (or otherwise determines) that such facility received less than 1,000 tons of coal during the preceding calendar year, the tax imposed by subsection (a) shall be paid by the ultimate vendor.

"(3) RESIDENTIAL PROPERTY.—

"(A) IN GENERAL.—In the case of coal received at a residential property, the tax imposed by subsection (a) shall be paid by the ultimate vendor.

"(B) RESIDENTIAL PROPERTY.—For purposes of this paragraph, the term 'residential property' means any building which contains 1 or more dwelling units used for residential purposes other than on a transient basis.

"(d) EXEMPTION FROM TAX FOR CERTAIN USES.—

"(1) IN GENERAL.—No tax shall be imposed by subsection (a) on coal received for—

"(A) use in the generation of electricity,

"(B) any qualified feedstock use,

"(C) use in enhanced heavy oil recovery (as determined under section 4444(e)(4) by substituting 'coal' for 'natural gas'),

"(D) use in the manufacture or production of synthetic natural gas or any other synthetic

fuel specified in regulations prescribed by the Secretary, or

"(E) any use in a vessel used in international commercial transportation (as defined in section 4442(b)(2)(B)(i)).

"(2) QUALIFIED FEEDSTOCK USE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any qualified feedstock use, only the exempt percentage of the coal shall be exempt from tax under paragraph (1).

"(B) QUALIFIED FEEDSTOCK USE; EXEMPT PERCENTAGE.—The terms 'qualified feedstock use' and 'exempt percentage' have the respective meanings given such terms by section 4442(a)(3) determined by substituting 'coal' for 'taxable refined petroleum product' each place it appears.

"(3) CROSS REFERENCE.—

"For tax on fuel used to produce steam at facility which also generates electricity, see section 4451(e).

"(e) PRODUCTION OF COKE FOR STEEL.—If tax was imposed under this subchapter with respect to any coal and such coal is used by any person to produce coke for use in the reduction of iron-bearing ores in the iron and steel process, the Secretary shall pay to such person an

amount equal to the base rate for each million Btu's of the actual Btu content of the coke produced.

"SEC. 4446. ELECTRICITY.

"(a) GENERAL RULE.—There is hereby imposed a tax on—

"(1) the sale of electricity to ultimate users in the United States, and

"(2) the use of electricity in the United States which was not subject to tax under paragraph (1).

"(b) RATE OF TAX.—The amount of the tax imposed by subsection (a) on each kilowatt hour of electricity sold or used during any month shall be the deemed Btu tax per kilowatt hour applicable for such month—

"(1) to the seller in the case of the tax imposed by subsection (a)(1), and

"(2) to the user in the case of the tax imposed by subsection (a)(2).

"(c) LIABILITY FOR, AND COLLECTION OF, TAX.—

"(1) SALES.—The tax imposed by subsection (a)(1)—

"(A) shall be paid by the person to whom the electricity is sold, and

"(B) shall be collected by the seller.

"(2) USES.—The tax imposed by subsection (a)(2) shall be paid by the person using the electricity.

"(3) COLLECTION OF TAX.—

"(A) IN GENERAL.—The seller shall also be liable for the tax imposed by subsection (a)(1) which is not collected from the person to whom the electricity is sold.

"(B) EXCEPTION FOR LARGE USERS.—Subparagraph (A) shall not apply to electricity sold to any person during any month by the seller if the amount paid by such person for electricity (exclusive of taxes) sold by such seller during the 12-month period ending before such month exceeded $3,500,000.

"(d) DEEMED BTU TAXES.—For purposes of this section—

"(1) IN GENERAL.—The deemed Btu taxes per kilowatt hour of electricity applicable to any person for any month shall be the weighted average of—

"(A) the deemed Btu taxes per kilowatt hour of electricity generated at each facility of the person during the base period, and

"(B) the deemed Btu taxes per kilowatt hour of electricity purchased by such person during the base period.

For purposes of this paragraph, the term 'base period' means, with respect to any month, the 2d month preceding such month.

"(2) DEEMED BTU TAXES PER FACILITY.—The deemed Btu taxes per kilowatt hour of electricity generated at any facility during any month shall be determined by dividing—

"(A) the deemed Btu taxes on fuels used at such facility to generate electricity during such month by

"(B) the aggregate kilowatt hours of electricity generated at such facility during such month.

"(3) DEEMED BTU TAXES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'deemed Btu taxes' means, with respect to electricity, the aggregate taxes which would have been imposed by this subchapter on the fuels used to generate such electricity—

"(i) but for the exemption of such fuels from such taxes, and

"(ii) determined as of the month for which the rate of the tax imposed by subsection (a) is being determined.

"(B) ELECTRICITY GENERATED BY HYDROPOWER OR NUCLEAR POWER.—The deemed Btu taxes per kilowatt hour of electricity generated by hydropower or nuclear power shall be equal to the base rate multiplied by a fraction the numerator of which is 10,335 and the denominator of which is 1,000,000.

"(C) IMPORTED ELECTRICITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the deemed Btu taxes per kilowatt hour of electricity transmitted into the United States shall be determined as if such electricity were generated by hydropower.

"(ii) LOWER DEEMED BTU TAX MAY BE ESTABLISHED.—If the importer establishes to the satisfaction of the Secretary the amount which would be the deemed Btu taxes per kilowatt hour of the electricity if the electricity were generated in the United States, such amount shall be used in lieu of the amount under clause (i).

"(D) ELECTRICITY GENERATED BY RENEWABLE SOURCES.—The deemed Btu taxes per kilowatt hour of electricity generated from any renewable source shall be zero. For purposes of the preceding sentence, the term 'renewable source' means solar energy, wind energy, any geothermal deposit, biomass, municipal solid waste, and tires.

"(4) SELLERS TO SPECIFY DEEMED BTU TAXES.—

"(A) IN GENERAL.—In the case of electricity which is sold other than to the ultimate user, the seller shall certify to the purchaser the deemed Btu taxes per kilowatt hour of the electricity sold.

"(B) FAILURE TO CERTIFY.—If the seller fails to so certify—

"(i) the tax imposed by subsection (a) shall apply to such sale at the rate specified in subparagraph (C),

"(ii) the tax imposed by subsection (a) shall apply to any subsequent sale or use without regard to clause (i), and

"(iii) the rate specified in subparagraph (C) shall be the deemed Btu taxes

per kilowatt hour of such electricity for purposes of determining the tax imposed by subsection (a) on any subsequent sale or use of such electricity.

"(C) RATE.—The rate specified in this subparagraph is, for each kilowatt hour, the product of—

"(i) the sum of the base rate and the supplemental rate, multiplied by

"(ii) a fraction the numerator of which is 10,335 and the denominator of which is 1,000,000.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection, including regulations—

"(A) prescribing a base period to be used by any person not in existence during the base period, and

"(B) prescribing such other modifications to the application of this subsection as are necessary to carry out the purposes of this subsection.

"(e) EXCEPTIONS.—

"(1) ELECTRICITY USED IN CERTAIN ELECTROLYTIC PROCESSES.—

"(A) IN GENERAL.—In the case of electricity used in any electrolytic process, the tax imposed by this section shall not apply to the feedstock portion of such electricity.

"(B) FEEDSTOCK PORTION.—For purposes of subparagraph (A), the feedstock portion of electricity is the portion of the electrical energy which is incorporated into the manufactured product.

"(2) ELECTRICITY USED TO GENERATE PUMPED STORAGE, ETC.—The tax imposed by this section shall not apply to electricity used in the United States to create any hydropower source to generate electricity. The electricity generated by such hydropower source shall be disregarded in determining the deemed Btu taxes of the electricity.

"(3) USE TAX EXCEPTION.—The Secretary may provide by regulations that the tax imposed by subsection (a)(2) shall not apply in cases where the Secretary determines that such an exception is warranted, after 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.

"PART III—TAX RATES

"Sec. 4448. Tax rates.

"SEC. 4448. TAX RATES.

"(a) BASE RATE.—For purposes of this subchapter—

"(1) PHASE-IN RATES.—Effective during—

"(A) the 1-year period beginning on July 1, 1994, the base rate is 8.9 cents, and

"(B) the 1-year period beginning on July 1, 1995, the base rate is 17.9 cents.

"(2) PERMANENT UNINDEXED RATE.—Effective on and after July 1, 1996, the base rate is 26.8 cents.

"(3) INDEXED RATES.—

"(A) IN GENERAL.—Effective during any calendar year after 1997, the base rate under paragraph (2) shall be increased by an amount equal to—

"(i) 26.8 cents, multiplied by

"(ii) the inflation adjustment for such calendar year.

"(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A), the inflation adjust-

ment for any calendar year is the percentage (if any) by which—

"(i) the GDP deflator for the preceding calendar year, exceeds

"(ii) the GDP deflator for 1996.

"(C) GDP DEFLATOR FOR CALENDAR YEAR.—For purposes of subparagraph (B), the GDP deflator for any calendar year is the GDP deflator for the second calendar quarter of such year.

"(D) GDP DEFLATOR.—For purposes of subparagraph (C), the term 'GDP deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before November 15 of the calendar year referred to in subparagraph (B)(i).

"(b) SUPPLEMENTAL RATE.—For purposes of this subchapter—

"(1) PHASE-IN RATES.—Effective during—

"(A) the 1-year period beginning on July 1, 1994, the supplemental rate is 11.4 cents, and

"(B) the 1-year period beginning on July 1, 1995, the supplemental rate is 22.8 cents.

"(2) PERMANENT UNINDEXED RATE.—Effective on and after July 1, 1996, the supplemental rate is 34.2 cents.

"(3) INDEXED RATES.—Effective during any calendar year after 1997, the supplemental rate under paragraph (2) shall be increased by an amount equal to—

"(A) 34.2 cents, multiplied by

"(B) the inflation adjustment for such calendar year determined under subsection (a)(3)(B).

"(c) ROUNDING.—If any increase determined under subsection (a)(3) or (b)(3) is not a multiple of 0.1 cent, such increase shall be rounded to the nearest multiple of 0.1 cent.

"PART IV—USE TAXES; FLOOR STOCKS TAXES; ADMINISTRATIVE PROVISIONS; DEFINITIONS AND SPECIAL RULES

"Sec. 4451. Tax on certain uses.
"Sec. 4452. Floor stocks taxes.
"Sec. 4453. Administrative provisions.
"Sec. 4454. Definitions and special rules.

"SEC. 4451. TAX ON CERTAIN USES.

"(a) GENERAL RULE.—There is hereby imposed a tax on the use of any fossil fuel—

"(1) in the manufacture or production in the United States of a fuel other than at a refinery, or

"(2) as a fuel.

The preceding sentence shall not apply if tax was imposed under this subchapter before such use and such tax is not credited or refunded.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of tax imposed by subsection (a) shall be the amount which would be imposed under the appropriate section of part I or II if such use were a taxable event under such section.

"(2) CRUDE OIL AND OTHER PRODUCTS NOT TAXED ON REMOVAL OR IMPORTATION.—The amount of the tax imposed by subsection (a) on crude oil or other product not subject to tax under part I or II shall be the base rate (increased by the supplemental rate in the case of crude oil or any petroleum product other than any liquefied petroleum gas, isopentane, and natural gasoline) for each million Btu's of the Btu content of such oil or product.

"(3) AUTHORITY TO PRESCRIBE APPLICABLE PER UNIT BTU FACTORS.—In the case of crude oil or any other product for which an applicable per unit Btu factor is not prescribed for purposes of part I or II, the Secretary may prescribe such a fac-

tor, and, if so prescribed, such factor shall apply for purposes of paragraph (2).

"(c) LIABILITY FOR TAX.—The taxes imposed by subsection (a) shall be paid by the person using the fuel.

"(d) EXCEPTIONS.—

"(1) IN GENERAL.—Except as provided in subsection (e), the tax imposed by this section shall not apply to—

"(A) any use to which section 4442, section 4444(e), or subsection (d) or (e) of section 4445 applies, or

"(B) any use of methane described in section 4444(f)(1)(A).

"(2) USE ON PRODUCTION PREMISES.—The tax imposed by this section shall not apply to any use of crude oil or natural gas for producing crude oil or natural gas if—

"(A) in the case of crude oil, it is used before entry at the lease automatic custody transfer point (or its manual equivalent), and

"(B) in the case of natural gas, it is used before entry into an interstate or intrastate transmission pipeline.

"(3) CRUDE OIL USED AT REFINERY, ETC.—The tax imposed by this section shall not apply to—

"(A) any use of crude oil at a facility at which crude oil is refined or any use at such facility of any product produced at such facility,

"(B) any use of natural gas at a natural gas processing or fractionation plant or any use at such plant of any product produced at such plant, or

"(C) any use of ethanol at a facility at which ethanol is produced for use as a fuel.

"(4) OTHERWISE TAXABLE EVENT OCCURRING BEFORE EFFECTIVE DATE.—The tax imposed by this section shall not apply to any use if no tax would be imposed by this section on such use were this subchapter in effect for all periods before July 1, 1994.

"(e) GENERATION OF STEAM AND ELECTRICITY.—

"(1) IN GENERAL.—In the case of a facility which uses any taxable refined petroleum product, natural gas, or coal—

"(A) to generate electricity, and

"(B) to produce steam which is used or which is furnished or sold in the trade or business of the furnishing or sale of steam,

the tax imposed by subsection (a) shall apply to the use of such product, gas, or coal at such facility to

the extent such use is attributable (determined on the basis of the proportionate Btu content of the electricity and the steam) to the production of steam which is so used, furnished, or sold.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to steam used for any purpose if tax would not be imposed under this subchapter on the fuel used to produce the steam had such fuel been used directly for such purpose.

"(f) TREATMENT OF NATURAL GAS LOST IN TRANSMISSION.—For purposes of this section, natural gas lost in transmission by a pipeline shall be treated as used as a fuel for such pipeline.

"SEC. 4452. FLOOR STOCKS TAXES.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on any taxable fuel which on any tax-increase date is held in the United States by any person.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any taxable fuel with respect to any tax-increase date shall be equal to the excess (if any) of—

"(1) the amount of tax which would be imposed under part I or II if a taxable event with respect to such fuel had occurred on such date, over

"(2) the prior tax (if any) imposed by this subchapter on such fuel.

"(c) LIABILITY FOR TAX.—The person holding the taxable fuel on any tax-increase date shall pay the tax imposed by subsection (a).

"(d) EXCEPTIONS.—The tax imposed by subsection (a) shall not apply to—

"(1) any taxable fuel held before the point where it would otherwise be subject to tax under part I or II, or

"(2) any taxable fuel held by any person exclusively for any use by such person to the extent a credit or refund (or other payment) of the tax imposed by this section would be allowable or payable if such tax were imposed by part I or II.

"(e) CREDIT AGAINST TAX.—

"(1) IN GENERAL.—Each person shall be allowed $200 as a credit against the taxes imposed by subsection (a) with respect to each tax-increase date. Such credit shall not exceed the amount of taxes imposed by subsection (a) for which such person is liable with respect to such date.

"(2) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) all persons who are treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 taxpayer, and

"(B) the $200 amount specified in paragraph (1) shall be apportioned among such persons under regulations prescribed by the Secretary.

"(f) DEFINITIONS.—For purposes of this section—

"(1) TAXABLE FUEL.—The term 'taxable fuel' means any taxable refined petroleum product, natural gas, or coal.

"(2) TAX-INCREASE DATE.—The term 'tax-increase date' means—

"(A) July 1, 1994,

"(B) July 1, 1995,

"(C) July 1, 1996, and

"(D) January 1 of each calendar year for which there is an increase in a rate of tax by reason of subsection (a)(3) or (b)(3) of section 4448 (relating to inflation adjustment).

"(g) DUE DATE.—The tax imposed by subsection (a) shall be paid on or before the close of the 7-month period beginning on the tax-increase date.

"SEC. 4453. ADMINISTRATIVE PROVISIONS.

"(a) RULES RELATING TO REFUNDS FOR EXEMPT AND OTHER USES.—

"(1) PERIOD FOR FILING CLAIMS.—No payment shall be made under section 4442, 4444(f), or 4445(e) unless, within 2 years after the date that the event occurs giving rise to a right to such payment, a claim therefor is filed by the person entitled to such payment.

"(2) DENIAL OF INTEREST.—Except as provided in paragraph (3), no interest shall be paid on claims for payments under section 4442, 4444(f), or 4445(e).

"(3) MINIMUM AMOUNTS AND PERIODS.—In the case of persons who meet such requirements as the Secretary may prescribe, if—

"(A) a claim for payment is filed under section 4442, 4444(f), or 4445(e) for any period for which more than $1,000 is payable and which is not less than 1 week, and

"(B) the Secretary has not paid such claim within 20 days after the date the claim was filed,

such claim shall be paid with interest from such date using the overpayment rate and method under section 6621. The preceding sentence shall not apply to

a claim filed under section 4442(b)(1). Nothing in section 6611(e) shall bar interest payable under this paragraph.

"(4) HEATING OIL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 1 claim may be filed under section 4442(b)(1) by any person with respect to fuel oil sold by such person during any calendar year.

"(B) EXCEPTION.—If $1,000 or more is payable under section 4442(b)(1) to any person with respect to fuel oil sold during any of the 1st 3 quarters of the calendar year, a claim may be filed under section 4442(b)(1) with respect to fuel oil sold during such quarter. No claim filed under this subparagraph shall be allowed unless filed on or before the last day of the 1st quarter following the quarter for which the claim is filed.

"(5) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by this subchapter shall, insofar as applicable and not inconsistent with this subsection and section 4442, 4444(f), or 4445(e),

apply in respect of payments provided for in such section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under section 4442, 4444(f), or 4445(e), or the correctness of any payment made in respect of such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(b) PAYMENT OF TAX TO PERSONS REQUIRED TO COLLECT TAX.—

"(1) PAYMENT WITHIN 30 DAYS.—In the case of the taxes imposed by sections 4444 and 4446 which are required to be collected by another person, the person liable for such tax shall remit the tax to such other person within 30 days after the date of the taxable event.

"(2) RELIEF FROM PENALTY FOR CERTAIN FAILURES TO COLLECT TAX.—No penalty shall be

imposed under this title on the failure of any person to collect the taxes referred to in paragraph (1) if—

"(A) during the 30-day period referred to in paragraph (1), such person exercises due diligence in attempting to collect such tax, and

"(B) such person notifies the Secretary, within 15 days after the close of the month in which such 30-day period ends, of the failure to collect such tax and provides such other information as the Secretary may require.

"(3) EXCEPTION FOR PERSONS WITH SECONDARY LIABILITY.—Paragraphs (1) and (2) shall not apply if the person required to collect the tax is required to pay any portion of such tax which is not paid by the person primarily liable for such tax.

"(c) INFORMATION REPORTING.—The Secretary may require—

"(1) information reporting by each remitter of tax imposed by this subchapter, and

"(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subchapter.

"(d) REGISTRATION.—

"(1) IN GENERAL.—Every person required by the Secretary to register under this subsection with

respect to any tax imposed by this subchapter shall register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this subsection may be used only in accordance with regulations prescribed under this section.

''(2) OTHER RULES.—Rules similar to the rules of section 4101(b) and 4222(c) shall apply for purposes of this subsection.

''(e) ADJUSTMENTS TO PER UNIT BTU FACTORS.—

''(1) IN GENERAL.—If the Secretary determines that the applicable per unit Btu factor then in effect for any taxable refined petroleum product or natural gas does not, when multiplied by 1,000,000, properly reflect the Btu content per unit for such substance (in the circumstances where taxable events under this subchapter occur with respect to such substance), the Secretary may modify the applicable per unit Btu factor for such substance. Any such modification shall be effective as of the date prescribed by the Secretary.

''(2) MODIFICATION OF LIST OF REFINED PETROLEUM PRODUCTS.—The Secretary may modify, as appropriate, the list of refined petroleum products

in section 4441 for which applicable per unit Btu factors are separately determined.

"SEC. 4454. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) FOSSIL FUEL.—The term 'fossil fuel' means crude oil, any petroleum product, natural gas, any natural gas product, and coal.

"(2) CRUDE OIL.—The term 'crude oil' includes condensates from crude oil.

"(3) COAL.—The term 'coal' includes lignite.

"(4) UNITED STATES.—The term 'United States' means the 50 States, the District of Columbia, and the foreign trade zones of the United States.

"(5) PERSON.—The term 'person' includes the United States, any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

"(c) FRACTIONAL PART OF UNIT.—In the case of a fraction of a unit, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole unit.

"(d) SPECIAL RULES RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS.—

"(1) LIKE TAX ON ARTICLES BROUGHT INTO THE UNITED STATES FROM PUERTO RICO OR THE VIRGIN ISLANDS.—For purposes of this subchapter, articles brought into the United States from the Commonwealth of Puerto Rico or the Virgin Islands shall be treated as entered into the United States at the time brought into the United States.

"(2) DISPOSITION OF REVENUES.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(e) NO EXEMPTION FROM TAX.—No person shall be exempt from any tax imposed by this subchapter except to the extent provided in this subchapter or in any provision of law enacted after the date of the enactment of this subchapter which grants a specific exemption, by reference to this subchapter, from a tax imposed by this subchapter.

"PART V—TAX ON IMPORTED HIGH-ENERGY PRODUCTS

"Sec. 4456. Imposition of tax.
"Sec. 4457. Definitions and special rules.

"SEC. 4456. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable high-energy product entered into the United States for consumption, use, or warehousing.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any taxable high-energy product shall be the imputed Btu tax with respect to such product.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person entering the product for consumption, use, or warehousing.

"SEC. 4457. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE HIGH-ENERGY PRODUCT.—For purposes of this part—

"(1) IN GENERAL.—The term 'taxable high-energy product' means any product which, at the time entered into the United States for consumption, use, or warehousing, is listed as a taxable high-energy product by the Secretary.

"(2) DETERMINATION OF PRODUCTS ON LIST.—A product shall be listed under paragraph (1) if the product is produced in an industry identified (using 4-digit SIC codes) in the most recent census of manufacturing as producing products which on average have more than 2 percent of their value attributable to direct energy inputs (exclusive of the tax imposed by parts I and II) of taxable energy sources.

"(3) TAXABLE ENERGY SOURCE.—The term 'taxable energy source' means any taxable refined petroleum product, natural gas, coal, and electricity.

"(b) IMPUTED BTU TAX.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'imputed Btu tax' means, with respect to any taxable high-energy product, the amount of tax which would have been imposed by parts I and II on taxable energy sources directly used in the manufacture or production of the product if—

"(A) such product were manufactured or produced using the predominant method of manufacture or production of such product in the United States, and

"(B) such taxable energy sources had been subject to tax under such parts on the date of the entry of the product into the United States for consumption, use, or warehousing.

"(2) TAX WHERE INFORMATION FURNISHED.—If the person liable for the tax imposed by section 4456 with respect to any product furnishes to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to

determine the imputed Btu tax with respect to such product, the imputed Btu tax determined using such information shall apply in lieu of the amount determined under paragraph (1).

"(c) REQUESTS TO CHANGE LIST.—If any importer or producer of any product requests that the Secretary determine whether—

"(1) such product should be listed as a taxable high-energy product under subsection (a)(1) or be removed from such listing, or

"(2) the imputed Btu tax for such product under subsection (b)(1),

the Secretary shall make such determination within 180 days after the date the request was filed."

(b) REFUNDS FOR FARM USE OF GASOLINE AND DIESEL FUEL.—

(1) GASOLINE.—

(A) Subsection (a) of section 6420 is amended by adding at the end thereof the following new flush sentence:

"If the supplemental rate of the tax imposed by section 4441 was imposed on such gasoline, the Secretary shall also pay (without interest) to such ultimate purchaser an amount equal to the product of such supplemental rate

and the applicable per unit Btu factor per barrel (determined under section 4441) of the gasoline so used.''

(B) Subsection (h) of section 6420 is amended by inserting ''and taxes imposed by section 4441'' after ''financing rate''.

(2) DIESEL FUEL.—

(A) Section 6427 is amended by redesignating subsections (m) through (r) as subsections (n) through (s), respectively, and by inserting after subsection (l) the following new subsection:

''(m) REFUNDS OF SUPPLEMENTAL RATE OF BTU TAX ON FARM USE OF DIESEL FUEL.—Except as provided in subsection (k), if the supplemental rate of the tax imposed by section 4441 was imposed on diesel fuel used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of such supplemental rate and the applicable per unit Btu factor per barrel (determined under section 4441) of the diesel fuel so used.''

(B) Paragraph (1) of section 6427(i) is amended by inserting ''(m),'' after ''(l),''.

(C) Paragraph (4) of section 6427(i), as amended by subpart B, is amended—

(i) by striking ''OR 4091'' in the paragraph heading and inserting '', 4091, OR 4441'', and

(ii) by striking ''subsection (l)'' each place it appears and inserting ''subsections (l) and (m)''.

(c) CIVIL PENALTY FOR USING REDUCED-RATE FUEL FOR TAXABLE USE.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

''SEC. 6714. DYED FUEL SOLD FOR USE OR USED IN TAXABLE USE.

''(a) IMPOSITION OF PENALTY.—If any dyed fuel—

''(1) is sold by any person for any use which such person knows or has reason to know is not a reduced-tax use of such fuel, or

''(2) is used by any person for a use other than a reduced-tax use and such person knew, or had reason to know, that such fuel was so dyed,

then, in addition to the tax, such person shall pay a penalty on such sale or use.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) on any sale or use shall be the greater of—

"(1) $1,000, or

"(2) an amount equal to twice the excess of the aggregate taxes which should have been imposed under section 4441 on the fuel so sold or used over the prior taxes (if any) imposed on such fuel under such section which have not been credited or refunded.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DYED FUEL.—The term 'dyed fuel' means—

"(A) qualified heating oil (as defined in section 4441(b)(2)(B)), and

"(B) diesel fuel dyed in accordance with section 4441(b)(2)(C).

"(2) REDUCED-TAX USE.—The term 'reduced-tax use' means, with respect to any fuel, the use for which such fuel was dyed."

(2) CLERICAL AMENDMENT.—The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 6714. Dyed fuel sold for use or used in taxable use."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (a) of section 6675 is amended by inserting ''section 4442 (relating to refunds of petroleum tax for certain sales and uses), section 4444(f) (relating to methane recovered from biomass or coal mining), section 4445(e) (relating to coal used in production of coke for steel),'' before ''section 6420''.

(B) Subsection (b) of section 6675 is amended by inserting ''4442, 4444(f), 4445(e),'' before ''6420''.

(2) Section 6206 is amended—

(A) by inserting ''(a) FUEL TAXES.—'' before ''Any portion of'', and

(B) by adding at the end thereof the following new subsection:

''(b) BTU TAXES.—Any portion of a payment made under section 4442, 4444(f), or 4445(e) which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by subchapter A of chapter 36 and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing a claim under section 4442, 4444(f), or 4445(e).''

(3)(A) The section heading for section 6206 is amended by striking ''UNDER SECTIONS 6420, 6421, and 6427'' and inserting ''FOR CERTAIN FUELS TAX REFUNDS AND ENERGY TAX REFUNDS''.

(B) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking ''under sections 6420, 6421, and 6427'' and inserting ''for certain fuels tax refunds and energy tax refunds''.

(4) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking ''or'' at the end of clause (xi),

(B) by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma,

(C) by redesignating the clause (xii) relating to section 338(h)(10)(C) as clause (xiii) and by striking the period at the end thereof and inserting '', or'', and

(D) by inserting after clause (xiii), as so redesignated, the following new clause:

''(xiv) section 4453(c) (relating to information reporting with respect to energy taxes).''

(5) Sections 7210, section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by inserting "4453(a)(5)(B)," before "6420(e)(2)" each place it appears.

(6) Subparagraph (A) of section 9505(c)(3) is amended by striking "subchapter A" and inserting "subchapter B".

(7) 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. Energy taxes.
"Subchapter B. Harbor maintenance tax.
"Subchapter C. Transportation by water."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1994.

Subpart B—Modifications to Tax on Diesel Fuel

SEC. 14242. MODIFICATIONS TO TAX ON DIESEL FUEL.

(a) IN GENERAL.—Subparts A and B of part III of subchapter A of chapter 32 (relating to manufacturers excise taxes) are amended to read as follows:

"Subpart A—Gasoline and Diesel Fuel

"Sec. 4081. Imposition of tax.
"Sec. 4082. Exemptions for diesel fuel.
"Sec. 4083. Definitions and special rule.
"Sec. 4084. Cross references.

"SEC. 4081. IMPOSITION OF TAX.

"(a) TAX IMPOSED.—

"(1) TAX ON REMOVAL, ENTRY, OR SALE.—

"(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on—

"(i) the removal of a taxable fuel from any refinery,

"(ii) the removal of a taxable fuel from any terminal,

"(iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and

"(iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

"(B) EXEMPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS.—The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk to a terminal if the person removing or entering the taxable fuel and the operator of such terminal are registered under section 4101.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate,

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate, and

"(iii) the deficit reduction rate.

"(B) RATES.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is—

"(I) 11.5 cents per gallon in the case of gasoline, and

"(II) 17.5 cents per gallon in the case of diesel fuel,

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon, and

"(iii) the deficit reduction rate is 2.5 cents per gallon.

"(b) TREATMENT OF REMOVAL OR SUBSEQUENT SALE BY BLENDER.—

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (a) on taxable fuel removed or sold by the blender thereof.

"(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

"(A) tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and

"(B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

"(c) TAXABLE FUELS MIXED WITH ALCOHOL AT REFINERY, ETC.—

"(1) REDUCED RATES.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting rates which are the applicable fraction of the otherwise applicable rates in the case of the removal or entry of any taxable fuel for use in producing at the time of such removal or entry a qualified alcohol mixture. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in

producing such a mixture after the time of such removal or entry.

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the applicable fraction is—

"(i) in the case of a qualified alcohol mixture which contains gasoline, the fraction the numerator of which is 10 and the denominator of which is—

"(I) 9 in the case of 10 percent gasohol,

"(II) 9.23 in the case of 7.7 percent gasohol, and

"(III) 9.43 in the case of 5.7 percent gasohol, and

"(ii) in the case of a qualified alcohol mixture which does not contain gasoline, $^{10}/_{9}$.

"(2) LATER SEPARATION OF FUEL FROM QUALIFIED ALCOHOL MIXTURE.—If any person separates the taxable fuel from a qualified alcohol mixture on which tax was imposed under subsection (a) at the otherwise applicable Highway Trust Fund financing rate (or its equivalent) by reason of this subsection (or with respect to which a credit or pay-

ment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

"(3) ALCOHOL; QUALIFIED ALCOHOL MIXTURE.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

"(B) QUALIFIED ALCOHOL MIXTURE.—The term 'qualified alcohol mixture' means—

"(i) any mixture of gasoline with alcohol if at least 5.7 percent of such mixture is alcohol, and

"(ii) any mixture of diesel fuel with alcohol if at least 10 percent of such mixture is alcohol.

"(4) OTHERWISE APPLICABLE RATES FOR GASOLINE MIXTURES.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but

not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.

"(5) OTHERWISE APPLICABLE RATES FOR DIESEL FUEL MIXTURES.—For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate for diesel fuel in a qualified alcohol mixture is 12.1 cents per gallon (11.5 cents per gallon in the case of a qualified alcohol mixture none of the alcohol in which consists of ethanol).

"(6) TERMINATION.—Paragraph (1) shall not apply to any removal or sale after September 30, 2000.

"(d) TERMINATION.—

"(1) HIGHWAY TRUST FUND FINANCING RATE.—On and after October 1, 1999, the Highway Trust Fund financing rate under subsection (a)(2) shall not apply.

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Un-

derground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995.

"(3) DEFICIT REDUCTION RATE.—On and after October 1, 1995, the deficit reduction rate under subsection (a)(2) shall not apply.

"(e) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"SEC. 4082. EXEMPTIONS FOR DIESEL FUEL.

"(a) IN GENERAL.—The tax imposed by section 4081 shall not apply to diesel fuel—

"(1) which the Secretary determines is destined for a nontaxable use,

"(2) which is indelibly dyed in accordance with regulations which the Secretary shall prescribe, and

"(3) which meets such marking requirements (if any) as may be prescribed by the Secretary in regulations.

"(b) NONTAXABLE USE.—For purposes of this section, the term 'nontaxable use' means—

"(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof,

"(2) any use in a train, and

"(3) any use described in section 6427(b)(1).

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

"(d) CROSS REFERENCE.—

"For tax on train, motorboat, and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

"SEC. 4083. DEFINITIONS AND SPECIAL RULE.

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) gasoline, and

"(B) diesel fuel.

"(2) GASOLINE.—The term 'gasoline' includes, to the extent prescribed in regulations—

"(A) gasoline blend stocks, and

1 "(B) products commonly used as additives
2 in gasoline.
3 For purposes of subparagraph (A), the term 'gaso-
4 line blend stock' means any petroleum product com-
5 ponent of gasoline.
6 "(3) DIESEL FUEL.—The term 'diesel fuel'
7 means any liquid (other than gasoline) which is suit-
8 able for use as a fuel in a diesel-powered highway
9 vehicle, a diesel-powered train, or a diesel-powered
10 boat.
11 "(b) CERTAIN USES DEFINED AS REMOVAL.—If any
12 person uses taxable fuel (other than in the production of
13 gasoline, diesel fuel, or special fuels referred to in section
14 4041), such use shall for the purposes of this chapter be
15 considered a removal.
16 **"SEC. 4084. CROSS REFERENCES.**

"(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

"(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

"(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

17 **"Subpart B—Aviation Fuel**

"Sec. 4091. Imposition of tax.
"Sec. 4092. Exemptions.
"Sec. 4093. Definitions.

"SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of aviation fuel by the producer or the importer thereof or by any producer of aviation fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A) the Airport and Airway Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 17.5 cents per gallon.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(4) TERMINATION OF RATES.—

"(A) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1996.

"(B) The Leaking Underground Storage Tank Fund financing rate shall not apply dur-

ing any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 4.1 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) 4.56 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 4.1 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.

''(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 2000.

''(d) LOWER RATES OF TAX ON ALCOHOL MIXTURES NOT MADE FROM ETHANOL.—In the case of a mixture described in subsection (c)(1)(A)(i) none of the alcohol in which is ethanol—

''(1) subsections (c)(1)(A) and (c)(2) shall each be applied by substituting rates which are 0.6 cents less than the rates contained therein, and

''(2) subsection (c)(1)(B) shall be applied by substituting rates which are 10/9 of the rates determined under paragraph (1).

''SEC. 4092. EXEMPTIONS.

''(a) NONTAXABLE USES.—The Airport and Airway Trust Fund financing rate under section 4091 shall not

apply to aviation fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)(B)).

"(b) SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply to aviation fuel sold to a producer of such fuel.

"(c) SUPPLIES FOR VESSELS AND AIRCRAFT.—Under regulations prescribed by the Secretary, the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)).

"SEC. 4093. DEFINITIONS.

"(a) AVIATION FUEL.—For purposes of this subpart, the term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) CERTAIN PERSONS TREATED AS PRODUCERS.—

"(A) IN GENERAL.—The term 'producer' includes any person described in subparagraph (B) and registered under section 4101 with respect to the tax imposed by section 4091.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a refiner, blender, or wholesale distributor of aviation fuel, or

"(ii) a dealer selling aviation fuel exclusively to producers of aviation fuel.

"(C) REDUCED RATE PURCHASERS TREATED AS PRODUCERS.—Any person to whom aviation fuel is sold at a reduced rate under this subpart shall be treated as the producer of such fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells aviation fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer."

(b) CIVIL PENALTY FOR USING REDUCED-RATE FUEL FOR TAXABLE USE.—

(1) Paragraph (1) of section 6714(c), as added by subpart A, 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) diesel fuel dyed in accordance with section 4082."

(2) Paragraph (2) of section 6714(b), as added by subpart A, is amended by striking "section 4441" and inserting "sections 4081 and 4441" and by striking "such section" and inserting "such sections".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 40 is amended by striking ", section 4081(c), or section 4091(c)" and inserting "or section 4081(c)".

(2) Subsection (a) of section 4101 is amended by striking "4081" and inserting "4041(a)(1), 4081,".

(3) Section 4102 is amended by striking "gasoline" and inserting "any taxable fuel (as defined in section 4083)".

(4) Paragraph (1) of section 4041(a) is amended to read as follows:

"(1) TAX ON DIESEL FUEL IN CERTAIN CASES.—

"(A) IN GENERAL.—There is hereby imposed a tax on any liquid other than gasoline (as defined in section 4083)—

"(i) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat for use as a fuel in such vehicle, train, or boat, or

"(ii) used by any person as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of diesel fuel if there was a taxable sale of such fuel under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate on diesel fuel and the

deficit reduction rate in effect under section 4081 at the time of such sale or use.

"(ii) HIGHWAY RATE NOT TO APPLY TO TRAINS.—The Highway Trust Fund financing rate shall not apply to any sale for use, or use, of fuel in a train.

"(iii) CERTAIN BUS USES.—If the limitation in section 6427(b)(2)(A) applies to fuel sold for use or used in an automobile bus, the Highway Trust Fund financing rate shall be 3 cents per gallon and the deficit reduction rate shall not apply."

(5) Paragraph (2) of section 4041(a) is amended by striking "or paragraph (1) of this subsection" and by inserting "on gasoline" after "Highway Trust Fund financing rate".

(6) Paragraph (2) of section 4041(c) is amended by striking "any product taxable under section 4081" and inserting "gasoline (as defined in section 4083)".

(7) Paragraph (2) of section 4041(d) is amended—

(A) by striking "(other than a product taxable under section 4081)" and inserting "(other

than gasoline (as defined in section 4083))'', and

(B) by striking ''section 4091'' and inserting ''section 4081''.

(8) Paragraph (3) of section 4041(d) is amended by striking ''(other than any product taxable under section 4081)'' and inserting ''(other than gasoline (as defined in section 4083))''.

(9) Subparagraph (A) of section 4041(k)(1) is amended by striking ''sections 4081(c) and 4091(c), as the case may be'' and inserting ''section 4081(c)''.

(10) Subparagraph (B) of section 4041(m)(1) is amended by striking ''section 4091(d)(1)'' and inserting ''section 4091(c)(1)''.

(11) Section 6206 is amended by striking ''4041 or 4091'' and inserting ''4041, 4081, or 4091''.

(12) Paragraph (1) of section 6302(f) is amended by inserting ''on gasoline'' after ''section 4081'' and after ''such tax''.

(13) Paragraph (1) of section 6412(a) is amended by striking ''gasoline'' each place it appears (including the heading) and inserting ''taxable fuel''.

(14)(A) Subparagraph (A) of section 6416(a)(4) is amended by striking ''product'' each place it appears and inserting ''gasoline''.

(B) Subparagraph (B) of section 6416(a)(4) is amended by striking all that follows ''substituting'' and inserting '''any gasoline taxable under section 4081' for 'aviation fuel' therein).''

(15) Sections 6420(c)(5) and 6421(e)(1) are each amended by striking ''section 4082(b)'' and inserting ''section 4083(a)''.

(16) Subsection (b) of section 6427 is amended—

(A) by striking ''if any fuel'' in paragraph (1) and inserting ''if any diesel fuel (as defined in section 4083(a))'', and

(B) by striking ''4091'' each place it appears and inserting ''4081''.

(17)(A) Paragraph (1) of section 6427(f) is amended by striking ''4091(c)(1)(A), or 4091(d)(1)(A)'' and inserting ''or 4091(c)(1)(A)''.

(B) Paragraph (2) of section 6427(f) is amended to read as follows:

''(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(18) Subsection (h) of section 6427 is amended by striking "section 4082(b)" and inserting "section 4083(a)(2)".

(19) Paragraph (3) of section 6427(i) is amended—

(A) by striking ''GASOHOL'' in the heading and inserting ''ALCOHOL MIXTURE'', and

(B) by striking ''gasoline used to produce gasohol (as defined in section 4081(c)(1))'' in subparagraph (A) and inserting ''gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))''.

(20) The heading of paragraph (4) of section 6427(i) is amended by inserting ''4081 OR'' before ''4091''.

(21) Subsection (l) of section 6427 is amended to read as follows:

''(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL.—

''(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if—

''(A) any diesel fuel on which tax has been imposed by section 4081, or

''(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the ag-

gregate amount of tax imposed on such fuel under section 4081 or 4091, as the case may be.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means—

"(A) in the case of diesel fuel, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof, and

"(B) in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of the imposition of tax on any sale thereof.

"(3) LIMIT ON REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Paragraph (1) shall not apply to so much of the tax imposed by section 4081 or 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(A) fuel used in a diesel-powered train, and

"(B) fuel used in any aircraft (other than as supplies for vessels or aircraft, within the meaning of section 4221(d)(3)).

"(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—Fuel used in a diesel-powered train shall be treated as a nontaxable use for purposes of this section, except that paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to the deficit reduction rate imposed by such section unless such fuel was used by a State or any political subdivision thereof."

(22) Paragraph (1) of section 9503(b) is amended—

(A) by striking "gasoline)," in subparagraph (E) and inserting "gasoline and diesel fuel), and",

(B) by striking subparagraph (F), and

(C) by redesignating subparagraph (G) as subparagraph (F).

(23)(A) Subparagraph (B) of section 9503(b)(4) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(B) Subparagraph (C) of section 9503(b)(4), as amended by subtitle A, is amended by striking "4091" and inserting "4081".

(24) Subparagraph (D) of section 9503(c)(6) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(25) Paragraph (2) of section 9503(e) is amended—

(A) by striking ", 4081, and 4091" and inserting "and 4081", and

(B) by striking ", 4081, or 4091" and inserting "or 4081".

(26) Subsection (b) of section 9508 is amended—

(A) by inserting "and diesel fuel" after "gasoline" in paragraph (2),

(B) by striking "diesel fuel and" in paragraph (3), and

(C) by striking "4091" in the last sentence, as added by subtitle A, and inserting "4081".

(27) The table of subparts for part III of subchapter A of chapter 32 is amended by striking the items relating to subparts A and B and inserting the following new items:

"Subpart A. Gasoline and diesel fuel.
"Subpart B. Aviation fuel."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1994.

SEC. 14243. FLOOR STOCKS TAX.

(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on April 1, 1994, if—

(1) no tax was imposed on such fuel under section 4041(a) or 4091 of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act, and

(2) tax would have been imposed by section 4081 of such Code, as amended by this Act, on any prior removal, entry, or sale of such fuel had such section 4081 applied to all prior removals, entries, and sales of such fuel.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

(c) LIABILITY AND PAYMENT OF TAX.—

(1) LIABILITY FOR TAX.—A person holding the diesel fuel on April 1, 1994, to which the tax imposed by this section applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by this section shall be paid on or before January 31, 1995.

(d) DEFINITIONS.—For purposes of this section—

(1) DIESEL FUEL.—The term ''diesel fuel'' has the meaning given such term by section 4083(a) of such Code.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(e) EXCEPTIONS.—

(1) PERSONS ENTITLED TO CREDIT OR REFUND.—The tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

(2) COMPLIANCE WITH DYEING REQUIRED.—Paragraph (1) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dyeing and marking such fuel.

(f) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes

imposed by this section to the same extent as if such taxes were imposed by such section 4081.

Subpart C—Extension of Motor Fuel Tax Rates; Increased Deposits Into Highway Trust Fund

SEC. 14244. EXTENSION OF MOTOR FUEL TAX RATES; INCREASED DEPOSITS INTO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Clause (i) of section 4081(a)(2)(B), as amended by subpart B, is amended—

(1) by striking ''11.5 cents'' and inserting ''14 cents'', and

(2) by striking ''17.5 cents'' and inserting ''20 cents''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 4081(c)(4), as so amended, is amended to read as follows:

''(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

''(i) 8.6 cents a gallon for 10 percent gasohol,

''(ii) 9.842 cents a gallon for 7.7 percent gasohol, and

"(iii) 10.922 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '8.0 cents' for '8.6 cents', '9.38 cents' for '9.842 cents', and '10.58 cents' for '10.922'."

(2) Paragraph (5) of section 4081(c), as so amended, is amended—

(A) by striking "12.1 cents" and inserting "14.6 cents", and

(B) by striking "11.5 cents" and inserting "14.0".

(3) Subparagraph (A) of section 4041(m)(1) is amended to read as follows:

"(A) under subsection (a)(2) the Highway Trust Fund financing shall be 7 cents per gallon, and".

(4) Paragraph (4) of section 6427(l), as amended by subpart B, is amended—

(A) by striking "the deficit reduction rate" and inserting "2.5 cents per gallon of the Highway Trust Fund financing rate", and

(B) by striking ''DEFICIT REDUCTION TAX'' in the heading and inserting ''PORTION OF TAX''.

(5) Subsection (b) of section 9503 is amended by adding at the end thereof the following new paragraph:

''(6) RETENTION OF CERTAIN TAXES IN GENERAL FUND.—

''(A) IN GENERAL.—There shall not be taken into account under paragraphs (1) and (2)—

''(i) the tax imposed by section 4081 on diesel fuel used in any train, and

''(ii) so much of the following taxes as are attributable to 2.5 cents of the Highway Trust Fund financing rate:

''(I) Motorboat fuel taxes (as defined in subsection (c)(4)(D)).

''(II) Small-engine fuel taxes (as defined in subsection (c)(5)(B)).

''(III) Nonhighway recreational fuel taxes (as defined in subsection (c)(6)(D)).

''(B) TRANSFERS FROM HIGHWAY TRUST FUND.—For purposes of determining the

amount paid from the Highway Trust Fund under paragraphs (4), (5), and (6) of subsection (c), the Highway Trust Fund financing rates shall be treated as being 2.5 cents less than the otherwise applicable rates.''

(c) INCREASE IN DEPOSITS IN MASS TRANSIT ACCOUNT.—Paragraph (2) of section 9503(e) is amended by striking ''1.5 cents'' and inserting ''2 cents''.

(d) REPEAL OF EXPIRED PROVISIONS.—

(1) Subparagraph (A) of section 4081(a)(2) (relating to rate of tax), as amended by subpart B, is amended—

(A) by adding ''and'' at the end of clause (i),

(B) by striking '', and'' at the end of clause (ii) and inserting a period, and

(C) by striking clause (iii).

(2) Subparagraph (B) of section 4081(a)(2), as so amended, is amended—

(A) by adding ''and'' at the end of clause (i),

(B) by striking '', and'' at the end of clause (ii) and inserting a period, and

(C) by striking clause (iii).

(3) Subsection (d) of section 4081, as so amended, is amended by striking paragraph (3).

(4) Paragraphs (1) and (2) of section 4041(a) (as so amended), and paragraph (3) of section 4041(c), are each amended by striking ''the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate'' and by inserting ''the Highway Trust Fund financing rate''.

(5) Clause (ii) of section 4041(a)(1)(C), as so amended, is amended—

(A) by striking ''The Highway Trust Fund financing rate'' and inserting ''So much of the Highway Trust Fund financing rate as exceeds 2.5 cents per gallon'', and

(B) by striking ''HIGHWAY RATE'' in the heading and inserting ''PORTION OF HIGHWAY RATE''.

(6) Clause (iii) of section 4041(a)(1)(C), as so amended, is amended by striking ''and the deficit reduction rate shall not apply''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1995, but the amendment made by subsection (c) shall apply only to amounts attributable to taxes imposed on or after such date.

PART V—COMPLIANCE PROVISIONS

SEC. 14251. REPORTING REQUIRED FOR CERTAIN PAYMENTS TO CORPORATIONS.

(a) SECTION 6041.—Section 6041 (relating to information at source) is amended by adding at the end thereof the following new subsection:

''(f) SPECIAL RULES FOR PAYMENTS FOR SERVICES.—No payment for the performance of services shall be exempt from the requirements of this section merely because it is a payment to a corporation.''

(b) SECTION 6041A(a).—Subsection (a) of section 6041A is amended by adding at the end thereof the following new sentence: ''A payment shall not be exempt from the requirements of this subsection merely because it is a payment to a corporation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1993.

SEC. 14252. MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT AND RETURN-PREPARER PENALTIES.

(a) REASONABLE BASIS REQUIRED.—

(1) SUBSTANTIAL UNDERSTATEMENT PENALTY.—Clause (ii) of section 6662(d)(2)(B) (relating to reduction for understatement due to position

of taxpayer or disclosed item) is amended to read as follows:

"(ii) any item if—

"(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

"(II) there is a reasonable basis for the tax treatment of such item by the taxpayer."

(2) RETURN PREPARER PENALTY.—Paragraph (3) of section 6694(a) (relating to understatement of taxpayer's liability by income tax return preparer) is amended to read as follows:

"(3) the requirements of subclauses (I) and (II) of section 6662(d)(2)(B)(ii) are not satisfied with respect to such position,".

(b) SPECIAL TAX SHELTER RULE.—Subclause (II) of section 6662(d)(2)(C)(i) (relating to special rules for tax shelters) is amended by inserting before the period at the end thereof the following: "and the reasonably anticipated after-tax benefits from the taxpayer's investment in such shelter do not significantly exceed the reasonably anticipated pre-tax economic profit or loss from such investment".

(c) REASONABLE CAUSE EXCEPTION.—Paragraph (1) of section 6664(c) is revised by striking ''this part'' and inserting ''section 6662''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.

SEC. 14253. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

''SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

''(a) IN GENERAL.—Any applicable financial entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

''(1) the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,

"(2) the date of the discharge and the amount of the indebtedness discharged, and

"(3) such other information as the Secretary may prescribe.

"(b) EXCEPTION.—Subsection (a) shall not apply to any discharge of less than $600.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE FINANCIAL ENTITY.—The term 'applicable financial entity' means—

"(A) any financial institution described in section 581 or 591(a) and any credit union,

"(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration, and any successor or subunit of any of the foregoing, and

"(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination by a Federal or State agency which regulates entities referred to in subparagraph (A).

"(2) GOVERNMENTAL UNITS.—In the case of an entity described in paragraph (1)(B), any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every applicable financial entity required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the entity required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

(b) PENALTIES.—

(1) RETURNS.—Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (viii) through (xv) as clauses (ix) through (xvi), respectively, and by inserting after clause (vii) the following new clause:

"(viii) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(2) STATEMENTS.—Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (P) through (S) as subparagraphs (Q) through (T), respectively, and by inserting after subparagraph (O) the following new subparagraph:

"(P) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050P. Returns relating to the cancellation of indebtedness by certain financial entities."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

PART VI—TREATMENT OF INTANGIBLES

SEC. 14261. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals

and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly)

of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

1 "(e) EXCEPTIONS.—For purposes of this section, the
2 term 'section 197 intangible' shall not include any of the
3 following:
4 "(1) FINANCIAL INTERESTS.—Any interest—
5 "(A) in a corporation, partnership, trust,
6 or estate, or
7 "(B) under an existing futures contract,
8 foreign currency contract, notional principal
9 contract, or other similar financial contract.
10 "(2) LAND.—Any interest in land.
11 "(3) COMPUTER SOFTWARE.—
12 "(A) IN GENERAL.—Any—
13 "(i) computer software which is read-
14 ily available for purchase by the general
15 public, is subject to a nonexclusive license,
16 and has not been substantially modified,
17 and
18 "(ii) other computer software which is
19 not acquired in a transaction (or series of
20 related transactions) involving the acquisi-
21 tion of assets constituting a trade or busi-
22 ness or substantial portion thereof.
23 "(B) COMPUTER SOFTWARE DEFINED.—
24 For purposes of subparagraph (A), the term
25 'computer software' means any program de-

signed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade business or substantial portion thereof:

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

"(i) has a fixed duration of less than 14 years, or

"(ii) is fixed as to amount and, without regard to this section, would be recoverable under a method similar to the unit-of-production method.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) CERTAIN TRANSACTION COSTS.—Any fees for professional services, and any transaction costs, incurred by parties to a transaction with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortiz-

able section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a

character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any

time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary. For purposes of this subparagraph, deductions allowable under section 1253(d) shall be treated as deductions allowable for amortization.

"(B) EXCEPTION WHERE GAIN RECOGNIZED.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

"(I) to recognize gain on the disposition of the intangible, and

"(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

"(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified

in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(D) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(E) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this para-

graph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be al-

lowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal

options (and any other period for which the parties reasonably expect the agreement to be renewed).''

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking ''this section'' and inserting ''this section or section 197''.

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking ''goodwill or going concern value'' and inserting ''section 197 intangibles''.

(2) Paragraph (1) of section 1060(d) is amended by striking ''goodwill or going concern value (or similar items)'' and inserting ''section 197 intangibles''.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

''(g) CROSS REFERENCES.—

''(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

''(2) For amortization of goodwill and certain other intangibles, see section 197.''

(2) Subsection (f) of section 642 is amended by striking ''section 169'' and inserting ''sections 169 and 197''.

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B)

of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

(h) ANNUAL REPORTS.—The Secretary of the Treasury shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation and effects of the amendments made by this section, including the effects of such amendments on merger and acquisition activities. The first such annual report shall be submitted on or before December 31, 1994.

(i) ANNUAL REPORTS ON OUTSTANDING CASES.—The Secretary of the Treasury shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the volume of cases still outstanding that involve disputes regarding the amortization of intangibles, progress made in resolving such cases, efforts made to coordinate settlement proceedings, and factors inhibiting the resolution of such cases. The report shall also address the impact of the amendments made by this section on the volume of disputes regarding the amortization of intangibles. The first such annual report shall be submitted on or before December 31, 1994.

SEC. 14262. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking ''sections 731, 736, and 741'' and inserting ''sections 731 and 741''.

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying on or after January 5, 1993.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring on or after January 5, 1993, if a written contract to purchase such partner's interest in the partnership was binding on January 4, 1993, and at all times thereafter before such purchase.

PART VII—MISCELLANEOUS PROVISIONS

SEC. 14271. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

"(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $750 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph if it provides information sufficient to substantiate the amount of the deductible contribution. If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1994.

SEC. 14272. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

"(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution, the organization shall, in connection with the solicitation or receipt of the contribution—

"(1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

"(2) provide the donor with a good faith estimate of the value of such goods or services.

"(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in

consideration for goods or services provided to the payor by the donee organization.''

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

''SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

''(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

''(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new item:

"Sec. 6115. Disclosure related to quid pro quo contributions.
"Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

"Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions."

(d) EFFECTIVE DATE.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

SEC. 14273. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1994.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.

SEC. 14274. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter (other than section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 14275. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402 (g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent. The preceding sentence shall apply to payments made after December 31, 1993.

Subtitle C—Empowerment Zones and Enterprise Communities, Etc.

PART I—EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SEC. 14301. DESIGNATION AND TREATMENT OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Empowerment Zones and Enterprise Communities

"Part I. Designation.
"Part II. Incentives for empowerment zones and enterprise communities.
"Part III. Additional incentives for empowerment zones.
"Part IV. Regulations.

"PART I—DESIGNATION

"Sec. 1391. Designation procedure.
"Sec. 1392. Eligibility criteria.
"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—From among the areas nominated for designation under this section, the appropriate Secretaries may, in consultation with the Enterprise Board, designate empowerment zones and enterprise communities.

"(b) NUMBER OF DESIGNATIONS.—

"(1) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate 100 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 65 may be designated in urban areas, not more than 30 may be designated in rural areas, and not more than 5 may be designated by the Secretary of the Interior in Indian reservations.

"(2) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate 10 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 6 may be designated in urban areas, not more than 3 may be designated in rural areas, and not more than 1 may be designated by the Secretary of the Interior in an Indian reservation. If 6 empowerment zones are designated in urban areas, no less than 1 shall be designated in an urban area the most populous city of which has a population of 500,000 or less. The Secretary of Housing and Urban Development shall designate empowerment zones located in urban areas in such a manner that the aggregate population of all such zones does not exceed 750,000.

"(c) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this section only after 1993 and before 1996.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation under this section shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) the close of the 10th calendar year beginning on or after such date of designation,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation.

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary, in consultation with the Enterprise Board, may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which it is located—

"(i) has modified the boundaries of the area, or

"(ii) is not complying substantially with, or fails to make progress in achieving the benchmarks set forth in, the strategic plan under subsection (f)(2).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.

"(e) LIMITATIONS ON DESIGNATIONS.—An area may be designated under subsection (a) only if—

"(1) the area is nominated by 1 or more local governments and the State or States in which it is located for designation under this section,

"(2) such State or States and the local governments have the authority—

"(A) to nominate the area for designation under this section, and

"(B) to provide the assurances described in paragraph (3),

"(3) such State or States and the local governments provide written assurances satisfactory to the appropriate Secretary that the strategic plan described in the application under subsection (f)(2) for such area will be implemented,

"(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(5) such State or States and local governments certify that no portion of the area nominated is already included in an empowerment zone or in an enterprise community or in an area otherwise nominated to be designated under this section.

1 "(f) APPLICATION.—An application for designation
2 as an empowerment zone or as an enterprise community
3 shall—
4 "(1) demonstrate that the nominated area sat-
5 isfies the eligibility criteria described in section
6 1392,
7 "(2) include a strategic plan for accomplishing
8 the purposes of this subchapter that—
9 "(A) describes the coordinated economic,
10 human, community, and physical development
11 plan and related activities proposed for the
12 nominated area,
13 "(B) describes the process by which the af-
14 fected community is a full partner in the proc-
15 ess of developing and implementing the plan
16 and the extent to which local institutions and
17 organizations have contributed to the planning
18 process,
19 "(C) identifies the amount of State, local,
20 and private resources that will be available in
21 the nominated area and the private/public part-
22 nerships to be used, which may include partici-
23 pation by, and cooperation with, universities,
24 medical centers, and other private and public
25 entities,

"(D) identifies the funding requested under any Federal program in support of the proposed economic, human, community, and physical development and related activities,

"(E) identifies baselines, methods, and benchmarks for measuring the success of carrying out the strategic plan, including the extent to which poor persons and families will be empowered to become economically self-sufficient, and

"(F) does not include any action to assist any establishment in relocating from one area outside the nominated area to the nominated area, except that assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary is permitted if—

"(i) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is

being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operation, and

"(3) include such other information as may be required by the appropriate Secretary or the Enterprise Board.

"SEC. 1392. ELIGIBILITY CRITERIA.

"(a) IN GENERAL.—A nominated area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(1) POPULATION.—The nominated area has a maximum population of—

"(A) in the case of an urban area, the lesser of—

"(i) 200,000, or

"(ii) the greater of 50,000 or 10 percent of the population of the most populous city located within the nominated area, and

"(B) in the case of a rural area, 30,000.

"(2) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

"(3) SIZE.—The nominated area—

"(A) does not exceed 20 square miles if an urban area or 1,000 square miles if a rural area or an Indian reservation,

"(B) has a boundary which is continuous, or, except in the case of a rural area located in more than 1 State, consists of not more than 3 noncontiguous parcels,

"(C)(i) in the case of an urban area, is located entirely within no more than 2 contiguous States, and

"(ii) in the case of a rural area, is located entirely within no more than 3 contiguous States, and

"(D) does not include any portion of a central business district (as such term is used for purposes of the most recent Census of Retail Trade) unless the poverty rate for each population census tract in such district is not less than 35 percent (30 percent in the case of an enterprise community).

"(4) POVERTY RATE.—The poverty rate—

"(A) for each population census tract within the nominated area is not less than 20 percent,

"(B) for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent, and

"(C) for at least 50 percent of the population census tracts within the nominated area is not less than 35 percent.

"(b) SPECIAL RULES RELATING TO DETERMINATION OF POVERTY RATE.—For purposes of subsection (a)(4)—

"(1) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—

"(A) TRACTS WITH NO POPULATION.—In the case of a population census tract with no population—

"(i) such tract shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4), but

"(ii) such tract shall be treated as having a zero poverty rate for purposes of applying subparagraph (C) thereof.

"(B) TRACTS WITH POPULATIONS OF LESS THAN 2,000.—A population census tract with a

population of less than 2,000 shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4) if more than 75 percent of such tract is zoned for commercial or industrial use.

"(2) DISCRETION TO ADJUST REQUIREMENTS.—Where necessary to carry out the purposes of this subchapter, the appropriate Secretary may reduce by 5 percentage points one of the following thresholds for not more than 10 percent of the population census tracts (or, if fewer, 5 population census tracts) in the nominated area:

"(A) The 20 percent threshold in subsection (a)(4)(A).

"(B) The 25 percent threshold in subsection (a)(4)(B).

"(C) The 35 percent threshold in subsection (a)(4)(C).

If the appropriate Secretary elects to reduce the threshold under subparagraph (C) for an enterprise community, such Secretary may (in lieu of applying the preceding sentence) reduce by 10 percentage points the threshold under subparagraph (C) for 3 population census tracts.

"(3) EACH NONCONTIGUOUS AREA MUST SATISFY POVERTY RATE RULE.—A nominated area may not include a noncontiguous parcel unless such parcel separately meets (subject to paragraphs (1) and (2)) the criteria set forth in subsection (a)(4).

"(4) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates.

"(c) FACTORS TO CONSIDER.—From among the nominated areas eligible for designation under section 1391 by the appropriate Secretary, such appropriate Secretary shall make designations of empowerment zones and enterprise communities on the basis of—

"(1) the effectiveness of the strategic plan submitted pursuant to section 1391(f)(2) and the assurances made pursuant to section 1391(e)(3), and

"(2) criteria specified by the Enterprise Board.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"(a) IN GENERAL.—For purposes of this subchapter—

"(1) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of any nominated area which is located in an urban area,

"(B) the Secretary of Agriculture in the case of any nominated area which is located in a rural area, and

"(C) the Secretary of the Interior in the case of any nominated area which is located in an Indian reservation.

"(2) ENTERPRISE BOARD.—The term 'Enterprise Board' means any board hereafter established and designated for purposes of this subchapter as the 'Enterprise Board'.

"(3) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(4) URBAN AREA.—The term 'urban area' means an area which is not a rural area.

"(5) INDIAN RESERVATION.—

"(A) IN GENERAL.—The term 'Indian reservation' means a reservation as defined in—

"(i) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(ii) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(B) GOVERNMENTS.—In the case of an area in an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(6) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(7) NOMINATED AREA.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State or States in

which it is located for designation under section 1391.

"(8) GOVERNMENTS.—If more than 1 State or local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(9) SPECIAL RULE.—An area shall be treated as nominated by a State and a local government if it is nominated by such other entity as may be specified by the Enterprise Board.

"(10) USE OF CENSUS DATA.—Population and poverty rate shall be determined by the most recent decennial census data available.

"(b) EMPOWERMENT ZONE; ENTERPRISE COMMUNITY.—For purposes of this title, the terms 'empowerment zone' and 'enterprise community' mean areas designated as such under section 1391.

"PART II—INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"Sec. 1394. Incentives.

"SEC. 1394. INCENTIVES.

"(a) INCREASE IN LOW INCOME HOUSING CREDIT.—For purposes of section 42(d)(5)(C), a building shall be treated as located in a qualified census tract if—

"(1) such building is located in a census tract having a poverty rate of at least 30 percent (determined in accordance with section 1393(a)(10)), and

"(2) such building is located in an empowerment zone or an enterprise community.

"(b) TAX EXEMPT ENTERPRISE ZONE FACILITY BONDS.—

"(1) IN GENERAL.—For purposes of part IV of subchapter B of chapter 1 (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any bond issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide any enterprise zone facility.

"(2) ENTERPRISE ZONE FACILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'enterprise zone facility' means any qualified zone property the principal user of which is an enterprise zone business (as defined in section 1397D), and any land which is functionally related and subordinate to such property.

"(B) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning

given such term by section 1397B(c); except that—

"(i) section 1397B(c)(3) shall not apply, and

"(ii) the references to empowerment zones shall be treated as including references to enterprise communities.

"(3) LIMITATION ON AMOUNT OF BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any issue if the aggregate amount of outstanding enterprise zone facility bonds allocable to any enterprise zone business (taking into account such issue) exceeds—

"(i) $3,000,000 with respect to any 1 empowerment zone or enterprise community, or

"(ii) $20,000,000 with respect to all empowerment zones and enterprise communities.

"(B) AGGREGATE ENTERPRISE ZONE FACILITY BOND BENEFIT.—For purposes of subparagraph (A), the aggregate amount of outstanding enterprise zone facility bonds allocable to any business shall be determined under rules similar to the rules of section 144(a)(10), tak-

ing into account only bonds to which paragraph (1) applies.

"(4) ACQUISITION OF LAND AND EXISTING PROPERTY PERMITTED.—The requirements of sections 147(c)(1)(A) and 147(d) shall not apply to any bond described in paragraph (1).

"(5) PARTIAL EXEMPTION FROM VOLUME CAP.—Only for purposes of section 146, the term 'private activity bond' shall not include 50 percent of any bond issued as part of an issue described in paragraph (1).

"(6) PENALTY FOR CEASING TO MEET REQUIREMENTS.—

"(A) FAILURES CORRECTED.—An issue which fails to meet 1 or more of the requirements of paragraphs (1) and (2) shall be treated as meeting such requirements if—

"(i) the issuer and any principal user in good faith attempted to meet such requirements, and

"(ii) any failure to meet such requirements is corrected within a reasonable period after such failure is first discovered.

"(B) LOSS OF DEDUCTIONS WHERE FACILITY CEASES TO BE QUALIFIED.—No deduction

shall be allowed under this chapter for interest on any financing provided from any bond to which paragraph (1) applies with respect to any facility to the extent such interest accrues during the period beginning on the first day of the calendar year which includes the date on which—

"(i) substantially all of the facility with respect to which the financing was provided ceases to be used in an empowerment zone or enterprise community, or

"(ii) the principal user of such facility ceases to be an enterprise zone business (as defined in section 1397D, but treating references to empowerment zones as including references to enterprise communities).

"(C) EXCEPTION IF ZONE CEASES.—Subparagraphs (A) and (B) shall not apply solely by reason of the termination or revocation of a designation as an empowerment zone or an enterprise community.

"(D) EXCEPTION FOR BANKRUPTCY.—Subparagraphs (A) and (B) shall not apply to any cessation resulting from bankruptcy.

"(c) ENTERPRISE ZONE FACILITY BONDS NOT SUBJECT TO INTEREST DEDUCTION LIMITATIONS ON FINANCIAL INSTITUTIONS.—Any tax-exempt bond described in subsection (b)(1)—

"(1) shall be treated as acquired before August 8, 1986, for purposes of sections 265(b) and 291(e)(1)(B), and

"(2) shall not be taken into account in determining whether any issuer is a qualified small issuer for purposes of section 265(b).

"(d) ADDITIONAL LOW-INCOME HOUSING CREDIT AMOUNT.—

"(1) IN GENERAL.—Each State which includes any empowerment zone or enterprise community shall receive an additional State housing credit ceiling amount for purposes of section 42 of $818,000 for each such zone or community.

"(2) ADDITIONAL AMOUNT MUST BE ALLOCATED TO BUILDINGS IN DESIGNATED AREAS.—

"(A) IN GENERAL.—The portion of the additional amount received under paragraph (1) by reason of any empowerment zone or enter-

prise community which may be applied to increase the State housing credit ceiling for any calendar year shall not exceed the lesser of—

"(i) the unused portion of such additional amount with respect to such zone or community, or

"(ii) the aggregate housing credit dollar amount allocated from such ceiling for such year to buildings located in such zone or community.

"(B) UNUSED PORTION.—For purposes of subparagraph (A), the unused portion for any calendar year of the additional amount received under paragraph (1) is the amount equal to the excess of—

"(i) the additional amount received under paragraph (1) by the State by reason of the zone or community, over

"(ii) the aggregate of the increases in the State housing credit ceiling by reason of such amount for all prior calendar years.

"(3) AVAILABILITY OF ADDITIONAL AMOUNT.—None of the additional amount received under paragraph (1) may be applied after 1996.

"(4) AREAS LOCATED IN MORE THAN 1 STATE.—In the case of an empowerment zone or enterprise community which is located in more than 1 State, the $818,000 amount shall be allocated among such States in proportion to the population of such zone or community which is within each such State.

"(5) ZONES LOCATED IN CONSTITUTIONAL HOME RULE CITIES.—If any empowerment zone or enterprise community is located in a constitutional home rule city (as defined in section 42(h)(4)(E)), the additional amount received under paragraph (1) shall be allocated to such city and shall not be taken into account in determining such city's share of the State housing credit ceiling under section 42(h)(4)(E).

"PART III—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES

"SUBPART A. Empowerment zone employment credit.
"SUBPART B. Zone resident empowerment savings credit.
"SUBPART C. Depreciation and other incentives.

"Subpart A—Empowerment Zone Employment Credit

"Sec. 1396. Empowerment zone employment credit.
"Sec. 1397. Other definitions and special rules.

"SEC. 1396. EMPOWERMENT ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the empowerment zone employment

1 credit determined under this section with respect to any
2 employer for any taxable year is the applicable percentage
3 of the qualified zone wages paid or incurred during the
4 calendar year which ends with or within such taxable year.

5 "(b) APPLICABLE PERCENTAGE.—For purposes of
6 this section, the term 'applicable percentage' means the
7 percentage determined in accordance with the following
8 table:

"In the case of wages paid or incurred during calendar year:	The applicable percentage is:
1994 through 2000	25
2001	20
2002	15
2003	10
2004	5

9 "(c) QUALIFIED ZONE WAGES.—

10 "(1) IN GENERAL.—For purposes of this sec-
11 tion, the term 'qualified zone wages' means any
12 wages paid or incurred by an employer for services
13 performed by an employee while such employee is a
14 qualified zone employee.

15 "(2) ONLY FIRST $20,000 OF WAGES PER YEAR
16 TAKEN INTO ACCOUNT.—With respect to each quali-
17 fied zone employee, the amount of qualified zone
18 wages which may be taken into account for a cal-
19 endar year shall not exceed $20,000.

20 "(3) COORDINATION WITH TARGETED JOBS
21 CREDIT.—

"(A) IN GENERAL.—The term 'qualified zone wages' shall not include wages taken into account in determining the credit under section 51.

"(B) COORDINATION WITH PARAGRAPH (2).—The $20,000 amount in paragraph (2) shall be reduced for any calendar year by the amount of wages paid or incurred during such year which are taken into account in determining the credit under section 51.

"(d) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an empowerment zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such empowerment zone.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual employed by the employer for less than 90 days,

"(D) any individual employed by the employer at any facility described in section 144(c)(6)(B), and

"(E) any individual employed by the employer in a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the employer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the employer which are used in such a trade or business (as determined

under regulations prescribed by the Secretary),

exceeds $500,000.

"(3) SPECIAL RULES RELATED TO TERMINATION OF EMPLOYMENT.—

"(A) IN GENERAL.—Paragraph (2)(C) shall not apply to—

"(i) a termination of employment of an individual who before the close of the period referred to in paragraph (2)(C) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(ii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (2)(C), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"SEC. 1397. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'wages' has the same meaning as when used in section 51.

"(2) CERTAIN TRAINING AND EDUCATIONAL BENEFITS.—

"(A) IN GENERAL.—The following amounts shall be treated as wages paid to an employee:

"(i) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person not related to the employer.

"(ii) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

"(B) RELATED PERSON.—A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1396 with respect to each such employer shall

be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(d) NOTICE OF AVAILABILITY OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.—Each employer shall take reasonable steps to notify all qualified zone employees of the availability to eligible individuals of receiving advanced payments of the credit under section 32 (relating to the earned income credit).

"Subpart B—Zone Resident Empowerment Savings Credit

"Sec. 1397A. Zone resident empowerment savings credit.

"SEC. 1397A. ZONE RESIDENT EMPOWERMENT SAVINGS CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the zone resident empowerment savings credit determined under this section with respect to any employer for any taxable year is 50 percent of the qualified savings contributions for the taxable year.

"(b) QUALIFIED SAVINGS CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified savings contribution' means any contribution by an employer to a defined contribution plan—

"(A) which is made on behalf of an employee in connection with services performed by such employee while such employee is a qualified zone employee, and

"(B) with respect to which the employee has a nonforfeitable right.

"(2) LIMITATION BASED ON COMPENSATION.—

"(A) IN GENERAL.—The qualified savings contributions taken into account with respect to any qualified zone employee for any taxable year shall not exceed an amount equal to 2 percent of so much of the employee's compensation (as defined in section 414(s)) as does not exceed $35,000.

"(B) ZONE DESIGNATION IN EFFECT FOR PARTIAL YEAR.—If a designation of an area as an empowerment zone is in effect for less than the entire taxable year, the $35,000 amount under subparagraph (A) shall be ratably reduced to reflect the portion of the year such designation is not in effect.

"(3) CERTAIN CONTRIBUTIONS EXCLUDED.—The term 'qualified savings contribution' shall not include any contribution—

"(A) to a plan subject to the funding requirements of section 412,

"(B) to a tax credit employee stock ownership plan (as defined in section 409(a)) or to an employee stock ownership plan (as defined in section 4975(e)(7)),

"(C) to a stock bonus plan, or

"(D) which is an elective deferral (within the meaning of section 402(g)(3)).

"(4) SIMPLIFIED EMPLOYEE PENSION.—A contribution to an individual savings plan pursuant to a simplified employee pension (as defined in section 408(k)) shall be treated as a contribution to a defined contribution plan.

"(c) EMPLOYER REQUIREMENTS.—This section shall apply to an employer for any taxable year only if—

"(1) the employer elects the application of this section, and

"(2) the plan pursuant to which any qualified savings contribution is made provides that any contribution to such plan (whether or not a qualified savings contribution) may be withdrawn by a quali-

1 fied zone employee as described in section 72(t)(2)
2 (B) or (D).
3 ''(d) DEFINITIONS.—For purposes of this section—
4 ''(1) QUALIFIED ZONE EMPLOYEE.—The term
5 'qualified zone employee' has the meaning given such
6 term by section 1396(d).
7 ''(2) DEFINED CONTRIBUTION PLAN.—The
8 term 'defined contribution plan' means a defined
9 contribution plan (as defined in section 414(i))
10 which is described in section 401(a) and includes a
11 trust exempt from tax under section 501(a).
12 ''(e) TREATMENT OF PLANS.—A plan shall not be
13 treated as failing to meet any requirement of part I of
14 subchapter D of chapter 1 by reason of permitting with-
15 drawals required to be permitted under subsection (c)(2).
16 **"Subpart C—Depreciation and Other Incentives**

''Sec. 1397B. Depreciation benefits.
''Sec. 1397C. Additional exclusion from volume cap for certain enterprise zone facility bonds.
''Sec. 1397D. Enterprise zone business.

17 **"SEC. 1397B. DEPRECIATION BENEFITS.**
18 ''(a) INCREASE IN EXPENSING UNDER SECTION
19 179.—
20 ''(1) IN GENERAL.—In the case of an enterprise
21 zone business, for purposes of section 179—
22 ''(A) qualified zone property shall be treat-
23 ed as section 179 property,

"(B) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(i) $50,000, or

"(ii) the cost of qualified zone property placed in service during the taxable year, and

"(C) section 179(b)(2) shall be applied by substituting 'by one-half of the amount by which the cost of qualified zone property (other than real property) and other section 179 property' for 'by the amount by which the cost of section 179 property'.

"(b) ACCELERATED DEPRECIATION.—

"(1) IN GENERAL.—For purposes of section 168(a), with respect to qualified zone property of an enterprise zone business, the applicable recovery period shall be determined in accordance with the table contained in paragraph (2) in lieu of the table contained in section 168(c).

"(2) APPLICABLE RECOVERY PERIOD FOR QUALIFIED ZONE PROPERTY.—For purposes of paragraph (1)—

"In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years

"In the case of:	The applicable recovery period is:
20-year property	12 years
Nonresidential real property	22 years.

1 "(3) DEDUCTION ALLOWED IN COMPUTING
2 MINIMUM TAX.—Paragraph (1) shall apply for pur-
3 poses of determining alternative minimum taxable
4 income under section 55.
5 "(c) QUALIFIED ZONE PROPERTY.—For purposes of
6 this section—
7 "(1) IN GENERAL.—The term 'qualified zone
8 property' means any property to which section 168
9 applies (or would apply but for section 179) if—
10 "(A) such property was acquired by the
11 taxpayer by purchase (as defined in section
12 179(d)(2)) after the date on which the designa-
13 tion of the empowerment zone took effect,
14 "(B) the original use of which in an
15 empowerment zone commences with the tax-
16 payer, and
17 "(C) substantially all of the use of which
18 is in an empowerment zone and is in the active
19 conduct of a trade or business by the taxpayer
20 in such zone.
21 "(2) SPECIAL RULE FOR SUBSTANTIAL REN-
22 OVATIONS.—In the case of any property which is
23 substantially renovated by the taxpayer, the require-

ments of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

"(3) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after the application of section 280F(b) (relating to listed property with limited business use).

"(d) SPECIAL RULES FOR SALE-LEASEBACKS.—For purposes of subsection (c)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date

1 such property was originally placed in service, such prop-
2 erty shall be treated as originally placed in service not ear-
3 lier than the date on which such property is used under
4 the leaseback.

5 ''(e) RECAPTURE.—Rules similar to the rules under
6 section 179(d)(10) shall apply with respect to any quali-
7 fied zone property of any business which ceases to be an
8 enterprise zone business.

9 **''SEC. 1397C. ADDITIONAL EXCLUSION FROM VOLUME CAP**
10 **FOR CERTAIN ENTERPRISE ZONE FACILITY**
11 **BONDS.**

12 ''(a) IN GENERAL.—Section 1394(b)(5) shall be ap-
13 plied by substituting '75 percent' for '50 percent' in the
14 case of any bond described in section 1394(b)(1) issued
15 as part of an issue 95 percent or more of the net proceeds
16 (as defined in section 150(a)(3)) of which are used to pro-
17 vide qualified zone property the principal user of which
18 is any enterprise zone business if the ownership require-
19 ments of subsection (b) are met with respect to such
20 business.

21 ''(b) OWNERSHIP REQUIREMENTS.—The ownership
22 requirements of this subsection are met with respect to
23 an enterprise zone business if—

"(1) in the case of a sole proprietorship, the principal place of abode of the proprietor is in an empowerment zone,

"(2) in the case of a corporation, more than 50 percent of the stock (by vote and value) in the corporation is owned (directly or indirectly) by individuals whose principal place of abode is in an empowerment zone, and

"(3) in the case of a partnership, more than 50 percent of the capital and profits interests in the partnership is owned (directly or indirectly) by individuals whose principal place of abode is in an empowerment zone.

"SEC. 1397D. ENTERPRISE ZONE BUSINESS DEFINED.

"(a) IN GENERAL.—For purposes of this subpart, the term 'enterprise zone business' means—

"(1) any qualified business entity, and

"(2) any qualified proprietorship.

"(b) QUALIFIED BUSINESS ENTITY.—For purposes of this section, the term 'qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year—

"(1) every trade or business of such entity is the active conduct of a qualified business within an empowerment zone,

"(2) at least 80 percent of the total gross income of such entity is derived from the active conduct of such business,

"(3) substantially all of the use of the tangible property of such entity (whether owned or leased) is within an empowerment zone,

"(4) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,

"(5) substantially all of the services performed for such entity by its employees are performed in an empowerment zone,

"(6) at least 35 percent of its employees are residents of an empowerment zone,

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(8) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property.

1 "(c) QUALIFIED PROPRIETORSHIP.—For purposes of
2 this section, the term 'qualified proprietorship' means,
3 with respect to any taxable year, any qualified business
4 carried on by an individual as a proprietorship if for such
5 year—

6 "(1) at least 80 percent of the total gross in-
7 come of such individual from such business is de-
8 rived from the active conduct of such business in an
9 empowerment zone,

10 "(2) substantially all of the use of the tangible
11 property of such individual in such business (wheth-
12 er owned or leased) is within an empowerment zone,

13 "(3) substantially all of the intangible property
14 of such business is used in, and exclusively related
15 to, the active conduct of such business,

16 "(4) substantially all of the services performed
17 for such individual in such business by employees of
18 such business are performed in an empowerment
19 zone,

20 "(5) at least 35 percent of such employees are
21 residents of an empowerment zone,

22 "(6) less than 5 percent of the average of the
23 aggregate unadjusted bases of the property of such
24 individual which is used in such business is attrib-
25 utable to collectibles (as defined in section

408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to nonqualified financial property.

For purposes of this subsection, the term 'employee' includes the proprietor.

"(d) QUALIFIED BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified business' means any trade or business.

"(2) RENTAL OF REAL PROPERTY.—The rental to others of real property located in an empowerment zone shall be treated as a qualified business if and only if—

"(A) the property is not residential rental property (as defined in section 168(e)(2)), and

"(B) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses.

"(3) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental to others of tangible personal

property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone.

"(4) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term 'qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

"(5) CERTAIN BUSINESSES EXCLUDED.—The term 'qualified business' shall not include—

"(A) any trade or business consisting of the operation of any facility described in section 144(c)(6)(B), and

"(B) any trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the taxpayer which are used in such a trade or business,

exceeds $500,000.

For purposes of subparagraph (B), rules similar to the rules of section 1397(b) shall apply.

"(e) NONQUALIFIED FINANCIAL PROPERTY.—For purposes of this section, the term 'nonqualified financial property' means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

"(1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

"(2) debt instruments described in section 1221(4).

"PART IV—REGULATIONS

"Sec. 1397E. Regulations.

"SEC. 1397E. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of parts II and III, including—

"(1) regulations limiting the benefit of parts II and III in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government,

"(2) regulations preventing abuse of the provisions of parts II and III, and

"(3) regulations dealing with inadvertent failures of entities to be enterprise zone businesses."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of empowerment zones and enterprise communities."

SEC. 14302. EXPANSION OF TARGETED JOBS CREDIT.

(a) ALLOWANCE OF CREDIT FOR HIRING EMPOWERMENT ZONE RESIDENT.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) an economically disadvantaged empowerment zone resident."

(b) ECONOMICALLY DISADVANTAGED EMPOWERMENT ZONE RESIDENT.—Section 51(d) is amended by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively, and by inserting after paragraph (12) the following new paragraph:

"(13) ECONOMICALLY DISADVANTAGED EMPOWERMENT ZONE RESIDENT.—The term 'economically disadvantaged empowerment zone resident' means an individual—

"(A) whose principal place of abode while performing services for the employer is within an empowerment zone, and

"(B) who is certified by the designated local agency as being a member of an economically disadvantaged family (as determined under paragraph (11)).

Such term shall not include a qualified zone employee (as defined in section 1396(d) without regard to paragraph (2) thereof)."

(c) CONFORMING AMENDMENT.—Subparagraph (C) of section 51(d)(12) is amended by striking "paragraph (14)" and inserting "paragraph (15)".

SEC. 14303. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CERTAIN CREDITS PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting a comma, and by adding at the end the following new paragraphs:

"(9) the empowerment zone employment credit determined under section 1396(a), plus

"(10) the zone resident empowerment savings credit determined under section 1397A."

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(4) ENTERPRISE ZONE CREDITS.—No portion of the unused business credit which is attributable to the credit determined under section 1396 (relating to empowerment zone employment credit) or section 1397A (relating to zone resident empowerment savings credit) may be carried to any taxable year ending before January 1, 1994."

(b) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO EMPOWERMENT ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking ''the amount of the credit determined for the taxable year under section 51(a)'' and inserting ''the sum of the credits determined for the taxable year under sections 51(a) and 1396(a)'', and

(B) by striking ''TARGETED JOBS CREDIT'' in the subsection heading and inserting ''EMPLOYMENT CREDITS''.

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) the empowerment zone employment credit determined under section 1396(a).''

(c) EMPLOYMENT AND SAVINGS CREDITS MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) EMPOWERMENT ZONE CREDITS MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of the empowerment zone credits—

"(i) this section and section 39 shall be applied separately with respect to such credits, and

"(ii) for purposes of applying paragraph (1) to such credits—

"(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the empowerment zone credits).

"(B) EMPOWERMENT ZONE CREDITS.—For purposes of this paragraph, the term 'empowerment zone credits' means the portion of the credit under subsection (a) which is attributable to the credits determined under section 1396 (relating to empowerment zone employment credit) and section 1397A (relating to zone resident empowerment savings credit)."

(d) CHANGES RELATING TO EMPOWERMENT ZONE RESIDENT EMPOWERMENT SAVINGS CREDIT.—

(1) DISALLOWANCE OF DEDUCTION.—Section 404 (relating to deduction for certain employer contributions) is amended by adding at the end the following new subsection:

"(m) COORDINATION WITH EMPOWERMENT ZONE CREDIT.—No deduction shall be allowed under this section for any qualified employer contribution taken into account in computing the credit determined under section 1397A."

(2) PENALTY-FREE DISTRIBUTIONS.—

(A) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—

"(i) IN GENERAL.—Distributions to an individual from a qualified retirement plan—

"(I) which are qualified first-time homebuyer distributions (as defined in paragraph (6)),

"(II) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year, or

"(III) to the extent such distributions do not exceed an amount equal to the aggregate investment made by the taxpayer during the taxable year in any enterprise zone business (as defined in section 1397D) that meets the ownership requirements of section 1397C(b).

"(ii) LIMITATION.—Clause (i) shall not apply to the extent that the aggregate amount of the distributions described in clause (i) is greater than the excess of—

"(I) the qualified savings contributions (as defined in section 1397A(b)) of the taxpayer, and any earnings thereon, over

"(II) the aggregate amounts to which clause (i) and the last sentence of paragraph (3)(A) applied for preceding taxable years."

(B) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)(I)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reason-

able settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any qualified retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be recontributed to the plan from which it was distributed within 120 days after the date of such distribution.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)(II)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(C) CONFORMING AMENDMENTS.—

(i) Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), or (D)".

(ii) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) subject to the limitation of section 72(t)(2)(D)(ii), the date on which qualified first-time homebuyer distributions (as defined in section

72(t)(6)), distributions for qualified higher education expenses (as defined in section 72(t)(7)), or distributions for investments described in section 72(t)(2)(D)(i)(III) are made, and''.

(e) AMENDMENT OF TARGETED JOBS CREDIT.—Subparagraph (A) of section 51(i)(1) is amended by inserting '', or, if the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than 50 percent of the capital and profits interests in the entity,'' after ''of the corporation''.

(f) CARRYOVERS.—Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

''(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation.''

SEC. 14304. EFFECTIVE DATE.

The amendments made by this part shall take effect on the date of the enactment of this Act.

PART II—CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 14311. CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, the current year business credit shall include the credit determined under this section.

(b) DETERMINATION OF CREDIT.—The credit determined under this section for each taxable year in the credit period with respect to any qualified CDC contribution made by the taxpayer is an amount equal to 5 percent of such contribution.

(c) CREDIT PERIOD.—For purposes of this section, the credit period with respect to any qualified CDC contribution is the period of 10 taxable years beginning with the taxable year during which such contribution was made.

(d) QUALIFIED CDC CONTRIBUTION.—For purposes of this section—

(1) IN GENERAL.—The term ''qualified CDC contribution'' means any transfer of cash—

(A) which is made to a selected community development corporation during the 5-year period beginning on the date such corporation was selected for purposes of this section,

(B) the amount of which is available for use by such corporation for at least 10 years,

(C) which is to be used by such corporation for qualified low-income assistance within its operational area, and

(D) which is designated by such corporation for purposes of this section.

(2) LIMITATIONS ON AMOUNT DESIGNATED.—The aggregate amount of contributions to a selected community development corporation which may be designated by such corporation shall not exceed $4,000,000.

(e) SELECTED COMMUNITY DEVELOPMENT CORPORATIONS.—

(1) IN GENERAL.—For purposes of this section, the term ''selected community development corporation'' means any corporation—

(A) which is described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(B) the principal purposes of which include promoting employment of, and business opportunities for, low-income individuals who are residents of the operational area, and

(C) which is selected by the Secretary of Housing and Urban Development for purposes of this section.

(2) ONLY 10 CORPORATIONS MAY BE SELECTED.—

(A) IN GENERAL.—The Secretary of Housing and Urban Development may select 10 corporations for purposes of this section, subject to the availability of eligible corporations. Such selections may be made only before July 1, 1994. At least 4 of the operational areas of the corporations selected must be rural areas (as defined by section 1393(a)(3) of such Code).

(B) PRIORITY OF DESIGNATIONS.—In selecting corporations for purposes of this section, such Secretary shall give priority to corporations with a demonstrated record of performance in administering community development programs which target at least 75 percent of the jobs emanating from their investment funds to low income or unemployed individuals.

(3) OPERATIONAL AREAS MUST HAVE CERTAIN CHARACTERISTICS.—A corporation may be selected for purposes of this section only if its operational area meets the following criteria:

(A) The area meets the size requirements under section 1392(a)(3).

(B) The unemployment rate (as determined by the appropriate available data) is not less than the national unemployment rate.

(C) The median family income of residents of such area does not exceed 80 percent of the median gross income of residents of the jurisdiction of the local government which includes such area.

(f) QUALIFIED LOW-INCOME ASSISTANCE.—For purposes of this section, the term ''qualified low-income assistance'' means assistance—

(1) which is designed to provide employment of, and business opportunities for, low-income individuals who are residents of the operational area of the community development corporation, and

(2) which is approved by the Secretary of Housing and Urban Development.

Subtitle D—Other Provisions

PART I—DISCLOSURE PROVISIONS

SEC. 14401. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking ''September 30, 1997'' in the second sentence following clause (viii) and inserting ''September 30, 1998''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 14402. DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.

(a) GENERAL RULE.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

''(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer, and

"(iii) the adjusted gross income of such taxpayer.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

"(C) APPLICABLE STUDENT LOAN.—For purposes of this paragraph, the term 'applicable student loan' means—

"(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

"(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

"(D) TERMINATION.—This paragraph shall not apply to any request made after September 30, 1998."

(b) CONFORMING AMENDMENTS.—

(1) So much of paragraph (4) of section 6103(m) as precedes subparagraph (B) thereof is amended to read as follows:

"(4) INDIVIDUALS WHO OWE AN OVERPAYMENT OF FEDERAL PELL GRANTS OR WHO HAVE DEFAULTED ON STUDENT LOANS ADMINISTERED BY THE DEPARTMENT OF EDUCATION.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

"(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

"(ii) who has defaulted on a loan—

"(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

"(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan ."

(2) Subparagraph (B) of section 6103(m)(4) is amended—

(A) in clause (i), by striking "under part B" and inserting "under part B or D"; and

(B) in clause (ii), by striking "under part E" and inserting "under subpart 1 of part A, or part D or E,";

(3) Section 6103(p) is amended—

(A) in paragraph (3)(A), by striking "(11), or (12), (m)" and inserting "(11), (12), or (13), (m)";

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by striking out "(10), or (11)," and inserting "(10), (11), or (13),", and

(ii) in subparagraph (F)(ii), by striking "(11), or (12)," and inserting "(11), (12), or (13),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) STUDY OF INTERNAL REVENUE SERVICE COLLECTION OF STUDENT LOANS.—

(1) GENERAL RULE.—The Secretary of the Treasury, in consultation with the Secretary of Education, shall conduct a study of the feasibility of implementing a system for the repayment of Federal student loans through wage withholding or other means involving the Internal Revenue Service. Such study shall include an examination of—

(A) whether the Internal Revenue Service could implement such a system within its current resources and without adversely affecting

the ability of the Internal Revenue Service to collect tax revenues,

(B) the cumulative impact on voluntary compliance with the tax system of increased disclosure of tax return information and increased Internal Revenue Service involvement in nontax collection activities,

(C) the anticipated effect on the management of Federal student loan collections and on borrower repayment of such loans, and

(D) the ability of the Internal Revenue Service to effectively service student loans.

(2) RECOMMENDATIONS.—Not later than the date 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a report on the study conducted under paragraph (1) (together with such legislative recommendations as such Secretary may deem advisable).

SEC. 14403. USE OF RETURN INFORMATION FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) (relating to the disclosure of return information

to Federal, State, and local agencies administering certain programs) is amended—

(1) in clause (vii), by striking ''and'' at the end;

(2) in clause (viii), by striking the period at the end and inserting ''; and'';

(3) by inserting after clause (viii) the following new clause:

''(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs.''; and

(4) by adding at the end thereof the following: ''Clause (ix) shall not apply after September 30, 1998.''

(b) CONFORMING AMENDMENT.—The heading of paragraph (7) of section 6103(l) is amended by inserting after ''CODE'' the following: '', OR CERTAIN HOUSING ASSISTANCE PROGRAMS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) STUDY.—The Secretary of the Treasury or his delegate, in consultation with the Secretary of Housing and Urban Development, shall conduct a study on—

(1) whether the information provided under section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 is being used effectively by the Department of Housing and Urban Development,

(2) such Department's compliance with the requirements of section 6103(p) of such Code, and

(3) the impact on the privacy rights of applicants for and participants in housing assistance programs administered by the Department of Housing and Urban Development.

The report of such study shall be submitted before January 1, 1998, to the Congress.

PART II—USER FEE PROVISIONS

SEC. 14411. FEES FOR APPLICATIONS FOR ALCOHOL LABELING AND FORMULA REVIEWS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the 'Secretary') shall establish a program requiring the payment of user fees for—

(1) requests for each certificate of alcohol label approval required under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and for each request for exemption from such requirement, and

(2) requests for each formula review, and requests for each statement of process (including laboratory tests and analyses), under such Act or under chapter 51 of the Internal Revenue Code of 1986.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a) shall be determined such that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5,000,000.

(2) MINIMUM FEES.—The fee charged under the program required by subsection (a) shall not be less than—

(A) $50 for each request referred to in subsection (a)(1), and

(B) $250 for each request referred to in subsection (a)(2).

(c) APPLICATION OF SECTION.—Subsection (a) shall apply to requests made on or after the 90th day after the date of the enactment of this Act.

(d) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected by the Secretary under the program required by subsection (a) (to the extent such amounts do not exceed $5,000,000) shall be deposited into the Treasury as offsetting receipts and ascribed to the alcohol compliance program of the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 14412. USE OF HARBOR MAINTENANCE TRUST FUND AMOUNTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Paragraph (3) of section 9505(c) (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

> ''(3) for the payment of all expenses of administration incurred by the Department of the Treasury in administering subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of $5,000,000 for any fiscal year.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 14413. INCREASE IN TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) IN GENERAL.—The table contained in section 4042(a)(2)(A) is amended to read as follows:

"If the use occurs during:	The tax per gallon is:
1994	24 cents
1995	40 cents
1996	55 cents
1997 or thereafter	70 cents."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1994.

PART III—PUBLIC DEBT LIMIT

SEC. 14421. INCREASE IN PUBLIC DEBT LIMIT.

(a) GENERAL RULE.—Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof "$4,900,000,000,000".

(b) REPEAL OF TEMPORARY INCREASE.—Effective on and after the date of the enactment of this Act, section 1 of Public Law 103–12 is hereby repealed.

PART IV—VACCINE PROVISIONS

SEC. 14431. EXCISE TAX ON CERTAIN VACCINES MADE PERMANENT.

(a) TAX.—Subsection (c) of section 4131 (relating to tax on certain vaccines) is amended to read as follows:

"(c) APPLICATION OF SECTION.—The tax imposed by this section shall apply—

"(1) after December 31, 1987, and before January 1, 1993, and

"(2) during periods after the date of the enactment of this subsection."

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking ''and before October 1, 1992,''.

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than 1 year after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(d) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable vaccine—

(A) which was sold by the manufacturer, producer, or importer before the date of the enactment of this Act,

(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding any taxable vaccine 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 the last day of the 6th month beginning after the date of the enactment of this Act.

(3) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

(4) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 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 4131.

SEC. 14432. CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS OF COSTS OF PEDIATRIC VACCINES.

(a) IN GENERAL.—Paragraph (1) of section 4980B(f) is amended by inserting ''the coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) is not reduced below the coverage provided by the plan as of May 1, 1993, and only if'' after ''only if''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to plan years beginning after the date of the enactment of this Act.

SEC. 14433. CHILDHOOD IMMUNIZATION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9512. CHILDHOOD IMMUNIZATION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Childhood Immunization Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Childhood Immunization Trust Fund amounts equivalent to the taxes received in the Treasury under any tax hereafter specified by law for purposes of this subsection.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Childhood Immunization Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out part A of subtitle 3 of title XXI of the Public Health Service Act."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9512. Childhood Immunization Trust Fund."

TITLE XV—BUDGET PROCESS

SEC. 15001. PURPOSE.

The purposes of this title are to extend through fiscal year 1998 the enforcement of budget legislation by discretionary caps and the pay-as-you-go requirement; to make simplifications and technical corrections to those methods of budget enforcement; to conform congressional budget enforcement to those methods of budget enforcement to the extent possible; and to make permanent the requirement for 5-year, enforceable budget resolutions.

Subtitle A—Budget Enforcement Act of 1993

SEC. 15100. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Budget Enforcement Act of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever 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 Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 15101. DEFINITIONS.

Section 250 is amended as follows:

(1) Strike "**; STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION;**" in the section heading and insert "**AND**".

(2) Strike subsection (a) and insert the following new subsection:

"(a) TABLE OF CONTENTS.—

"Sec. 250. Table of contents and definitions.
"Sec. 251. Discretionary limits.
"Sec. 252. Pay-as-you-go.
"Sec. 253. Enforcing deficit targets.
"Sec. 254. Reports and orders.
"Sec. 255. Exempt programs and activities.
"Sec. 256. General and special sequestration rules.
"Sec. 257. The baseline.
"Sec. 258. Suspension in the event of war or low growth.
"Sec. 258A. Modification of Presidential order.
"Sec. 258B. Alternative defense sequestration.
"Sec. 258C. Special reconciliation process.".

(3) Strike subsections (b) and (c) and insert after subsection (a) the following new subsection:

"(b) DEFINITIONS AND TREATMENTS.—As used in this Act:

"(1) The terms 'budget authority', 'new 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 and the term 'receipts' shall be treated as a synonym for the term 'revenues' as it is used in that Act.

"(2) The terms 'sequester' and 'sequestration' refer to or mean the cancellation of budget authority

provided by discretionary appropriations or direct spending law.

"(3) The term 'breach' means, for any fiscal year, the amount (if any) by which the baseline level of discretionary new budget authority or outlays for that year exceeds the discretionary limit on new budget authority or outlays for that year.

"(4) The term 'baseline' or 'current policy 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.

"(5) The term 'discretionary limits' refers to the limits on discretionary new budget authority and outlays set forth in section 601 of the Congressional Budget Act of 1974, as adjusted under section 251(b).

"(6) The term 'discretionary' refers to programs (except direct-spending programs) for which new budget authority is provided in appropriation Acts. If an appropriation Act alters the level of direct spending, that effect shall be treated as a discretionary appropriation.

"(7) The term 'direct spending' means budget authority provided by a law other than an appropria-

tion Act or by a law that determines amounts needed to fund mandatory appropriations (including the food stamp program). If a law other than an appropriation Act alters the level of discretionary appropriations, that effect shall be treated as direct spending.

"(8) As used in this Act, all references to mandatory appropriations shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1993.

"(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 that are not included with a budget submission, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget, except to the extent that clerical errors are corrected in the midsession review as required by section 1106 of title 31, United States Code.

"(10) The term 'real economic growth', with respect to any fiscal year, means the growth in the gross domestic product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

"(11) The term 'account' means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, an item for which there is a designated budget account identification code number in the President's budget.

"(12) 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.

"(13) The term 'current year' means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

"(14) The term 'outyear' means, with respect to a budget year, any of the fiscal years that follow the budget year, through fiscal year 1998 in the case of discretionary programs and through 2002 in the case of direct spending and receipts.

"(15) The term 'OMB' means the Director of the Office of Management and Budget.

"(16) The term 'CBO' means the Director of the Congressional Budget Office.

"(17) The term 'deposit insurance' refers to the expenses of the Federal Deposit Insurance Corporation and the funds it incorporates, the Resolution Trust Corporation, the National Credit Union Administration and the funds it incorporates, the Office of Thrift Supervision, the Comptroller of the Currency Assessment Fund, and the RTC Office of Inspector General.

"(18) The term 'composite discretionary outlay rate' means the percent of new budget authority that is converted to outlays in the fiscal year for which the budget authority is provided and subsequent fiscal years, as follows: 60 percent for the first year, 25 percent for the second year, 7 percent for the third year, and 3 percent for the fourth year.

"(19) The term 'asset sale' means the sale by the Government to the public of a nonloan asset.

"(20) 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.".

SEC. 15102. DISCRETIONARY LIMITS.

Section 251 is amended to read as follows:

"SEC. 251. DISCRETIONARY LIMITS.

"(a) INITIAL AMOUNTS.—Subject to adjustments under subsection (b), the discretionary limits are as set forth in section 601 of the Congressional Budget Act of 1974.

"(b) ADJUSTMENTS TO LIMITS.—Whenever appropriate, adjustments to the discretionary limits (as they exist at the time of the adjustment) for one or more fiscal years shall be made as follows:

"(1) CHANGES IN ACCOUNTING CONCEPTS.—For any fiscal year, the discretionary limits shall be adjusted to reflect any change in budget accounting concepts (including scorekeeping conventions, budget classifications, and definitions), which change shall equal the baseline levels of new budget authority and outlays using up-to-date concepts minus those levels using the concepts in effect before the change.

"(2) CHANGES IN INFLATION.—(A) For the budget year and each outyear, the discretionary limit on new budget authority for each such year shall be multiplied by the inflation adjustment factor (for the fiscal year immediately preceding the current year) calculated under subparagraph (B). The discretionary limit on outlays for each such year shall be adjusted by applying the composite discretionary

outlay rate to the change in the limits on new budget authority under the preceding sentence.

"(B) The inflation adjustment factor shall be the ratio of (i) the level of year-over-year inflation measured for the fiscal year immediately preceding the current year, and (ii) the applicable estimated level for that year set forth below:

"For 1993, 1.030.

"For 1994, 1.027.

"For 1995, 1.026.

"For 1996, 1.025.

Inflation shall be measured by the average of the estimated fixed-weight gross domestic product price index for a fiscal year divided by the average index for the prior fiscal year.

"(3) IMF FUNDING.—If for any fiscal year an appropriation is enacted to provide to the International Monetary Fund the dollar equivalent, in terms of Special Drawing Rights, of the increase in the United States quota, the limit on discretionary new budget authority shall be increased by the amount of that appropriation.

"(4) IRS FUNDING.—To the extent discretionary appropriations are enacted for fiscal year 1994 or 1995 that provide new budget authority or

result in outlays greater than the amount in the CBO baseline of June 1990 for the IRS compliance initiative, the discretionary limits shall be adjusted upward by those amounts, but not to exceed $187,000,000 in new budget authority and $183,000,000 in outlays for fiscal year 1994 and $188,000,000 in new budget authority and outlays for fiscal year 1995.

"(5) NET GUARANTEE COSTS.—The discretionary limits for each fiscal year shall be adjusted by the net costs for that year of the appropriation made under section 601 of Public Law 102–391.

"(6) EXPIRING HOUSING CONTRACTS.—For any fiscal year, the adjustment shall be the amounts by which the costs of renewing expiring multiyear subsidized housing contracts or providing contracts to replace units lost due to prepayments differ from the amounts in OMB's baseline of February 1993.

"(7) EMERGENCIES.—If for any fiscal year discretionary appropriations are enacted that are designated as emergency requirements by statute, the adjustment shall be the amount of those appropriations that the President also designates in writing as emergency requirements and the outlays estimated to flow therefrom in each fiscal year. If any amount

previously designated as an emergency requirement is rescinded, the adjustment shall be the amount of that rescission and the outlays estimated to be saved thereby in each fiscal year.

"(8) TECHNICAL ESTIMATING DIFFERENCES.—

"(A) If for any fiscal year the amount of discretionary new budget authority provided in appropriation Acts exceeds the discretionary limit on new budget authority due to technical estimates made by OMB, the adjustment is the amount of the excess, but not to exceed 1/10 of 1 percent of that limit.

"(B) If for any fiscal year discretionary outlays exceed the discretionary limit on outlays but discretionary new budget authority does not exceed its limit (after application of a sequestration under subsection (d)(1)(A), if necessary), the adjustment in outlays is the amount of that excess; but the adjustment in any fiscal year shall not exceed the lesser of (i) $6,500,000,000 less the outlay adjustments made under section 251(b)(2)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985 as in effect immediately before the enactment of this Act (or that would have been

made under that subparagraph if that Act had applied through fiscal year 1998, with adjustments in new budget authority occurring through fiscal year 1995 and in outlays through fiscal year 1998), or (ii) 1 percent of the discretionary limit on outlays for that year.

"(c) DISCRETIONARY SCORECARD: 1994–1998.—

"(1) ESTABLISHMENT OF SCORECARD.—Starting for budget year 1994 and ending for fiscal year 1998, there shall be a scorecard upon which shall be entered the amount of discretionary new budget authority and outlays enacted into law for the budget year and the current year (except current year 1993). Entries shall be made separately for each fiscal year. Discretionary new budget authority and outlays for the budget year resulting from the enactment of a law in a previous session shall be attributed to the corresponding law enacted in the current session. Reductions in new budget authority and outlays through the imposition of a sequestration under this section shall also be entered upon the scorecard. Amounts shall be entered on the scorecard within 5 days after the enactment of each such law or the imposition of any sequestration, shall equal the amounts contained in the bill cost reports

under section 254(e), and may not thereafter be altered except to correct clerical errors or errors in the application of this Act. The entry for each such law or sequestration shall be displayed separately.

"(2) LOOKBACK.—(A) If after June 30 any discretionary appropriation is enacted that would breach the discretionary limit on new budget authority or outlays for the current year, then that breach shall be entered on the scorecard as a cost under the column for the budget year.

"(B) If any discretionary appropriation is enacted after June 30, 1993, that would have breached a discretionary spending limit for fiscal year 1993 (under this Act and title VI of the Congressional Budget Act of 1974 as in effect immediately before the date of enactment of the Budget Enforcement Act of 1993), then that breach shall be entered on the scorecard as a cost under the column for the budget year.

"(d) ENFORCING DISCRETIONARY LIMITS.—

"(1) SEQUESTRATION.—Within 15 days after Congress adjourns to end a session there shall be a sequestration to reduce the amount of nonexempt discretionary budget authority in the current policy baseline for the budget year of that session by—

"(A) the amount needed to eliminate a breach of the discretionary limit on new budget authority for that year, and

"(B) if any breach of the discretionary limit on outlays remains, the amount needed to eliminate that breach for that year,

as measured under subsection (c), unless the total amount under subparagraphs (A) and (B) is less than $50,000,000.

"(2) UNIFORM REDUCTION.—Each nonexempt account (or activity within an account) shall be reduced by a dollar amount calculated by multiplying the baseline level of nonexempt gross discretionary budget authority for that account or activity by the uniform percent necessary to reduce net new budget authority by the amount in paragraph (1), except that the health programs set forth in section 256(e) shall not be reduced more than 2 percent and the uniform percent applicable to all other programs shall be increased (if necessary) to a level sufficient to achieve the amount in paragraph (1).

"(3) MILITARY PERSONNEL.—If the President uses the authority under section 255(f) to exempt any amounts appropriated for military personnel from sequestration, all remaining nonexempt discre-

tionary budget authority within subfunction 051 shall be further reduced by the uniform percent needed to fully offset the reduction in the amount sequestered resulting from that exemption.

"(4) PART-YEAR APPROPRIATIONS.—If, on the date of a sequestration under paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any budget account, then the dollar reduction calculated for that account under paragraphs (2) and (3) shall be applied to—

"(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 that appropriation.

"(e) WITHIN-SESSION ENFORCEMENT.—If, after Congress adjourns to end the session for a budget year but before July 1 of that fiscal year, an appropriation for that fiscal year is enacted that causes a discretionary limit to be breached, within 15 days after there shall be a sequestration to eliminate that breach, following the rules and procedures set forth in subsection (d).".

SEC. 15103. PAY-AS-YOU-GO.

Section 252 is amended to read as follows:

"SEC. 252. PAY-AS-YOU-GO.

"(a) PAY-AS-YOU-GO SCORECARD.—

"(1) ESTABLISHMENT OF SCORECARD: 1994–2002.—There shall be a scorecard for each fiscal year through 2002 upon which shall be entered the 5-year estimated increase or decrease in the deficit (relative to the current policy baseline described in section 257) for the budget year and each outyear, as calculated under this subsection, resulting from—

"(A) the enactment, after the date of enactment of this Act and before October 1, 1998, of any direct spending or receipts law, or

"(B) the change in the baseline from the application of section 257(b)(3), which relates to certain expiring provisions of law and to veterans' compensation.

Entries under the preceding sentence shall exclude resulting debt service changes and any incidental changes in intragovernmental receipts of Federal retirement trust funds. Amounts shall be entered on the scorecard within 5 days after the enactment of each such law and may not thereafter be altered except to correct clerical errors or errors in the appli-

1 cation of this Act. Each entry shall be displayed sep-
2 arately.

3 "(2) ROLLING 5-YEAR SCOREKEEPING.—
4 Amounts entered on the scorecard established by
5 paragraph (1) shall equal the amounts contained in
6 the bill cost reports under section 254(e) for the
7 budget year and the 4 subsequent fiscal years (ex-
8 cept for budget years after 1998), plus any amount
9 required by the lookback provision of paragraph (3).

10 "(3) LOOKBACK.—If in any session a law is en-
11 acted affecting the current-year level of direct spend-
12 ing or receipts, the amount of that current-year ef-
13 fect shall be entered on the scorecard under the col-
14 umn for the budget year (except for budget years
15 after 1998).

16 "(4) EMERGENCIES.—If after the enactment of
17 this Act a provision of direct spending or receipts
18 legislation is enacted that is designated as an emer-
19 gency requirement by statute and that the President
20 also designates, in writing, as an emergency require-
21 ment, then no entries related to that provision shall
22 be made on the scorecard.

23 "(5) DEPOSIT INSURANCE.—Provisions of law
24 that provide full funding of, and continuation of, the
25 deposit insurance commitment in effect on Septem-

ber 30, 1993, shall not have their estimated effects entered on the scorecard.

"(b) ENFORCING PAY-AS-YOU-GO.—

"(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session, there shall be a sequestration to offset the amount of any net deficit increase recorded on the pay-as-you-go scorecard under subsection (a) for the budget year, unless that amount is less than $50,000,000.

"(2) ELIMINATING A DEFICIT INCREASE.—The amount required to be sequestered in a fiscal year under paragraph (1) shall be obtained from nonexempt direct spending accounts (which are assumed to be at the level in the baseline) by sequestration actions taken in the following order:

"(A) The maximum reductions in automatic spending increases permissible under section 256(b) shall be made.

"(B) If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under section 256(c) (foster care and adoption assistance) shall be made.

"(C) If additional reductions in direct spending accounts are required to be made,

each remaining nonexempt direct spending account shall be reduced by the uniform percent 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 percent applicable to all other direct spending programs under this subparagraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

''(3) UNIFORM PERCENT.—The uniform percent under paragraph (2) shall be calculated so that the total amount estimated to be saved in all fiscal years by the budget-year or other sequestrations under section 256 shall equal the amount required to be saved under paragraph (1). The total amount estimated to be saved shall exclude resulting debt service changes and any incidental changes in intragovernmental receipts of Federal retirement trust funds.''.

SEC. 15104. CONFORMING AMENDMENTS TO SECTION 253.

Section 253 is amended as follows:

(1) In subsection (a), strike ''(other'' and all that follows through ''252,''.

(2) In subsection (b)(2), strike ''252(e)'' and insert ''252(a)(4)''.

(3) In subsection (d), strike ''251(a)(3)'' and insert ''251(d)(3)''.

(4) In subsection (e)(1), strike ''256(a)'' and insert ''256(b)''.

(5) In subsection (e)(2), strike ''sections 256(b) (guaranteed student loans) and'' and insert ''section''.

(6) In subsection (e)(3), strike ''(A)'', strike subparagraph (B), and redesignate clauses (i) and (ii) as subparagraphs (A) and (B).

(7) In subsection (g)(1)(B), strike the last sentence.

(8) In subsection (g)(2)(B)(i), strike ''252(b)'' and insert ''254(e)''.

SEC. 15105. REPORTS AND ORDERS.

Section 254 is amended to read as follows:

''SEC. 254. REPORTS AND ORDERS.

''(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

''Date:	**Action to be completed:**
5 days before the President's budget submission.	CBO sequestration preview report.
The President's budget submission	OMB sequestration preview report.
August 10	Notification regarding military personnel.
Weekly, starting the 2d Wednesday in September.	Scorecard reports.
10 days after end of session	CBO final sequestration report.

"Date:	Action to be completed:
15 days after end of session	OMB final sequestration report; Presidential order.
30 days later	GAO compliance report.

1 "(b) SUBMISSION AND AVAILABILITY OF REPORTS
2 AND ORDERS.—Each report or order required by this sec-
3 tion (except bill cost reports under subsection (e) and
4 scorecard reports under subsection (f)) shall be submitted,
5 in the case of CBO, to the House of Representatives, the
6 Senate and OMB and, in the case of OMB, to the House
7 of Representatives, the Senate, and the President on the
8 day it is issued. On the following day a notice of the report
9 shall be printed in the Federal Register.
10 "(c) SEQUESTRATION PREVIEW REPORTS.—
11 "(1) REPORTING REQUIREMENT.—On the dates
12 specified in subsection (a), OMB and CBO shall
13 issue a preview report regarding discretionary, pay-
14 as-you-go, and deficit sequestration based on laws
15 enacted through those dates.
16 "(2) DISCRETIONARY SEQUESTRATION RE-
17 PORT.—The preview reports shall set forth estimates
18 for the current year and each subsequent year
19 through 1998 of the applicable discretionary limits
20 and an explanation of any adjustments in such lim-
21 its under section 251. It shall also set forth for the
22 current year and the budget year the estimated dis-
23 cretionary new budget authority and outlays and the

amounts remaining under the applicable discretionary limits.

"(3) PAY-AS-YOU-GO SEQUESTRATION REPORTS.—The preview reports shall set forth for the budget year and each outyear estimates for each of the following:

"(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252.

"(B) The pay-as-you-go scorecard as of that date, itemizing the entries that add to the net deficit increase or decrease shown under subparagraph (A).

"(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 at the end of the budget-year session.

"(4) DEFICIT SEQUESTRATION REPORTS.—The preview reports 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 amount of reductions required under section 252, the excess deficit remaining after those reductions have been made, and the amount of reductions required under section 253 from defense accounts and from nondefense 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 nondefense accounts under section 253(e)(3).

The CBO report need not set forth the items other than the maximum deficit amount for fiscal year 1992, 1993, or any fiscal year for which the President notifies the House of Representatives and the Senate that he will adjust the maximum deficit amount under the option under section 253(g)(1)(B).

"(5) EXPLANATION OF DIFFERENCES.—The OMB reports shall thoroughly explain the differences between OMB and CBO estimates for each item set forth in this subsection.

"(d) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the date specified in subsection (a), the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 255(f).

"(e) BILL COST REPORTS.—As soon as practicable after Congress completes action on any discretionary appropriation or legislation affecting direct spending or receipts, and after consultation with the committees on the Budget of the House and Senate, CBO shall provide OMB with an estimate of the entry or entries to be made on the appropriate scorecard as a result of that legislation. Within 5 calendar days after the enactment of any such legislation (enacted after the date of enactment of this Act) OMB shall transmit a report to the House of Representatives and the Senate containing the CBO estimate of the scorecard entry or entries for that legislation, OMB's estimate for the same legislation, and a thorough explanation of any difference between the 2 estimates. CBO and OMB shall prepare estimates under this subsection in conformance with the baseline rules under subsection 257, the scorecard rules under section 251 or 252 as applicable, and scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

"(f) SCORECARD REPORTS.—On or before the date specified in subsection (a) and weekly thereafter through the adjournment of Congress, OMB shall transmit a report to the House of Representatives and the Senate containing the discretionary and the pay-as-you-go scorecards prepared by CBO and OMB, each updated to reflect all bill cost reports issued under subsection (e).

"(g) FINAL SEQUESTRATION REPORTS.—

"(1) REPORTING REQUIREMENT.—On or before the dates specified in subsection (a), OMB and CBO shall issue a final sequestration report, updated to reflect laws enacted through those dates.

"(2) DISCRETIONARY SEQUESTRATION REPORTS.—The final reports shall set forth estimates for each of the following:

"(A) For the current fiscal year and each subsequent year through 1998 the applicable discretionary limits and an explanation of any adjustments in such limits under section 251(b).

"(B) For the current year and the budget year the estimated discretionary new budget authority and outlays and the budget-year breach, if any.

"(C) The sequestration percentages necessary to achieve the required reduction.

"(D) For the budget year, for each account to be sequestered, estimates of the baseline level of nonexempt budget authority and resulting outlays and the amount of nonexempt budget authority to be sequestered and resulting outlay reductions.

"(3) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORTS.—The final reports shall contain all the information required in the pay-as-you-go and deficit sequestration preview reports. In addition, these reports shall contain, for the budget year, for each account to be sequestered, estimates of the baseline level of outlays for nonexempt direct spending programs and the amount to be sequestered. The reports shall also contain estimates of the outlay effects in each outyear resulting from the sequestration.

"(4) EXPLANATION OF DIFFERENCES.—The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under section 252(a), any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also ex-

1 plain differences in the amount of sequestrable re-
2 sources for any budget account to be reduced if that
3 difference is greater than $5,000,000.

4 "(h) WITHIN-SESSION SEQUESTRATION REPORTS.—
5 If a within-session sequestration is required under section
6 251(e), 10 days later CBO shall issue a report containing
7 the information required in subsection (g)(2). Fifteen days
8 after enactment, OMB shall issue a report containing the
9 information required in subsections (g) (2) and (4).

10 "(i) PRESIDENTIAL ORDER.—On the day OMB is-
11 sues a report under subsection (g) or (h), if in that report
12 OMB estimates that any sequestration is required, the
13 President shall issue an order fully implementing without
14 change all sequestrations required by the OMB calcula-
15 tions set forth in that report. The order shall be effective
16 on issuance.

17 "(j) GAO COMPLIANCE REPORT.—On the date speci-
18 fied in subsection (a), the Comptroller General shall sub-
19 mit to the Congress and the President a report on—

20 "(1) the extent to which each order issued by
21 the President under this section complies with all of
22 the requirements contained in this Act, either cer-
23 tifying that the order fully and accurately complies
24 with such requirements or indicating the respects in
25 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 Act, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

"(k) 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 most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth 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.

"(l) OMB'S ESTIMATING ASSUMPTIONS.—In all reports required by this section, OMB shall use current economic and technical assumptions.".

SEC. 15106. EXEMPT PROGRAMS AND ACTIVITIES.

Section 255 is amended to read as follows:

"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, and 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 Act.

"(b) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this Act:

"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 (36–4010–0–3–701);

"United States Government Life Insurance Fund (36–8150–0–7–701);

"Veterans Insurance and Indemnities (36–0120–0–1–701);

"Special Therapeutic and Rehabilitation Activities Fund (36–4048–0–3–703);

"Canteen Service Revolving Fund (36–4014–0–3–705);

"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 (36–0120–0–1–701);

"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 veterans and members of the Armed Forces (36–0137–0–1–702);

"Compensation (36–0153–0–1–701); and

"Pensions (36–0154–0–1–701).

"(c) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this Act.

"(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 Act.

"(e) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense function, shall be exempt from reduction under any order issued under this Act.

"(f) 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 date specified in section 254(d) for the budget year.

"(g) OTHER PROGRAMS AND ACTIVITIES.—

"(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this Act:

"Activities resulting from private donations, bequests, or voluntary contributions to the Government;

"Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–808);

"Alaska Power Administration, Operation 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);

"Bureau of Indian Affairs, Indian land and water claim settlements and miscellaneous payments to Indians (14–2303–0–1–452);

"Bureau of Indian Affairs, Miscellaneous trust funds (14–9973–0–7–999);

"Claims, defense (97–0102–0–1–051);

"Claims, judgments, and relief acts (20–1895–0–1–808);

"Coinage profit fund (20–5811–0–2–803);

"Compact of Free Association, (14–0415–0–1–808);

"Compensation of the President (11–0001–0–1–802);

"Conservation Reserve Program (12-3319-0-1-302);

"Credit liquidating and financing accounts;

"Customs Service, miscellaneous permanent appropriations (20–9922–0–2–806);

"Comptroller of the Currency, Assessment funds (20–8413–0–8–373);

"Dual benefits payments account (60–0111–0–1–601);

"Exchange stabilization fund (20–4444–0–3–155);

"Federal Deposit Insurance Corporation, Bank Insurance Fund (51–4064–0–3–373);

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51–4065–0–3–373);

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51–4066–0–3–373);

"Federal Housing Finance Board (95–4039–0–3–371);

"Federal payment to the railroad retirement accounts (60–0113–0–1–601);

"Foreign military sales trust fund (11–8242–0–7–155);

1 ''Health professions graduate student loan
2 insurance program account (Health Education
3 Assistance Loan Program) (75–0340–0–1–
4 552);
5 ''Higher education facilities loans (91–
6 0240–01–502);
7 ''Internal Revenue collections for Puerto
8 Rico (20–5737–0–2–806);
9 ''Intragovernmental funds, including those
10 from which the outlays are derived primarily
11 from resources paid in from other government
12 accounts, except to the extent such funds are
13 augmented by direct appropriations for the fis-
14 cal year during which an order is in effect;
15 ''Panama Canal Commission, Panama
16 Canal Revolving Fund (95–4061–0–3–403);
17 ''Medical facilities guarantee and loan
18 fund, Federal interest subsidies for medical fa-
19 cilities (75–9931–0–3–550);
20 ''National Credit Union Administration op-
21 erating fund (25–4056–0–3–373);
22 ''National Credit Union Administration,
23 Central liquidity facility (25–4470–0–3–373);

"National Credit Union Administration, Credit union share insurance fund (25–4468–0–3–373);

"Office of Thrift Supervision (20–4108–0–3–373);

"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);

"Payment to Judiciary Trust Funds (10–0941–0–1–752);

"Payments to copyright owners (03–5175–0–2–376);

"Payments to health care trust funds (75–0580–0–1–571);

"Payment to military retirement fund (97–0040–0–1–054);

"Payments to social security trust funds (75–0404–0–1–651);

"Payments to the foreign service retirement and disability fund (11–1036–0–1–153 and 19–0540–0–1–153);

"Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

"Payments to the United States territories, fiscal assistance (14–0418–0–1–806);

"Payments to widows and heirs of deceased Members of Congress (00–0215–0–1–801);

"Postal service fund (18–4020–0–3–372);

"Resolution Trust Corporation Revolving Fund (22–4055–0–3–373);

"Salaries of Article III judges;

"Soldiers' and Airmen's Home, payments of claims (84–8930–0–7–705);

"Southeastern Power Administration, Operation and maintenance (89–0302–0–1–271);

"Southwestern Power Administration, Operation and maintenance (89–0303–0–1–271);

"Tennessee Valley Authority fund, except non-power programs and activities (64–4110–0–3–999);

"Thrift Savings Fund;

"United States Enrichment Corporation Fund (95–4054–0–3–271);

"Vaccine Injury Compensation (75–0320–0–1–551);

"Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);

"Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401);

"Western Area Power Administration, Construction, rehabilitation, operation, and maintenance (89–5068–0–2–271); and

"Western Area Power Administration, Colorado River basins power marketing fund (89–4452–0–3–271).

"(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this Act:

"Black Lung Disability Trust Fund (20–8144–0–7–601);

"Central Intelligence Agency retirement and disability system fund (56–3400–0–1–054);

"Civil service retirement and disability fund (24–8135–0–7–602);

"Comptrollers general retirement system (05–0107–0–1–801);

"Foreign service retirement and disability fund (19–8186–0–7–602);

"Judicial survivors' annuities fund (10–8110–0–7–602);

"Judicial Officers' Retirement Fund (10–8122–0–7–602);

"Claims Court Judges' Retirement Fund (10–8124–0–7–602);

"Special workers compensation expenses (Longshoremen's and harborworkers' compensation benefits) (16–9971–0–7–601);

"Military retirement fund (97–8097–0–7–602);

"National Oceanic and Atmospheric Administration retirement (13–1450–0–1–306);

"Pensions for former Presidents (47–0105–0–1–802);

"Rail Industry Pension Fund (60–8011–0–7–601);

"Railroad supplemental annuity pension fund (60–8012–0–7–602);

"Retired pay, Coast Guard (69–0241–0–1–403);

"Retirement pay and medical benefits for commissioned officers, Public Health Service (75–0379–0–1–551);

"Special benefits (Federal Employees' Compensation Act) (16–1521–0–1–600);

1 ''Special benefits for disabled coal miners
2 (75–0409–0–1–601); and
3 ''Tax Court judges survivors annuity fund
4 (23–8115–0–7–602).
5 ''(2) Prior legal obligations of the Government
6 in the following budget accounts and activities shall
7 be exempt from any order issued under this Act:
8 ''Biomass energy development (20–0114–
9 0–1–271);
10 ''United States Treasury check forgery in-
11 surance fund (20–4109–0–3–803);
12 ''Employees life insurance fund (24–8424–
13 0–8–602);
14 ''Energy security reserve (Synthetic Fuels
15 Corporation) (20–0112–0–1–271);
16 ''Federal Aviation Administration, Aviation
17 insurance revolving fund (69–4120–0–3–402);
18 ''Federal Crop Insurance Corporation fund
19 (12–4085–0–3–351);
20 ''Federal Emergency Management Agency,
21 National flood insurance fund (58–4236–0–3–
22 453);
23 ''Federal Emergency Management Agency,
24 National insurance development fund (58–
25 4235–0–3–451);

"Geothermal resources development fund (89–0206–0–1–271);

"Homeowners assistance fund, Defense (97–4090–0–3–051);

"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);

"Department of Veterans Affairs, Servicemen's group life insurance fund (36–4009–0–3–701).

"(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this Act:

"Aid to families with dependent children (75–1501–0–1–609);

"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).

"(i) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government, 1994—Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.".

SEC. 15107. GENERAL AND SPECIAL SEQUESTRATION RULES.

Section 256 is amended as follows:

(1) Strike the section heading and insert the following new section heading:

"SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.".

(2) Subsection (a) is amended by striking "part" and inserting "Act".

(3) Subsection (b) is repealed and subsection (a) is redesignated as subsection (b).

(4) A new subsection (a) is inserted, as follows:

"(a) BUDGET-YEAR SEQUESTRATION.—For each direct spending program subject to sequestration under this Act, a sequestration shall apply for the period starting on the date the sequestration order under section 254 is issued and ending on the last day of the budget year, unless a different period is specified in this section. For purposes of section 253, the amount estimated to be saved in all fiscal years by a budget-year sequestration under section 252 or 253 shall be considered to have been saved in the budget year.".

(5) Subsection (e)(1) is amended by striking "be—" and all that follows through "subsequent fiscal year" and inserting "be 2 percent".

(6) Subsection (h)(4) is amended by striking "(D) Office of Thrift Supervision." and "(H) Resolution Funding Corporation." and redesignating the remaining subparagraphs accordingly.

(7) Subsection (j) is amended by striking "joint resolution" and inserting "Act" each place it ap-

pears and by amending paragraph (5) to read as follows:

"(5) DAIRY PROGRAM.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundredweight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.".

(8) Subsection (k)(2) is amended by striking the dash the second place it appears and all that follows through "(I)"; and by striking "; or" and all that follows through "(II)" and inserting ", except

that a State may not be allotted an amount under this subparagraph that exceeds''.

(9) Subsection (l) is redesignated as subsection (m) and is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively''.

(10) After subsection (k) add the following new subsection:

''(l) STUDENT LOANS.—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 456(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.''.

SEC. 15108. THE BASELINE.

Section 257 is amended as follows:

(1) In subsection (a), insert '', and discretionary regulations promulgated as final by,'' after ''through''.

(2) In subsection (b), strike ''budget year'' and insert ''current year, the budget year,''.

(3) Amend subsection (b)(1) to read as follows:

"(1) IN GENERAL.—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year, funding for mandatory appropriations is assumed to be adequate to make all payments required by those mandates, and regulations over which the President has discretion are assumed to remain in effect as they were at the time the baseline for the budget year was first completed.".

(4) Amend subsection (b)(2)(A) to read as follows:

"(A) No program with estimated current-year gross new budget authority greater than $50,000,000 is assumed to expire in the budget year or outyears. In carrying out the preceding sentence, expiring programs funded by mandatory appropriations or by indefinite budget authority are assumed to continue under the direct spending law in effect just prior to their expiration, and other expiring programs are assumed to continue with new budget authority projected as under subsection (c)(4).".

(5) In subsection (b)(2)(B), insert "percentage" before "increase".

(6) Amend subsection (b)(3) to read as follows:

"(3) CUTOFF DATE.—Programs or taxes that expire on or before December 31 and that have not been reauthorized by the date of the final sequestration report are assumed to expire. If an increase in veterans compensation for the budget year has not been enacted by the date of the final sequestration report, it is not assumed.".

(7) In subsection (c), strike "budget year" and insert "current year, the budget year," and strike "all amounts other than those covered by subsection (b)" and insert "discretionary programs".

(8) Paragraphs (1) and (2) of subsection (c) are amended to read as follows:

"(1) INFLATION OF CURRENT-YEAR APPROPRIATIONS.—

"(A) Gross new budget authority shall be at the level provided for that fiscal year in appropriation Acts and discretionary offsetting collections shall be at the estimated level required by existing law (assuming the baseline level of gross new budget authority).

"(B) If for any account an appropriation has not yet been enacted, gross new budget authority is assumed to be at the level available in the current year, adjusted for expiring hous-

ing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), for inflation as specified in paragraph (4), 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 or provide contracts to replace units lost due to prepayments shall be adjusted to reflect the difference in the number of such contracts that are estimated to expire or be prepaid in that fiscal year and the number expiring or being prepaid in the current year.''.

(9) In subsection (c)(3), strike ''Budgetary'' and insert ''New budgetary'', insert ''or number of claims, as applicable,'' after ''population'', and insert ''the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund,'' after the colon.

(10) In subsection (c), strike paragraph (4) and redesignate paragraphs (5) and (6) as (4) and (5), respectively.

(11) Amend the first sentence of subsection (c)(4) to read as follows: ''The inflator to adjust new

budget authority relating to civilian personnel is the percent by which the average rate of basic pay for the general schedule pay system, calculated as specified in sections 5303(a) and 5304 of title 5, United States Code, for that fiscal year exceeds the average rate of basic pay for the current year. The inflator for military personnel is the percent by which the average rate of basic pay, as specified in section 1009 of title 37, United States Code, for that fiscal year exceeds the average rate of basic pay for the current year.''.

(12) In the second sentence of subsection (c)(4), strike ''used in paragraph (1)'' and strike ''national'' and insert ''domestic''.

(13) Amend the side heading and first sentence of subsection (c)(5) to read as follows: ''PART-YEAR APPROPRIATIONS; PERMISSIVE TRANSFERS.—If, for any account, a continuing appropriation is in effect for less than an entire fiscal year, then the amount available for that fiscal year is assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year.''.

(14) In the second sentence of subsection (c)(5), insert ''or midsession review'' after ''original budget''.

(15) Amend subsection (e) to read as follows:

''(e) ASSET SALES.—Amounts realized from new asset sales shall not be counted for purposes of this section. Asset sales shall not be considered new if the authority to make those sales was enacted in a prior session of Congress or is a reauthorization of routine, ongoing asset sales at levels consistent with agency operations in fiscal year 1993.''.

SEC. 15109. FAST-TRACK PROCEDURES.

(a) REPEALER.—The first section 258 (relating to modification of Presidential orders) is repealed.

(b) CONFORMING AMENDMENT.—In the second section 258, strike ''254(j)'' each time it appears and insert ''254(k)''; strike ''310(d)'' and insert ''310(c)''; and in subsection (a)(4)(A) strike ''discharged pursuant'' and insert ''discharged in the Senate pursuant''.

(c) CONFORMING AMENDMENT.—In section 258A(b)(6), strike '', IV, and VI'' and insert ''and IV''.

(d) CONFORMING AMENDMENT.—In section 258B(k), strike ''306, and 401(b)(1)'' and insert ''and 306''.

(e) CONFORMING AMENDMENT.—In section 258C(a)(1), strike ''sequestration update'' and insert ''scorecard'' and strike ''or 253''.

SEC. 15110. JUDICIAL REVIEW.

Section 274 is amended as follows:

(1) Strike ''252'' or ''252(b)'' each place it occurs and insert ''254''.

(2) In subsection (d)(1)(A), strike ''257(l) to the extent that'' and insert ''256(b) if'', strike the parenthetical phrase, and at the end insert ''or''.

(3) In subsection (d)(1)(B), strike ''new budget'' and all that follows through ''spending authority'' and insert ''budgetary resources'' and strike ''or'' after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) Amend subsection (g) to read as follows:

''(g) ECONOMIC DATA, ASSUMPTIONS, AND METHODOLOGIES.—The economic data and economic assumptions used by the Director of OMB in preparing the budget of the United States Government, or in making calculations under this Act, shall not be subject to review in any judicial or administrative proceeding.''.

SEC. 15111. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) is amended to read as follows:

"(b) EXPIRATION.—(1) Except as provided by paragraph (2), part C of this Act shall expire on September 30, 2002.

"(2) Sections 251, 257, and 258B of this Act and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire on September 30, 1998, and section 253 of this Act shall expire on September 30, 1995.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this subtitle shall be effective upon enactment for fiscal year 1994 and subsequent fiscal years.

(2) SPECIAL RULE FOR FISCAL YEAR 1993.—For fiscal year 1993, the Balanced Budget and Emergency Deficit Control Act of 1985 and title VI of the Congressional Budget Act of 1974 shall be applied and administered as if this title had not been enacted.

Subtitle B—Amendments to the Congressional Budget and Impoundment Control Act of 1974; Conforming Amendments

SEC. 15201. DEFINITIONS.

Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended as follows:

(1) Repeal the first paragraph (2).

(2) Amend the second paragraph (2) to read as follows:

"(2) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—

"(A) IN GENERAL.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, as follows:

"(i) provisions of law that make funds available for obligation and expenditure (other than borrowing authority), including the authority to obligate and expend the proceeds of offsetting receipts and collections;

"(ii) borrowing authority, which means authority granted to a Federal entity to borrow, obligate, and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(iii) contract authority, which means the making of funds available for obligation but not for expenditure; or

"(iv) offsetting receipts and collections as negative budget authority, and the

reduction thereof as positive budget authority.

"(B) LIMITATIONS ON BUDGET AUTHORITY.—Any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

"(C) LOAN COSTS.—The term 'budget authority' includes the cost for direct loan and loan guarantee programs, as those terms are defined by title V.

"(D) DIRECT SPENDING.—The term 'direct spending' means budget authority provided by law other than an appropriation Act or by a law that determines amounts needed to fund mandatory appropriations (including the food stamp program), but such term does not include salary or basic pay funded through an appropriation Act.

"(E) NEW BUDGET AUTHORITY.—The term 'new budget authority' means, with respect to a fiscal year—

"(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes

available in that year as a result of a reappropriation; or

"(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year.

New budget authority, with respect to a fiscal year, includes a change in the estimated level of the authority to incur obligations in an account that, under existing law, has authority to obligate indefinite amounts, if the change results from a change in law.".

(3) Repeal paragraph (9), redesignate paragraphs (3) through (8) as paragraphs (4) through (9), and insert after paragraph (2) the following new paragraph:

"(3) DEFICIT IMPACT NUMBER (OR SURPLUS IMPACT NUMBER).—The term 'deficit impact number' (or 'surplus impact number') means, with respect to a fiscal year, the change in the deficit (or surplus) that may be caused by any combination of increases or decreases in direct spending and revenue assumed by the most recently agreed to concurrent resolution to be enacted in the current session

of Congress and allocated to a committee. An impact number greater than zero increases the deficit (or decreases the surplus) and an impact number less than zero decreases the deficit (or increases the surplus).''.

(4) Amend paragraph (6) (as redesignated) by inserting before the period the following: '', and the term 'appropriation measure' means a general or supplemental appropriation bill or a joint resolution making continuing appropriations, but not yet enacted into law''.

(5) At the end, add the following new paragraph:

''(11) The term 'new credit authority' means credit authority not provided by law as of February 1, 1986, including any increase in or addition to credit authority provided by law on such date.''.

SEC. 15202. CONGRESSIONAL BUDGET OFFICE.

Title II of the Congressional Budget Act of 1974 is amended as follows:

(1) The first section 201(g) is amended by striking ''(g)'' and inserting ''(f)''.

(2) The side heading of section 202(f) is amended by striking ''TO BUDGET COMMITTEES''.

(3) Section 202(f)(1) is amended by striking ''On or before February 15 of each year'' and inserting ''Within 20 days after the President's budget submission''.

(4) Section 202(f) is amended by adding at the end the following new paragraphs:

''(4) As soon as practicable after the beginning of each fiscal year, the Director shall issue a report projecting for the period of 5 fiscal years beginning with such fiscal year—

''(A) total new budget authority and total budget outlays for each fiscal year in such period;

''(B) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period; and

''(C) tax expenditures for each fiscal year in such period.

''(5)(A) The Director shall, to the extent practicable, prepare for each bill or joint resolution reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

"(i) an estimate of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate;

"(ii) an estimate of the cost which would be incurred by State and local governments in carrying out or complying with any significant bill or joint resolution in the fiscal year in which it is to become effective and in each of the four fiscal years following such fiscal year, together with the basis for each such estimate; and

"(iii) a comparison of the estimates of costs described in clauses (i) and (ii), with any available estimates of costs made by such committee or by any Federal agency.

The estimates, comparison, and description so submitted shall be included in the report accompanying such bill or joint resolution if timely submitted to such committee before such report is filed.

"(B) For purposes of subparagraph (A)(ii), the term 'local government' has the same meaning as in

section 103 of the Intergovernmental Cooperation Act of 1968.

''(C) For purposes of subparagraph (A)(ii), the term 'significant bill or joint resolution' is defined as any bill or joint resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government.''.

(5) Section 202(h) is amended by striking ''budget outlays, credit authority,'' and insert ''various forms of spending programs, including grants and loans,''.

SEC. 15203. CONGRESSIONAL BUDGET PROCESS.

Title III of the Congressional Budget Act of 1974 is amended to read as follows:

''TITLE III—CONGRESSIONAL BUDGET PROCESS

''SEC. 300. TIMETABLE.

''The timetable with respect to the congressional budget process for any fiscal year is as follows:

''On or before:	Action to be completed:
First Monday in February	President submits the budget.
Six weeks after President's budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.

"On or before:	Action to be completed:
April 15	Congress completes action on concurrent resolution on the budget.
May 15	House committees report bills authorizing new budget authority.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 30	House completes action on annual appropriation bills and (if required) a reconciliation bill.
October 1	Fiscal year begins.

"SEC. 301. ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET.

"(a) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—On or before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget. The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year and for each of the 4 ensuing fiscal years, for the following—

"(1) totals of new budget authority and budget outlays;

"(2) total Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

"(3) the surplus or deficit in the budget;

"(4) new budget authority and budget outlays for each major functional category, based on alloca-

tions of the total levels set forth pursuant to paragraph (1);

"(5) the public debt;

"(6) for purposes of Senate enforcement under this title, outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and

"(7) for purposes of Senate enforcement under this title, revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act (and the related provisions of the Internal Revenue Code of 1986) for the fiscal year of the resolution and for each of the 4 succeeding fiscal years.

Except to the extent required by paragraphs (6) and (7), the concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title. Notwithstanding any other provision of law, the receipts and disbursements of the Hospital In-

surance Trust Fund shall be included in the computations required by paragraphs (1) through (5), and no separate display of Hospital Insurance Trust Fund receipts or alternative displays of budget totals excluding Hospital insurance receipts and disbursements are required to be included in any concurrent resolution on the budget.

"(b) ADDITIONAL MATTERS IN CONCURRENT RESOLUTION.—The concurrent resolution on the budget may—

"(1) set forth, if required by subsection (f), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved;

"(2) include reconciliation directives described in section 310;

"(3) set forth the appropriate level of the public debt for purposes of rule XLIX of the Rules of the House of Representatives; and

"(4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act.

"(c) CONSIDERATION OF PROCEDURES OR MATTERS WHICH HAVE THE EFFECT OF CHANGING ANY RULE OF THE HOUSE OF REPRESENTATIVES.—If the Committee

on the Budget of the House of Representatives reports any concurrent resolution on the budget which includes any procedure or matter which has the effect of changing any rule of the House of Representatives, such concurrent resolution shall then be referred to the Committee on Rules with instructions to report it within five calendar days (not counting any day on which the House is not in session). The Committee on Rules shall have jurisdiction to report any concurrent resolution referred to it under this paragraph with an amendment or amendments changing or striking out any such procedure or matter.

''(d) VIEWS AND ESTIMATES OF OTHER COMMITTEES.—Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code, each committee of the House of Representatives having legislative jurisdiction may submit to the Committee on the Budget of the House and each committee of the Senate having legislative jurisdiction may submit to the Committee on the Budget of the Senate its views and estimates (as determined by the committee making such submission) with respect to all matters set forth in subsections (a) and (b) which relate to matters within the jurisdiction or functions of such committee. The Joint Economic Committee shall submit to the Committees on the Budget of both Houses its recommendations as to the

fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House of Representatives or the Senate may submit to the Committee on the Budget of its House, and any joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsections (a) and (b) which relate to matters within its jurisdiction or functions.

"(e) HEARINGS AND REPORT.—In developing the concurrent resolution on the budget referred to in subsection (a) for each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (d) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, including its views on how the estimates of revenues and total levels of new budget authority and outlays set forth in such concurrent resolution are designed to achieve any economic goals it is rec-

ommending. The report accompanying such concurrent resolution shall include, but not be limited to—

"(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

"(2) a comparison of the appropriate levels of total budget outlays and total new budget authority as set forth in such concurrent resolution with those estimated or requested in the budget submitted by the President;

"(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and with each such division being subdivided between controllable amounts and all other amounts;

"(4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

"(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and any alternative economic

assumptions and objectives which the committee considered;

"(6) the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

"(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

"(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution; and

"(9) allocations described in sections 302(a) and 311(a).

"(f) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

"(1) If, pursuant to section 4(c) of the Employment Act of 1946, the President recommends in the Economic Report that the goals for reducing unemployment set forth in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year

in which, in the opinion of the Congress, such goals can be achieved.

"(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or in its most recent action pursuant to this paragraph, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(g) ECONOMIC ASSUMPTIONS.—

"(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

"(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

"(3) Determinations by the Committee on the Budget of the House of Representatives or the Senate, as the case may be, under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.

"(h) BUDGET COMMITTEES CONSULTATION WITH COMMITTEES.—The Committee on the Budget of the House of Representatives shall consult with the committees of its House having legislative jurisdiction during the preparation, consideration, and enforcement of the concurrent resolution on the budget with respect to all matters which relate to the jurisdiction or functions of such committees. The Committee on the Budget of the House of Representatives may not report a concurrent resolution on the budget containing the matter referred to in subsection

(b)(3) except after consultation with the Committee on Ways and Means about that matter.

"(i) SOCIAL SECURITY POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate or any amendment thereto that would decrease the excess of social security revenues over social security outlays in any of the fiscal years covered by the concurrent resolution. No change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

"SEC. 302. APPROPRIATION COMMITTEE ALLOCATIONS AND ENFORCEMENT.

"(a) COMMITTEE SPENDING ALLOCATIONS.—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 (for the budget year covered by that resolution) of total new budget authority and total outlays for the Committee on Appropriations of each House. The amounts so allocated shall be further divided between discretionary and mandatory amounts, as appropriate.

"(b) SUBDIVISIONS BY APPROPRIATIONS COMMITTEES.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House shall subdivide each amount allocated to it for the budget year under subsection (a) among its subcommittees. Each Committee on Appropriations shall promptly report to its House subdivisions made or revised under this subsection.

"(c) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any appropriation measure, or amendment thereto, or motion or conference report thereon, unless and until the Committee on Appropriations of that House reports subdivisions required by subsection (b) consistent with the most recently agreed to concurrent resolution on the budget.

"(d) SUBSEQUENT CONCURRENT RESOLUTIONS.—In the case of a concurrent resolution on the budget referred to in section 304, the allocations under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

"(e) ALTERATION OF SUBDIVISIONS.—At any time after the Committee on Appropriations of either House re-

ports the subdivisions required to be made under subsection (b), that committee may report to its House an alteration of such subdivisions. Any alteration of such subdivisions must be consistent with any actions already taken by its House on measures within that committee's jurisdiction.

"(f) LEGISLATION SUBJECT TO POINT OF ORDER.—

(1) It shall not be in order in the House of Representatives or the Senate to consider any appropriation measure or amendment thereto or motion or conference report thereon, if the new budget authority provided in that measure when added to already enacted levels of new budget authority would cause—

"(A) any allocation of new budget authority made pursuant to subsection (a) under the most recently agreed to concurrent resolution on the budget to be exceeded; or

"(B) any subdivision of new budget authority made pursuant to subsection (b) under the most recently agreed to concurrent resolution on the budget to be exceeded except for a supplemental appropriation for the current fiscal year.

"(2) An appropriation measure, amendment, or conference report shall be considered to violate paragraph (1) only if—

"(A) the enactment of such appropriation measure in the form it will be considered as original text for purposes of amendment;

"(B) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of that measure as so amended; or

"(C) the enactment of such measure in the form recommended in such conference report,

would cause such a violation.

"(g) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the levels of new budget authority shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(h) ADJUSTMENTS OF ALLOCATIONS OF DISCRETIONARY SPENDING.—

"(1) If a concurrent resolution on the budget is not adopted by April 30, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, on the first legisla-

tive day following April 30, an allocation under subsection (a) to the Committee on Appropriations 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.

''(2) As soon as practicable after an allocation under paragraph (1) is submitted to the House, the Committee on Appropriations shall make subdivisions and promptly report those subdivisions to the House of Representatives.

''(3) Allocations and subdivisions made under this subsection shall, for all purposes of this title, be deemed to be allocations and subdivisions made under subsections (a) and (b), until superseded by allocations and subdivisions made under those sections for the same fiscal year.

''SEC. 303. LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR CHANGES IN REVENUES OR THE PUBLIC DEBT LIMIT MAY ONLY DO SO FOR YEARS COVERED BY MOST RECENT BUDGET RESOLUTION.

''(a) IN GENERAL.—

''(1) It shall not be in order in the House of Representatives or the Senate to consider any bill,

joint resolution, amendment, motion, or conference report which contains a provision that—

"(A) increases new budget authority;

"(B) decreases revenues; or

"(C) increases or decreases the public debt limit,

first effective in the last fiscal year covered by the most recently agreed to concurrent resolution on the budget or any subsequent fiscal year.

"(2) A bill, joint resolution, amendment, or conference report shall be considered to violate paragraph (1) only if—

"(A) the enactment of such bill or resolution in the form it will be considered as original text for purposes of amendment;

"(B) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of the bill or joint resolution as so amended; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause such a violation.

"(b) WAIVER IN THE SENATE.—

"(1) The committee of the Senate which reports any bill or resolution (or amendment thereto) to which subsection (a) applies may at or after the time it reports such bill or resolution (or amendment), report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution (or amendment), and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

"(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees,

and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the 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. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

''(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) shall not apply with respect to the bill or resolution (or amendment thereto) to which the resolution so agreed to applies.

''SEC. 304. PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.

''The two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget most recently agreed to and which satisfies the requirements of section 301.

"SEC. 305. PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET.

"(a) PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF COMMITTEE; DEBATE.—

"(1) When the Committee on the Budget of the House of Representatives has reported any concurrent resolution on the budget, it is in order subject to clause (2)(l)(6) of rule XI of the Rules of the House of Representatives to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. A motion to resolve into the Committee of the Whole may be made even though a previous motion has been disagreed to.

"(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, and such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable.

"(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and (4)(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

"(5) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be considered for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House

of Representatives. After the Committee rises and finally reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to consider an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary solely to achieve mathematical consistency. The concurrent resolution is not divisible in the House or in the Committee of the Whole. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

''(6) Debate in the House of Representatives on a conference report on a concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(7) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

"(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

"(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that with respect to any concurrent resolution referred to in section 304(a) all such debate shall be limited to not more than 15 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the man-

ager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

''(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

''(4) Subject to the other limitations of this Act, only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to

offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

"(5) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

"(6) Notwithstanding any other rule, an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

"(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

"(1) A motion to proceed to the consideration of the conference report on any concurrent resolution on the budget (or a reconciliation bill or resolution) may be made even though a previous motion to the same effect has been disagreed to.

"(2) During the consideration in the Senate of the conference report (or a message between Houses) on any concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

"(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the

manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

"(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

"(d) CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

"(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

"(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

"SEC. 306. LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES.

"No bill, resolution, amendment, motion, or conference report dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

"SEC. 307. HOUSE COMMITTEE ACTION ON ALL APPROPRIATION BILLS TO BE COMPLETED BY JUNE 10.

"On or before June 10 of each year, the Committee on Appropriations of the House of Representatives shall report annual appropriation bills providing new budget authority under the jurisdiction of all of its subcommittees for the fiscal year which begins on October 1 of that year.

"SEC. 308. REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS.

"(a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR PROVIDING AN INCREASE OR DECREASE IN REVENUES OR TAX EXPENDITURES.—

"(1) Whenever a committee of either House reports to its House a bill or joint resolution providing new budget authority (other than continuing appropriations) or providing an increase or decrease in revenues or tax expenditures for a fiscal year (or fiscal years), the report accompanying that bill or joint resolution shall contain—

"(A) a cost statement comparing the levels in such measure as recommended by that committee to the appropriate allocations and subdivisions submitted under subsections (a) and (b) of section 302 or the appropriate allocation pursuant to section 311(a) for the most recently agreed to concurrent resolution on the budget; or

"(B) the Congressional Budget Office cost estimate required in section 202(f)(5), if timely submitted before such report is filed.

"(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any motion

printed in the joint statement of managers to dispose of such amendment on such bill or resolution provides new budget authority (other than continuing appropriations) or provides an increase or decrease in revenues for a fiscal year (or fiscal years), the statement of managers accompanying such conference report shall contain the information required by paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable.

"(b) UP-TO-DATE TABULATIONS OF CONGRESSIONAL BUDGET ACTION.—

"(1) The Director of the Congressional Budget Office shall issue to the committees of the House of Representatives and the Senate reports on at least a monthly basis detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority or providing an increase or decrease in revenues or tax expenditures for each fiscal year covered by a concurrent resolution on the budget. Such reports shall include but are not limited to an up-to-date tabulation comparing the appropriate aggregate and functional levels

(including outlays) included in the most recently adopted concurrent resolution on the budget with the levels provided in bills and resolutions reported by committees or adopted by either House or by the Congress, and with the levels provided by law for the fiscal year preceding the first fiscal year covered by the appropriate concurrent resolution.

"(2) The Committee on the Budget of each House shall make available to Members of its House summary budget scorekeeping reports. Such reports—

"(A) shall be made available on at least a monthly basis, but in any case frequently enough to provide Members of each House an accurate representation of the current status of congressional consideration of revenue and spending measures;

"(B) shall include, but are not limited to summaries of tabulations provided under subsection (b)(1); and

"(C) shall be based on information provided under subsection (b)(1) without substantive revision.

The chairman of the Committee on the Budget of the House of Representatives shall submit such re-

ports to the Speaker and such reports shall be printed in the Congressional Record.

"SEC. 309. HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS.

"In order that all annual appropriation bills may be considered and approved by the House of Representatives by June 30, bills authorizing budget authority contained in those appropriation bills should be reported to the House of Representatives by May 15.

"SEC. 310. RECONCILIATION.

"(a) INCLUSION OF RECONCILIATION DIRECTIVES IN CONCURRENT RESOLUTIONS ON THE BUDGET.—A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provisions and requirements of such resolution, shall—

"(1) specify the total amount by which direct spending contained in laws within the jurisdiction of a committee is to be increased or decreased and direct that committee to determine and recommend changes to accomplish a change of such total amount;

"(2) specify the total amount by which revenues are to be increased or decreased and direct that the committees having jurisdiction to determine and rec-

ommend changes in the revenue laws to accomplish a change of such total amount;

"(3) specify the amounts by which the statutory limit on the public debt is to be increased or decreased and direct the committee having jurisdiction to recommend such change; or

"(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3) (including a direction to achieve deficit reduction).

"(b) LEGISLATIVE PROCEDURE.—If a concurrent resolution containing directives to one or more committees to determine and recommend changes in laws is agreed to in accordance with subsection (a) and—

"(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House reconciliation measure containing such recommendations; or

"(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations and submit such recommendations to the Committee on the Budget of its House, which

upon receiving all such recommendations, shall report to its House a reconciliation measure carrying out all such recommendations without any substantive revision.

"(c) AMENDMENTS TO RECONCILIATION BILLS.—

"(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill if such amendment would have the effect of increasing direct spending above the level of such direct spending provided in the bill (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget), or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill (for such fiscal years), unless such amendment makes at least an equivalent reduction in other direct spending, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years). A motion to strike a provision providing new budget authority may be in order.

"(2) It shall not be in order in the Senate to consider any amendment to a reconciliation bill if such amendment would have the effect of decreasing any direct spending reductions below the level of

such direct spending reductions provided (for the fiscal years covered) in the reconciliation instructions which relate to such bill set forth in a resolution providing for reconciliation, or would have the effect of reducing Federal revenue increases below the level of such revenue increases provided (for such fiscal years) in such instructions relating to such bill, unless such amendment makes a reduction in other direct spending, an increase in other specific Federal revenues, or a combination thereof (for such fiscal years) at least equivalent to any increase in direct spending or decrease in revenues provided by such amendment, except that a motion to strike a provision shall always be in order.

''(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.

''(4) For purposes of this section, the levels of direct spending and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of either House, as the case may be.

''(5) If a committee or committees of the House fail to meet its directive in recommended changes it has submitted to its Committee on the Budget pursuant to its instruction, the Committee on Rules of

the House of Representatives may recommend that the House make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget.

"(d) PROCEDURE IN THE SENATE.—

"(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (b) and conference reports thereon.

"(2) Debate in the Senate on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

"(e) LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill reported pursuant to a concurrent resolution on the budget agreed to under section 301 or 304, or any amendment thereto or conference report thereon, that contains recommendations to reduce benefits under the old-age, survi-

vors, and disability insurance program established under title II of the Social Security Act.

"SEC. 311. DIRECT SPENDING AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS.

"(a) COMMITTEE ALLOCATIONS.—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 deficit impact number (or surplus impact number) for the budget year and a total for all fiscal years covered by that resolution for each committee of each House of Congress, except for the Committees on Appropriations. Any item assumed in an allocation to one committee may not be assumed in an allocation to another committee of the same House.

"(b) DISPLAY ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution may include an allocation for display purposes only, consistent with the resolution recommended in the conference report, of the total amount of direct spending and revenue under existing law within the jurisdiction of each committee.

"(c) LEGISLATION SUBJECT TO POINT OF ORDER.—

"(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or

joint resolution or amendment increasing the deficit (or lowering the surplus) in any fiscal year covered by the most recently agreed to concurrent resolution on the budget, or any motion or conference report on any such bill or joint resolution, if it would produce a higher deficit (or lower surplus) than an appropriate impact number allocated pursuant to subsection (a).

"(2) A bill, joint resolution, amendment, or conference report shall be considered to exceed an appropriate impact number only if—

"(A) the enactment of such bill or resolution in the form it will be considered as original text for purposes of amendment;

"(B) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of the bill or joint resolution as so amended; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause an appropriate impact number allocated pursuant to subsection (a) to be exceeded.

"(d) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, impact numbers shall be determined on the basis of estimates made by the Committee on the Budget of either House, as the case may be.

"SEC. 312. EFFECTS OF POINTS OF ORDER.

"(a) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if the Senate had disagreed to the amendment.

"(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.

"SEC. 313. EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION.

"(a) IN GENERAL.—When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to section 310 (whether that bill or resolution originated in the Senate or the House) or section 258C of the Bal-

anced Budget and Emergency Deficit Control Act of 1985, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (b) shall be deemed stricken from the bill and may not be offered as an amendment from the floor.

''(b) EXTRANEOUS PROVISIONS.—

''(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 310 shall be considered extraneous if such provision does not produce a change in outlays or revenue, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected (but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph); (B) any provision producing an increase in outlays or decrease in reve-

nues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions; (C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous; (D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision; (E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year; and (F) a provision shall be considered extraneous if it violates section 310(e).

"(2) A Senate-originated provision shall not be considered extraneous under paragraph (1)(A) if the Chairman and Ranking Minority Member of the Committee on the Budget and the Chairman and Ranking Minority Member of the Committee which

reported the provision certify that: (A) the provision mitigates direct effects clearly attributable to a provision changing outlays or revenue and both provisions together produce a net reduction in the deficit; (B) the provision will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution; (C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; or (D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

"(3) A provision reported by a committee shall not be considered extraneous under paragraph (1)(C) if (A) the provision is an integral part of a provision or title, which if introduced as a bill or res-

olution would be referred to such committee, and the provision sets forth the procedure to carry out or implement the substantive provisions that were reported and which fall within the jurisdiction of such committee; or (B) the provision states an exception to, or a special application of, the general provision or title of which it is a part and such general provision or title if introduced as a bill or resolution would be referred to such committee.

''(c) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

''(d) CONSIDERATION OF CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 310, upon—

"(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F), and

"(2) such point of order being sustained,

such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for two hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

"(e) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the

provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(f) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

SEC. 15204. CONTROL OF BACKDOOR SPENDING.

Title IV of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE IV—CONTROL OF BACKDOOR SPENDING

"SEC. 401. BILLS PROVIDING NEW SPENDING AUTHORITY.

"(a) CONTROLS ON LEGISLATION PROVIDING SPENDING AUTHORITY.—

"(1) It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report which provides contract or borrowing authority, unless that bill, resolution, conference report, or amendment also provides that such contract or borrowing authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(2) A bill, joint resolution, amendment, or conference report shall be considered to violate paragraph (1) only if—

"(A) the enactment of such bill or resolution in the form it will be considered as original text for purposes of amendment;

"(B) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amend-

ment and enactment of the bill or joint resolution as so amended; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause such a violation.

"(b) EXCEPTIONS.—

"(1) Subsection (a) shall not apply to contract or borrowing authority if that authority is derived—

"(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act); or

"(B) from any other trust fund, 90 percent or more of the noninterest receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

"(2) Subsection (a) shall not apply to contract or borrowing authority to the extent that—

"(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-

ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act, as of the date of enactment of the Budget Enforcement Act of 1993; or

"(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

"SEC. 402. LEGISLATION PROVIDING NEW CREDIT AUTHORITY.

"(a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report which provides new credit authority, unless that bill, resolution, conference report, or amendment also provides that such new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts in accordance with section 504.

"(b) APPLICABILITY.—A bill, joint resolution, amendment, or conference report shall be considered to violate subsection (a) only if—

"(1) the enactment of such bill or resolution in the form it will be considered as original text for purposes of amendment;

"(2) the amendment is not an amendment considered as original text for purposes of amendment and the adoption of such amendment and enactment of the bill or joint resolution as so amended; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause such a violation.

"SEC. 403. OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES.

"(a) Notwithstanding any other provision of law, budget authority, credit authority, and estimates of outlays and receipts for activities of the Federal budget which are off-budget immediately prior to the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985, not including activities of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds and the United States Postal Service, shall be included in a budget submitted pursuant to section 1105 of title 31, United States Code, and in a con-

current resolution on the budget reported pursuant to section 301 or section 304 of this Act and shall be considered, for purposes of this Act, budget authority, outlays, and spending authority in accordance with definitions set forth in this Act.

''(b) All receipts and disbursements of the Federal Financing Bank with respect to any obligations which are issued, sold, or guaranteed by a Federal agency shall be treated as a means of financing such agency for purposes of section 1105 of title 31, United States Code, and for purposes of this Act.

''(c) Notwithstanding any other provision of law, receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.''.

SEC. 15205. TITLE V OF THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) SECTION 502.—Section 502 of the Congressional Budget Act of 1974 is amended—

(1) in paragraph (5)(A), by inserting ''or a modification thereof'' after ''loan guarantee'';

(2) in paragraph (5)(B), by striking ''recoveries.'' and inserting the following: ''recoveries, and routine work-outs of troubled loans or loans in imminent danger of default when those work-outs are to

maximize repayments to the Government; and shall include anticipated changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.''; (3) in paragraph (5)(C), by striking '', and '' at the end of clause (i), by striking the period at the end of clause (ii) and inserting ''; and'' and by inserting at the end the following:

''(iii) routine work-outs of troubled loans or loans in imminent danger of default when those work-outs are to minimize claims against the Government; and shall include anticipated changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.'';

(4) by striking subparagraph (D) and inserting the following new subparagraph:

''(D) The cost of modification of a direct loan, a direct loan obligation, a loan guarantee, or a loan guarantee commitment shall be the net present value, at the time of the modification, of the change in cash flows estimated to occur as a result of that modification.'';

(5) in paragraph (8), is amended by inserting at the end the following new sentence: ''Transactions

between any financing account and any liquidating account shall be considered non-budgetary.''; and

(6) by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following:

''(9) The term 'modification' means any Government action resulting from new legislation or from the exercise of administrative options under existing law that directly or indirectly alters the expected cash flows associated with an outstanding direct loan, direct loan obligation, loan guarantee, or loan guarantee commitment. Modifications include the sale (with or without recourse) of loan assets held by the Government and the purchase by the Government of guaranteed loans. Modifications do not include amounts for routine work-outs of troubled loans or loans in imminent danger of default, or changes in loan terms from the exercise by the borrower of an option included in the loan contract.''

(b) SECTION 504.—Section 504 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (b)(1), by striking ''appropriations of'' and inserting ''new'', by striking ''are made'' and inserting ''is provided'', and by inserting ''in appropriation Acts'' before the semicolon;

(2) in subsection (b)(2), by striking ''enacted'' and inserting ''provided in an appropriation Act'';

(3) in subsection (d)(1), by striking ''costs of outstanding direct loans and loan guarantees'' and inserting ''costs of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments)''; and

(4) in subsection (e), by striking ''A direct loan obligation or loan guarantee commitment'' and inserting ''An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment)'', by inserting ''new'' before ''budget authority'', by striking the comma after ''appropriated'', and by striking ''or from other budgetary resources''.

(c) SECTION 505.—Section 505 of the Congressional Budget Act of 1974 is amended—

(1) in the side heading of subsection (b), by inserting ''AND LIQUIDATING'' before ''ACCOUNTS'';

(2) in subsection (c), by inserting at the end of the second sentence, before the period, the following: '', except that the rate of interest charged by the secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (the Bank) pursuant to

section 403(b) of the Congressional Budget Act of 1974) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 403(b) of the Congressional Budget Act of 1974, any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5) of this Act. All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g).'';

(3) at the end of subsection (c), by inserting the following: ''This subsection shall apply to trans-

actions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.''; and

(4) in subsection (d), by striking ''If funds in liquidating accounts are insufficient to satisfy the obligations and commitments of said accounts, there'' and inserting ''There'' and by striking ''such obligations and commitments'' and inserting ''the obligations and commitments of liquidating accounts''.

(d) SECTION 506.—Section 506 of the Congressional Budget Act of 1974 is repealed.

(e) SECTION 507.—Section 507 of the Congressional Budget Act of 1974 is redesignated as section 506 and is amended to read as follows:

''SEC. 506. EFFECT ON OTHER LAWS.

''(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title, except that nothing in this title shall be construed (1) to alter the terms or conditions authorized to be included in loan or guarantee contracts or the rights and responsibilities of the Government and the recipients of loans or guarantees under those contracts or the laws that authorize them, or

(2) to establish a credit limitation on any Federal loan or loan guarantee program.

"(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Periodically and as appropriate, amounts so credited shall be transferred to the Federal Financing Bank to repay those debt obligations held by the Bank that were created to finance the loan being repaid, and all amounts not transferred to the Bank shall be transferred to the general fund of the Treasury. All intragovernmental debt owed to the Treasury by Federal agencies (but not by the public) as a result of loans or guarantees made before October 1, 1991, is hereby canceled and all prepayment penalties are waived. The provisions of this subsection shall not diminish any rights or responsibilities guaranteed by subsection (a).".

SEC. 15206. DISCRETIONARY SPENDING LIMITS.

Title VI of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VI—DISCRETIONARY SPENDING LIMITS

"SEC. 601. DISCRETIONARY SPENDING LIMITS.

"As used in this title and for purposes of the Budget Enforcement Act of 1993, discretionary spending limits,

measured in terms of new budget authority and outlays, are as follows:

Fiscal Year	Limits (in millions of dollars)	
	New budget authority	Outlays
1994	500,964	538,688
1995	506,287	541,137
1996	519,142	547,263
1997	528,079	547,346
1998	530,639	547,870

"SEC. 602. EFFECT OF ADJUSTMENTS ON CONSIDERATION OF CERTAIN LEGISLATION IN EITHER HOUSE OF CONGRESS.

''For purposes of congressional consideration of legislation containing any provision subject to any of paragraphs (3) through (7) of section 251(b) or to section 252(a)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985, determinations under titles III and IV shall not take into account any new budget authority, outlays, receipts, or deficit effects in any fiscal year of that provision.''.

SEC. 15207. CONTINUING STUDY OF BUDGET REFORM PROPOSALS.

Title VII of the Congressional Budget Act of 1974 is amended by repealing sections 701 and 702 and by redesignating section 703 as section 701.

SEC. 15208. SOCIAL SECURITY PROTECTION.

(a) REDESIGNATIONS.—Sections 13301(a) and 13302 of the Budget Enforcement Act of 1990 are redesignated as sections 801 and 802 of the Congressional Budget Act of 1974.

(b) CHANGE OF TITLE VIII'S HEADING.—The heading of title VIII of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VIII—SOCIAL SECURITY PROTECTION".

SEC. 15209. RULEMAKING POWER.

(a) SECTION 904.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "V, and VI (except section 601(a))" and inserting "V, and VIII" and by striking "701, 703," and inserting "602, 703,".

SEC. 15210. CONFORMING AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) TITLE III.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to title III and inserting the following new items:

"TITLE III—CONGRESSIONAL BUDGET PROCESS

"Sec. 300. Timetable.
"Sec. 301. Annual adoption of concurrent resolution on the budget.
"Sec. 302. Appropriation committee allocations and enforcement.
"Sec. 303. Legislation providing new budget authority or changes in revenues or the public debt limit may only do so for years covered by most recent budget resolution.

"Sec. 304. Permissible revisions of concurrent resolutions on the budget.
"Sec. 305. Provisions relating to the consideration of concurrent resolutions on the budget.
"Sec. 306. Legislation dealing with congressional budget must be handled by budget committees.
"Sec. 307. House committee action on all appropriation bills to be completed by June 10.
"Sec. 308. Reports, summaries, and projections of congressional budget actions.
"Sec. 309. House approval of regular appropriation bills.
"Sec. 310. Reconciliation.
"Sec. 311. Direct spending and revenue legislation must be within appropriate levels.
"Sec. 312. Effects of points of order.
"Sec. 313. Extraneous matter in reconciliation legislation.

1 (b) TITLE IV.—Section 1(b) of the Congressional
2 Budget and Impoundment Control Act of 1974 is amend-
3 ed by striking the items relating to title IV and inserting
4 the following new items:

"TITLE IV—CONTROL OF BACKDOOR SPENDING

"Sec. 401. Bills providing new spending authority.
"Sec. 402. Legislation providing new credit authority.
"Sec. 403. Off-budget agencies, programs, and activities.

5 (c) TITLE VI.—Section 1(b) of the Congressional
6 Budget and Impoundment Control Act of 1974 is amend-
7 ed by striking the items relating to title VI and inserting
8 the following new items:

"TITLE VI—DISCRETIONARY SPENDING LIMITS

"Sec. 601. Discretionary spending limits.
"Sec. 602. Effect of adjustments on consideration of certain legislation in either House of Congress.

9 (d) TITLE VIII.—Section 1(b) of the Congressional
10 Budget and Impoundment Control Act of 1974 is amend-
11 ed by striking the items relating to title VIII and inserting
12 the following new items:

"TITLE VIII—SOCIAL SECURITY PROTECTION

''Sec. 801. Off-budget status of OASDI trust funds.
''Sec. 802. Protection of OASDI trust funds in the House of Representatives.

SEC. 15211. CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.

The Rules of the House of Representatives are amended as follows:

(1) The first sentence of clause 4(g) of rule X is amended by striking ''February 25 of each year'' and inserting ''six weeks after the President's budget submission''.

(2) Clause 2(l)(3)(B) of rule XI is amended by striking ''section 308(a)(1)'' and inserting ''section 308(a)(1)(A)''.

(3) The first sentence of clause 2(l)(6) of rule XI is amended by striking '', or as provided by section 305(a)(1) of the Congressional Budget Act of 1974 in the case of a concurrent resolution on the budget''.

(4) Rule XI is amended by adding at the end the following new clause:

''Amendments may not increase deficit

''7. Before any amendments are offered to a measure under consideration by a standing committee or when a standing committee is adopting written rules governing its procedures, the chairman may entertain a motion requiring that any amendment to a measure or matter before

the committee not have the effect of increasing any direct spending above the level of such direct spending provided in such measure or matter or have the effect of reducing any revenues below the level of such revenues provided in the measure or matter, unless such amendment makes at least an equivalent reduction in other direct spending, an equivalent increase in other revenues, or an equivalent combination thereof. A majority of the members of the committee shall be present to adopt such a motion.''.

(5) Clause 8 of rule XXIII is amended to read as follows:

''8. At the conclusion of general debate in a Committee of the Whole on a concurrent resolution on the budget within the meaning of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as read for amendment. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or an amendment to an amendment, unless the concurrent resolution as amended by such amendment or amendments (1) would be mathematically consistent (subject to the third sentence of this clause); and (2) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974. It shall not be in order in the House or in a Committee of the Whole to

consider an amendment to such a concurrent resolution on the budget, or an amendment to an amendment, that would change the amount set forth as the appropriate level of the public debt, except that an amendment to achieve mathematical consistency as permitted under section 305(a)(5) of the Congressional Budget Act of 1974, if offered at the direction of the Committee on the Budget, may include an appropriate adjustment of that amount to reflect any changes made in other amounts in the resolution.''.

(6) Rule XLIX is amended—

(A) in clause 2, by striking ''a limitation'' and inserting ''an amount''; by striking ''301(a)(5)'' and inserting ''301(b)(3)''; and by striking ''; and, if'' and all that follows through the period and inserting a period;

(B) in clause 3, by striking ''clause 1'' and inserting ''clause 1)''; and

(C) in clause 4, by striking ''clause 1'' and inserting ''clause 1)''.

SEC. 15212. EFFECTIVE DATE.

The amendments made by this subtitle shall be effective upon enactment for fiscal year 1994 and subsequent fiscal years.

Subtitle C—Deficit Reduction Trust Fund

SEC. 15301. DEFICIT REDUCTION TRUST FUND.

(a) A trust fund known as the ''Deficit Reduction Trust Fund'' (the ''Fund'') shall be established for the purposes of guaranteeing that the net deficit reduction required by the Omnibus Budget Reconciliation Act of 1993 is fully achieved.

(b) The Fund shall consist only of amounts equal to the net deficit reduction, calculated pursuant to the procedures set forth in subsection (c), that is estimated to result from the Omnibus Budget Reconciliation Act of 1993. Such amounts shall be transferred to the Fund as specified in subsection (c).

(c) Within 10 days of enactment of the Omnibus Budget Reconciliation Act of 1993—

(1) the Director of the Office of Management and Budget shall determine the sum of the net deficit reduction that results from the enactment of the Omnibus Budget Deficit Reduction Act of 1993; and

(2) there shall be transferred from the general fund to the Fund an amount equal to the sum determined in paragraph (1).

(d) Notwithstanding any other provision of law, the amounts in the Fund shall not be available, in any fiscal

year, for appropriation, obligation, expenditure, or transfer, but may be used exclusively to redeem securities previously issued by the Treasury of the United States when they mature.

(e) Amounts in the Fund, as determined by the Director of the Office of Management and Budget, that result from the net total of direct spending and receipts provisions calculated according to the provisions of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (the ''Act''), shall be excluded from, and shall not be counted for purposes of, the totals under section 252 and sections 254(d)(3) and 254(g)(3) of the Act.

(f) Establishment of and transfers to the Fund as authorized by this section shall not affect trust fund transfers that may be authorized or required by provisions of the Omnibus Reconciliation Act of 1993 other than this section.

(g) Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

''(27) information about, and a separate statement of amounts in, and Federal debt redeemed by, the Deficit Reduction Trust Fund.''.

TITLE XVI—BUDGET CONTROL

SEC. 16001. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Budget Control Act of 1993''.

(b) PURPOSE.—The purpose of this title is to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC. 16002. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1994 through 1997 shall equal total outlays for all direct spending except net interest and deposit insurance as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the ''Director'') under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) Not later than 30 days after the date of enactment of this Act, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1994 through 1997.

(2) The Director's projections shall be based on legislation enacted as of 5 days before the report is

submitted under paragraph (1). To the extent feasible, the Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1994 (H.Con.Res. 64).

(c) ADJUSTMENTS.—Direct spending targets shall be subsequently adjusted by the Director under section 16006.

SEC. 16003. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include (1) information supporting the adjustment of direct spending targets pursuant to section 16006, (2) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years, and (3) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this Act.

SEC. 16004. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—In the event that the information submitted by the President under section 16003 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target, or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—

(1) The special direct spending message shall include:

(A) An explanation of any adjustments to the direct spending targets pursuant to section 16006.

(B) An analysis of the variance in direct spending over the adjusted direct spending targets.

(C) The President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to reduce outlays, increase revenues, or both, in order to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to reduce outlays, increase revenues, or both, in order to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(3) Any proposed legislative change under paragraph (2) to reduce outlays may include reductions

in direct spending or in the discretionary spending limits under section 601 of the Congressional Budget Act of 1974.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—

(1) PRESIDENT'S RECOMMENDATIONS TO BE SUBMITTED AS DRAFT RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

(2) RESOLUTION TO BE INTRODUCED IN HOUSE.—Within 10 days after the President's special direct spending message is submitted, the text required by paragraph (1) shall be introduced as a

concurrent resolution in the House of Representatives by the chairman of the Committee on the Budget of the House of Representatives without substantive revision. If the chairman fails to do so, after the tenth day the resolution may be introduced by any Member of the House of Representatives. A concurrent resolution introduced under this paragraph shall be referred to the Committee on the Budget.

SEC. 16005. REQUIRED RESPONSE BY CONGRESS.

(a) REQUIREMENT FOR SPECIAL DIRECT SPENDING RESOLUTION.—Whenever the President submits a special direct spending message under section 16004, the Committee on the Budget of the House of Representatives shall report, not later than April 15, the concurrent resolution on the budget and include in it a separate title that meets the requirements of subsections (b) and (c).

(b) CONTENTS OF SEPARATE TITLE.—The separate title of the concurrent resolution on the budget shall contain reconciliation directives to the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts (which in total equal or exceed the reductions recommended by the President, up to the amount of the overage). If this separate title recommends that no legisla-

tive changes be made to recoup or eliminate an overage, then a statement to that effect shall be set forth in that title.

(c) REQUIREMENT FOR SEPARATE VOTE TO INCREASE TARGETS.—If the separate title of a concurrent resolution on the budget proposes to recoup or eliminate less than the entire overage for the prior, current, and budget years, then the Committee on the Budget of the House of Representatives shall report a resolution directing the Committee on Government Operations to report legislation increasing the direct spending targets for each applicable year by the full amount of the overage not recouped or eliminated. It shall not be in order in the House of Representatives to consider that concurrent resolution on the budget until the House of Representatives has agreed to the resolution directing the increase in direct spending targets.

(d) CONFERENCE REPORTS MUST FULLY ADDRESS OVERAGE.—It shall not be in order in the House of Representatives to consider a conference report on a concurrent resolution on the budget unless that conference report fully addresses the entirety of any overage contained in the applicable report of the President under section 16004 through reconciliation directives requiring spending reduc-

tions, revenue increases, or changes in the direct spending targets.

(e) PROCEDURE IF HOUSE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF HOUSE BUDGET COMMITTEE.—If a special direct spending resolution is required and the Committee on the Budget of the House of Representatives fails to report a resolution meeting the requirements of subsections (b) and (c) by April 15, then the committee shall be automatically discharged from further consideration of the concurrent resolution reflecting the President's recommendations introduced pursuant to section 16004(c)(2) and the concurrent resolution shall be placed on the appropriate calendar.

(2) CONSIDERATION BY HOUSE.—Ten days after the Committee on the Budget of the House of Representatives has been discharged under paragraph (1), any Member may move that the House proceed to consider the resolution. Such motion shall be highly privileged and not debatable.

(f) APPLICATION OF CONGRESSIONAL BUDGET ACT.—To the extent that they are relevant and not inconsistent with this title, the provisions of title III of the Congressional Budget Act of 1974 shall apply in the House

of Representatives and the Senate to special direct spending resolutions, resolutions increasing targets under subsection (c), and reconciliation legislation reported pursuant to directives contained in those resolutions.

SEC. 16006. ADJUSTMENTS TO DIRECT SPENDING TARGETS.

(a) REQUIRED ANNUAL ADJUSTMENTS.—Prior to the submission of the President's budget for each of fiscal years 1995 through 1997, the Director shall adjust the direct spending targets in accordance with this section. Any such adjustments shall be reflected in the targets used in the President's report under section 16003 and message (if any) under section 16004.

(b) ADJUSTMENT FOR INCREASES IN BENEFICIARIES.—

(1) The Director shall adjust the direct spending targets for increases (if any) in actual or projected numbers of beneficiaries under direct spending programs for which the number of beneficiaries is a variable in determining costs.

(2) The adjustment shall be made by —

(A) computing, for each program under paragraph (1), the percentage change between (i) the annual average number of beneficiaries under that program (including actual numbers of beneficiaries for the prior fiscal year and pro-

jections for the budget and subsequent fiscal years) to be used in the President's budget with which the adjustments will be submitted, and (ii) the annual average number of beneficiaries used in the adjustments made by the Director in the previous year (or, in the case of adjustments made in 1994, the annual average number of beneficiaries used in the Director's initial report under section 16002(b));

(B) applying the percentages computed under subparagraph (A) to the projected levels of outlays for each program consistent with the direct spending targets in effect immediately prior to the adjustment; and

(C) adding the results of the calculations required by subparagraph (B) to the direct spending targets in effect immediately prior to the adjustment.

(3) No adjustment shall be made for any program for a fiscal year in which the percentage increase computed under paragraph (2)(A) is less than or equal to zero.

(c) ADJUSTMENTS FOR REVENUE LEGISLATION.—

(1) The Director shall adjust the targets as follows—

(A) they shall be increased by the amount of any increase in receipts; or

(B) they shall be decreased by the amount of any decrease in receipts,

resulting from receipts legislation enacted after the date of enactment of this title, except legislation enacted under section 16005.

(d) ADJUSTMENTS TO REFLECT CONGRESSIONAL DECISIONS.—Upon enactment of a reconciliation bill pursuant to instructions under section 16005, the Director shall adjust direct spending targets for the current year, the budget year, and each outyear through 1997 by—

(1) increasing the target for the current year and the budget year by the amount stated for that year in that reconciliation bill (but if a separate vote was required by section 16005(c), only if that vote has occurred); and

(2) decreasing the target for the current, budget, and outyears through 1997 by the amount of reductions in direct spending enacted in that reconciliation bill.

(e) DESIGNATED EMERGENCIES.—The Director shall adjust the targets to reflect the costs of legislation that is designated as an emergency by Congress and the Presi-

dent under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 16007. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section 16005 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 16008. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections 16004 and 16005 shall not apply.

SEC. 16009. CONSIDERATION OF APPROPRIATION BILLS.

(a) POINT OF ORDER.—It shall not be in order in the House of Representatives to consider any general appropriation bill if the President has submitted a direct spending message under section 16004 until Congress has adopted a concurrent resolution on the budget for the budget year that meets the requirements of section 16005.

(b) WAIVER.—The point of order established by subsection (a) may only be waived for all general appropriation bills for that budget year through the adoption of one resolution waiving that point of order.

SEC. 16010. MEANS-TESTED PROGRAMS.

In making recommendations under sections 16004 and 16005, the President and the Congress should seriously consider all other alternatives before proposing reductions in means-tested programs.

SEC. 16011. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1994 through 1997 and shall expire at the end of fiscal year 1997.

Passed the House of Representatives May 27, 1993.

Attest

Clerk.

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