

**Calendar No. 88**

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.

JUNE 10, 1993

Read the second time and placed on the calendar

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103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R. 2264**

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IN THE SENATE OF THE UNITED STATES

JUNE 7, 1993

Received

JUNE 8 (legislative day, JUNE 7), 1993

Read the first time

JUNE 10, 1993

Read the second time and placed on the calendar

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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.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Omnibus Budget Rec-  
5       conciliation Act of 1993”.

6       **SEC. 2. TABLE OF CONTENTS.**

7       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

1           **TITLE I—COMMITTEE ON**  
2                           **AGRICULTURE**

3   **SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.**

4           (a) SHORT TITLE.—This title may be cited as the  
5   “Agricultural Reconciliation Act of 1993”.

6           (b) TABLE OF CONTENTS.—The table of contents of  
7   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.

## 1     **Subtitle A—Commodity Programs**

### 2     **SEC. 1101. WHEAT PROGRAM.**

3         (a) FIVE PERCENT REDUCTION IN PAYMENT  
4 ACRES.—

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

9             (2) APPLICATION OF AMENDMENT.—The  
10 amendment made by paragraph (1) shall apply be-  
11 ginning with the 1994 crop of wheat.

12         (b) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
13 TIES IN CROP YEARS AFTER 1995.—

1           (1) AGRICULTURAL ACT OF 1949.—Section  
2       107B of the Agricultural Act of 1949 (7 U.S.C.  
3       1445b–3a) is further amended—

4           (A) in the section heading, by striking  
5       “**1995**” and inserting “**1998**”;

6           (B) in subsections (a)(1), (a)(4)(C), (b)(1),  
7       (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(3)(A),  
8       (e)(3)(C)(iii), (f)(1), and (q), by striking  
9       “1995” each place it appears and inserting  
10      “1998”;

11          (C) in the heading of subsection  
12      (c)(1)(B)(ii), by striking “AND 1995” and insert-  
13      ing “THROUGH 1998”;

14          (D) in subsection (c)(1)(B)(ii), by striking  
15      “and 1995” and inserting “through 1998”; and

16          (E) in the heading of subsection (e)(1)(G),  
17      by striking “1995” and inserting “1998”; and

18          (F) in subsection (g)(1), by striking “and  
19      1995” and inserting “through 1998”.

20       (2) FOOD, AGRICULTURE, CONSERVATION, AND  
21      TRADE ACT OF 1990.—Title III of the Food, Agri-  
22      culture, Conservation, and Trade Act of 1990 (Pub-  
23      lic Law 101–624; 104 Stat. 3382) is amended—

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

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

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

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

10 (i) in the section heading, by striking  
 11 “**1995**” and inserting “**1998**”; and

12 (ii) by striking “1995” and inserting  
 13 “1998”.

14 (3) FOOD SECURITY WHEAT RESERVE.—Section  
 15 302(i) of the Food Security Wheat Reserve Act of  
 16 1980 (7 U.S.C. 1736f–1(i)) is amended by striking  
 17 “1995” both places it appears and inserting “1998”.

18 **SEC. 1102. FEED GRAIN PROGRAM.**

19 (a) FIVE PERCENT REDUCTION IN PAYMENT  
 20 ACRES.—

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

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

4       (b) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
 5       TIES IN CROP YEARS AFTER 1995.—

6           (1) AGRICULTURAL ACT OF 1949.—Section  
 7       105B of the Agricultural Act of 1949 (7 U.S.C.  
 8       1444f) is further amended—

9           (A) in the section heading, by striking  
 10       “**1995**” and inserting “**1998**”;

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

17          (C) in the heading of subsection  
 18       (c)(1)(B)(ii), by striking “AND 1995” and insert-  
 19       ing “THROUGH 1998”;

20          (D) in subsection (c)(1)(B)(ii), by striking  
 21       “and 1995” and inserting “through 1998”;

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



1 (F) in subsection (g)(1), by striking “and  
2 1995” and inserting “through 1998”.

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

7 (A) in the section heading, by striking  
8 “1995” and inserting “1998”; and

9 (B) by striking “1995” and inserting  
10 “1998”.

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

15 **SEC. 1103. UPLAND COTTON PROGRAM.**

16 (a) FIVE PERCENT REDUCTION IN PAYMENT  
17 ACRES.—

18 (1) REDUCTION.—Subsection (c)(1)(C)(ii) of  
19 section 103B of the Agricultural Act of 1949 (7  
20 U.S.C. 1444–2) is amended by striking “85 per-  
21 cent” and inserting “80 percent”.

22 (2) APPLICATION OF AMENDMENT.—The  
23 amendment made by paragraph (1) shall apply be-  
24 ginning with the 1994 crop of upland cotton.

1 (b) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
2 TIES IN CROP YEARS AFTER 1995.—

3 (1) AGRICULTURAL ACT OF 1949.—(A) Section  
4 103(h)(16) of the Agricultural Act of 1949 (7  
5 U.S.C. 1444(h)(16)) is amended by striking “1996”  
6 and inserting “1999”.

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

9 (i) in the section heading, by striking  
10 “**1995**” and inserting “**1998**”;

11 (ii) in subsections (a)(1), (b)(1), (c)(1)(A),  
12 (c)(1)(B)(ii), (e)(3)(A), (f)(1), and (o), by strik-  
13 ing “1995” each place it appears and inserting  
14 “1998”; and

15 (iii) in subparagraphs (B)(i), (D)(i),  
16 (E)(i), and (F)(i) of subsection (a)(5), by strik-  
17 ing “1996” each place it appears and inserting  
18 “1999”.

19 (C) Section 203(b) of such Act (7 U.S.C.  
20 1446d(b)) is amended by striking “1995” and in-  
21 serting “1998”.

22 (2) AGRICULTURAL ADJUSTMENT ACT OF  
23 1938.—Section 374(a) of the Agricultural Adjust-  
24 ment Act of 1938 (7 U.S.C. 1374(a)) is amended by

1 striking “1995” each place it appears and inserting  
2 “1998”.

3 (3) FOOD, AGRICULTURE, CONSERVATION, AND  
4 TRADE ACT OF 1990.—Title V of the Food, Agri-  
5 culture, Conservation, and Trade Act of 1990 (Pub-  
6 lic Law 101–624; 104 Stat. 3421) is amended—

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

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

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

12 (i) in the section heading, by striking  
13 “**1996**” and inserting “**1999**”; and

14 (ii) by striking “1996” and inserting  
15 “1999”.

16 **SEC. 1104. RICE PROGRAM.**

17 (a) FIVE PERCENT REDUCTION IN PAYMENT  
18 ACRES.—

19 (1) REDUCTION.—Subsection (c)(1)(C)(ii) of  
20 section 101B of the Agricultural Act of 1949 (7  
21 U.S.C. 1441–2) is amended by striking “85 per-  
22 cent” and inserting “80 percent”.

23 (2) APPLICATION OF AMENDMENT.—The  
24 amendment made by paragraph (1) shall apply be-  
25 ginning with the 1994 crop of rice.

1 (b) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
 2 TIES IN CROP YEARS AFTER 1995.—Such section is fur-  
 3 ther amended—

4 (1) in the section heading, by striking “**1995**”  
 5 and inserting “**1998**”;

6 (2) in subsections (a)(1), (a)(3), (b)(1),  
 7 (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n),  
 8 by striking “1995” each place it appears and insert-  
 9 ing “1998”;

10 (3) in subsection (a)(5)(D)(i), by striking  
 11 “1996” and inserting “1999”;

12 (4) in the heading of subsection (c)(1)(B)(ii),  
 13 by striking “AND 1995” and inserting “THROUGH  
 14 1998”; and

15 (5) in subsection (c)(1)(B)(ii), by striking “and  
 16 1995” and inserting “through 1998”.

17 **SEC. 1105. DAIRY PROGRAM.**

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

20 (1) IN GENERAL.—Subsection (c)(3) of section  
 21 204 of the Agricultural Act of 1949 (7 U.S.C.  
 22 1446e) is amended—

23 (A) in the first sentence of subparagraph  
 24 (A), by striking “The Secretary” and inserting  
 25 “Subject to subparagraph (B), the Secretary”;

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

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

5 “(B) GUIDELINES.—In allocating the rate  
6 of price support between the purchase prices of  
7 butter and nonfat dry milk under this para-  
8 graph, the Secretary may not—

9 “(i) offer to purchase butter for more  
10 than \$0.65 per pound; or

11 “(ii) offer to purchase nonfat dry milk  
12 for less than \$1.034 per pound.”.

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

20 (b) REDUCTION IN PRICE RECEIVED.—Subsection  
21 (h)(2) of such section is amended—

22 (1) by striking “and” at the end of subpara-  
23 graph (A);

24 (2) by striking the period at the end of sub-  
25 paragraph (B) and inserting “; and”; and

1 (3) by adding at the end the following new sub-  
2 paragraph:

3 “(C) during each of the calendar years  
4 1996 through 1998, 10 cents per hundred-  
5 weight of milk marketed, which rate shall be  
6 adjusted on or before May 1 of each of the cal-  
7 endar years 1996 through 1998 in the manner  
8 provided in subparagraph (B).”.

9 (c) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
10 TIES IN FISCAL YEARS AFTER 1995.—

11 (1) IN GENERAL.—Section 204 of the Agricul-  
12 tural Act of 1949 (7 U.S.C. 1446e) is further  
13 amended—

14 (A) in the section heading, by striking  
15 “1995” and inserting “1998”;

16 (B) in subsections (a), (b), (d)(1)(A),  
17 (d)(2)(A), (d)(3), (f), (g)(1), and (k), by strik-  
18 ing “1995” each place it appears and inserting  
19 “1998”; and

20 (C) in subsection (g)(2), by striking  
21 “1994” and inserting “1997”.

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

1 ing “1995” both places it appears and inserting  
2 “1998”.

3 (3) FEDERAL MILK MARKETING ORDERS.—Sec-  
4 tion 101(b) of the Agriculture and Food Act of 1981  
5 (7 U.S.C. 608c note) is amended by striking “1995”  
6 and inserting “1998”.

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

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

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

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

17 **SEC. 1106. TOBACCO PROGRAM.**

18 (a) TEN PERCENT INCREASE IN MARKETING AS-  
19 SESSMENT.—Subsection (g)(1) of section 106 of the Agri-  
20 cultural Act of 1949 (7 U.S.C. 1445) is amended by strik-  
21 ing “equal to” and all that follows through the period and  
22 inserting the following: “equal to—

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

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

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

7 (b) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
8 TIES IN FISCAL YEARS AFTER 1995.—Such subsection is  
9 further amended by striking “1995” and inserting  
10 “1998”.

11 (c) ACREAGE-POUNDAGE QUOTAS FOR TOBACCO.—

12 (1) DEFINITIONS.—Subsection (a) of section  
13 317 of the Agricultural Adjustment Act of 1938 (7  
14 U.S.C. 1314c) is amended—

15 (A) by inserting “DEFINITIONS.—” after  
16 “(a)”; and

17 (B) by striking paragraphs (2), (3), (4),  
18 (5), (6), (7), and (8) and inserting the following  
19 new paragraphs:

20 “(2) FARM ACREAGE ALLOTMENT.—The term  
21 ‘farm acreage allotment’ for a tobacco farm, other  
22 than a new tobacco farm, means the acreage allot-  
23 ment determined by dividing the farm marketing  
24 quota by the farm yield.



1           “(3) FARM YIELD.—The term ‘farm yield’  
2 means the yield per acre for a farm determined ac-  
3 cording to regulations issued by the Secretary and  
4 which would be expected to result in a quality of to-  
5 bacco acceptable to the tobacco trade.

6           “(4) FARM MARKETING QUOTA.—

7               “(A) IN GENERAL.—The term ‘farm mar-  
8 keting quota’ for a farm for a marketing year  
9 means a number that is equal to the number of  
10 pounds of tobacco determined by multiplying—

11                   “(i) the farm marketing quota for the  
12 farm for the previous marketing year  
13 (prior to any adjustment for  
14 undermarketing or overmarketing); by

15                   “(ii) the national factor.

16               “(B) ADJUSTMENT.—The farm marketing  
17 quota determined under subparagraph (A) for a  
18 marketing year shall be increased for  
19 undermarketing or decreased for overmarketing  
20 by the number of pounds by which marketings  
21 of tobacco from the farm during the immediate  
22 preceding marketing year (if marketing quotas  
23 were in effect for that year under the program  
24 established by this section) is less than or ex-  
25 ceeds the farm marketing quota for such year.

1           Notwithstanding the preceding sentence, the  
2           farm marketing quota for a marketing year  
3           shall not be increased under this subparagraph  
4           for undermarketing by an amount in excess of  
5           the farm marketing quota determined for the  
6           farm for the immediately preceding year prior  
7           to any increase for undermarketing or decrease  
8           for overmarketing. If due to excess marketing  
9           in the preceding marketing year the farm mar-  
10          keting quota for the marketing year is reduced  
11          to zero pounds without reflecting the entire re-  
12          duction required, the additional reduction shall  
13          be made for the subsequent marketing year or  
14          years.

15          “(5) NATIONAL FACTOR.—The term ‘national  
16          factor’ for a marketing year means a number ob-  
17          tained by dividing—

18                  “(A) the national marketing quota (less  
19                  the reserve provided for under subsection (e));  
20                  by

21                  “(B) the sum of the farm marketing  
22                  quotas (prior to any adjustments for  
23                  undermarketing or overmarketing) for the im-  
24                  mediate preceding marketing year for all farms  
25                  for which marketing quotas for the kind of to-

1           bacco involved will be determined for such suc-  
2           ceeding marketing year.”.

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

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

9                   (B) in the first sentence of subsection (c),  
10                  by striking “and at the same time announce the  
11                  national acreage allotment and national average  
12                  yield goal”;

13                  (C) in subsection (d)—

14                          (i) in the sixth sentence, by striking “,  
15                          national acreage allotment, and national  
16                          average yield goal”;

17                          (ii) in the eighth sentence, by striking  
18                          “, national acreage allotment and national  
19                          average yield goal”; and

20                          (iii) in the ninth sentence, by striking  
21                          “, national acreage allotment, and national  
22                          average goal are” and inserting “is”;

23                  (D) in subsection (e)—

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

1 shall be established” and inserting “A  
 2 farm marketing quota and farm yield shall  
 3 not be established”;

4 (ii) in the second sentence, by striking  
 5 “acreage allotment” both places it appears  
 6 and inserting “marketing quota”;

7 (iii) in the second sentence, by strik-  
 8 ing “acreage allotments” both places it ap-  
 9 pears and inserting “marketing quotas”;  
 10 and

11 (iv) in the last sentence, by striking  
 12 “acreage allotment” and inserting “mar-  
 13 keting quota”; and

14 (E) in subsection (g)—

15 (i) in paragraph (1), by striking  
 16 “paragraph (a)(8)” and inserting “sub-  
 17 section (a)(4)”;

18 (ii) in paragraph (3), by striking  
 19 “subsection (a)(8)” and inserting “sub-  
 20 section (a)(4)”.

21 (3) FARM MARKETING QUOTA REDUCTIONS.—

22 Subsection (f) of such section is amended to read as  
 23 follows:

24 “(f) CAUSES FOR FARM MARKETING QUOTA REDUC-  
 25 TIONS.—(1) When an acreage-poundage program is in ef-

1   fect for any kind of tobacco under this section, the farm  
2   marketing quota next established for a farm shall be re-  
3   duced by the amount of such kind of tobacco produced  
4   on the farm—

5           “(A) which was marketed as having been pro-  
6           duced on a different farm;

7           “(B) for which proof of disposition is not fur-  
8           nished as required by the Secretary;

9           “(C) on acreage equal to the difference between  
10          the acreage reported by the farm operator or a duly  
11          authorized representative and the determined acre-  
12          age for the farm; and

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

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

22          “(3) The reduction required under this subsection  
23          shall be in addition to any other adjustments made pursu-  
24          ant to this section.

1       “(4) In establishing farm marketing quotas for other  
2 farms owned by the owner displaced by acquisition of the  
3 owner’s land by any agency, as provided in section 378  
4 of this Act, increases or decreases in such farm marketing  
5 quotas as provided in this section shall be made on ac-  
6 count of marketings below or in excess of the farm mar-  
7 keting quota for the farm acquired by the agency.

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

15 **SEC. 1107. SUGAR PROGRAM.**

16       (a) TEN PERCENT INCREASE IN MARKETING AS-  
17 SESSMENT.—Subsection (i) of section 206 of the Agricul-  
18 tural Act of 1949 (7 U.S.C. 1446g) is amended—

19               (1) in paragraph (1), by striking “equal to”  
20 and all that follows through the period and inserting  
21 the following: “equal to—

22                       “(A) in the case of marketings during fis-  
23 cal years 1992 through 1994, .18 cents per  
24 pound of raw cane sugar, processed by the  
25 processor from domestically produced sugarcane

1 or sugarcane molasses, that has been marketed  
2 (including the transfer or delivery of the sugar  
3 to a refinery for further processing or market-  
4 ing); and

5 “(B) in the case of marketings during fis-  
6 cal years 1995 through 1999, .198 cents per  
7 pound of raw cane sugar, processed by the  
8 processor from domestically produced sugarcane  
9 or sugarcane molasses, that has been marketed  
10 (including the transfer or delivery of the sugar  
11 to a refinery for further processing or market-  
12 ing).”; and

13 (2) in paragraph (2), by striking “equal to”  
14 and all that follows through the period and inserting  
15 the following: “equal to—

16 “(A) in the case of marketings during fis-  
17 cal years 1992 through 1994, .193 cents per  
18 pound of beet sugar, processed by the processor  
19 from domestically produced sugar beets or  
20 sugar beet molasses, that has been marketed;  
21 and

22 “(B) in the case of marketings during fis-  
23 cal years 1995 through 1999, .2123 cents per  
24 pound of beet sugar, processed by the processor

1 from domestically produced sugar beets or  
 2 sugar beet molasses, that has been marketed.”.

3 (b) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
 4 TIES IN CROP YEARS AFTER 1995.—

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

8 (A) in the section heading, by striking  
 9 “1995” and inserting “1998”;

10 (B) in subsections (a), (c), (d)(1), and (j),  
 11 by striking “1995” each place it appears and  
 12 inserting “1998”; and

13 (C) in paragraphs (1) and (2) of sub-  
 14 section (i), as amended by subsection (a), by  
 15 striking “1996” both places it appears and in-  
 16 serting “1999”.

17 (2) AGRICULTURAL ADJUSTMENT ACT OF  
 18 1938.—Section 359b(a)(1) of the Agricultural Ad-  
 19 justment Act of 1938 (7 U.S.C. 1359bb(a)(1)) is  
 20 amended by striking “1996” and inserting “1999”.

21 **SEC. 1108. OILSEEDS PROGRAM.**

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



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

3 (2) in subsections (b), (c), (e)(1), and (n), by  
4 striking “1995” each place it appears and inserting  
5 “1998”.

6 **SEC. 1109. PEANUT PROGRAM.**

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

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

12 (A) by redesignating subsection (h) as sub-  
13 section (i); and

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

16 “(h) ADDITIONAL MARKETING ASSESSMENT.—

17 “(1) TWO PERCENT ASSESSMENT.—In addition  
18 to the marketing assessment required by subsection  
19 (g), the Secretary shall also provide for a nonrefund-  
20 able marketing assessment applicable to each of the  
21 1993 through 1998 crops of peanuts and collected  
22 and paid in accordance with this subsection. The as-  
23 sessment shall be on a per pound basis in an amount  
24 equal to 2 percent of the national average quota or  
25 additional peanut support rate per pound, as appli-

1 cable, for the applicable crop. No peanuts shall be  
2 assessed more than 2 percent of the applicable sup-  
3 port rate under this subsection.

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

7 “(A) collect from the producer a marketing  
8 assessment equal to 1 percent of the applicable  
9 national average support rate times the quan-  
10 tity of peanuts acquired;

11 “(B) pay, in addition to the amount col-  
12 lected under subparagraph (A), a marketing as-  
13 sessment in an amount equal to 1 percent of  
14 the applicable national average support rate  
15 times the quantity of peanuts acquired; and

16 “(C) remit the amounts required under  
17 subparagraphs (A) and (B) to the Commodity  
18 Credit Corporation in a manner specified by the  
19 Secretary.

20 “(3) OTHER PRIVATE MARKETINGS.—In the  
21 case of a private marketing by a producer directly  
22 to a consumer through a retail or wholesale outlet  
23 or in the case of a marketing by the producer out-  
24 side of the continental United States, the producer  
25 shall be responsible for the full amount of the as-

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

4            “(4) LOAN PEANUTS.—In the case of peanuts  
5        that are pledged as collateral for a price support  
6        loan made under this section,  $\frac{1}{2}$  of the assessment  
7        under this subsection shall be deducted from the  
8        proceeds of the loan. The remainder of the assess-  
9        ment shall be paid by the first purchaser of the pea-  
10       nuts as provided in subparagraph (B) of paragraph  
11       (2). For purposes of computing net gains on peanuts  
12       under this section, the reduction in loan proceeds  
13       under this subsection shall be treated as having been  
14       paid to the producer.

15           “(5) RESERVE ACCOUNT.—

16           “(A) ESTABLISHMENT.—The Secretary  
17        shall establish in the Commodity Credit Cor-  
18        poration a reserve account to be administered  
19        by the Secretary for purposes of this section.  
20        There shall be deposited in the reserve account  
21        for each crop of peanuts an amount equal to—

22                   “(i) the total amount remitted to the  
23                   Commodity Credit Corporation under para-  
24                   graphs (2) and (3) as the payment of the

1 marketing assessment applicable to that  
2 crop of peanuts under this subsection; and  
3 “(ii) the total amount deducted from  
4 the proceeds of a price support loan or  
5 paid by first purchasers under paragraph  
6 (4) as the payment of the marketing as-  
7 sessment applicable to that crop of peanuts  
8 under this subsection.

9 “(B) USE OF RESERVE ACCOUNT.—The  
10 Secretary shall use amounts in the reserve ac-  
11 count established in this paragraph to cover  
12 losses incurred by the Commodity Credit Cor-  
13 poration on the sale or disposal of peanuts for  
14 which price support has been provided under  
15 this section. Funds in the reserve account shall  
16 be made available until expended.

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

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

24 (b) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
25 TIES IN CROP YEARS AFTER 1995.—

1           (1) AGRICULTURAL ACT OF 1949.—Section  
2       108B of the Agricultural Act of 1949 (7 U.S.C.  
3       1445c-3) is further amended—

4           (A) in the section heading, by striking  
5       “**1995**” and inserting “**1998**”;

6           (B) in subsections (a)(1), (a)(2), (b)(1),  
7       and (g)(1), by striking “1995” each place it ap-  
8       pears and inserting “1998”; and

9           (C) in subsection (i) (as redesignated by  
10       subsection (a)(1)(A)), by striking “1995” and  
11       inserting “1998”.

12          (2) AGRICULTURAL ADJUSTMENT ACT OF  
13       1938.—Part VI of subtitle B of title III of the Agri-  
14       cultural Adjustment Act of 1938 is amended—

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

16           (i) in the section heading, by striking  
17       “**1995**” and inserting “**1998**”;

18           (ii) in subsections (a)(1), (b)(1)(A),  
19       (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3), and  
20       (f), by striking “1995” each place it ap-  
21       pears and inserting “1998”; and

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

1           siders to be appropriate in the case of a  
2           referendum held after 1995,”;

3           (B) in section 358b (7 U.S.C. 1358b)—

4                 (i) in the section heading, by striking  
5                 “**1995**” and inserting “**1998**”; and

6                 (ii) in subsection (c), by striking  
7                 “1995” and inserting “1998”;

8           (C) in section 358c(d) (7 U.S.C.  
9           1358c(d)), by striking “1995” and inserting  
10           “1998”; and

11           (D) in section 358e (7 U.S.C. 1359a)—

12                 (i) in the section heading, by striking  
13                 “**1995**” and inserting “**1998**”; and

14                 (ii) in subsection (i), by striking  
15                 “1995” and inserting “1998”.

16           (3) FOOD, AGRICULTURE, CONSERVATION, AND  
17           TRADE ACT OF 1990.—Title VIII of the Food, Agri-  
18           culture, Conservation, and Trade Act of 1990 (Pub-  
19           lic Law 101-624; 104 Stat. 3459) is amended—

20                 (A) in section 801 (104 Stat. 3459), by  
21                 striking “1995” and inserting “1998”;

22                 (B) in section 807 (104 Stat. 3478), by  
23                 striking “1995” and inserting “1998”; and

24                 (C) in section 808 (7 U.S.C. 1441 note),  
25                 by striking “1995” and inserting “1998”.

1 (c) ASSESSMENT UNDER PEANUT MARKETING  
2 AGREEMENT.—Section 8b(b)(1) of the Agricultural Ad-  
3 justment Act (7 U.S.C. 608b(b)(1)), reenacted with  
4 amendments by the Agricultural Marketing Agreement  
5 Act of 1937, is amended—

6 (1) by striking “and” at the end of subpara-  
7 graph (A);

8 (2) by striking the period at the end of sub-  
9 paragraph (B) and inserting “; and”; and

10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(C) any assessment imposed under such agree-  
13 ment shall apply to peanut handlers (as that term  
14 is defined by the Secretary) who have not entered  
15 into such an agreement with the Secretary in addi-  
16 tion to those handlers who have entered into such  
17 agreement.”.

18 **SEC. 1110. HONEY PROGRAM.**

19 (a) REDUCED SUPPORT RATE.—Subsection (a) of  
20 section 207 of the Agricultural Act of 1949 (7 U.S.C.  
21 1446h) is amended by striking “than 53.8 cents” and in-  
22 serting “than—

23 “(1) 53.8 cents per pound for the 1991 through  
24 1993 crop years; and

1 “(2) 50 cents per pound for the 1994 through  
2 1998 crop years.”.

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

5 (1) by striking “and” at the end of subpara-  
6 graph (C);

7 (2) by striking subparagraph (D); and

8 (3) by adding at the end the following new sub-  
9 paragraphs:

10 “(D) \$125,000 in the 1994 crop year;

11 “(E) \$100,000 in the 1995 crop year;

12 “(F) \$75,000 in the 1996 crop year; and

13 “(G) \$50,000 in each of the 1997 and sub-  
14 sequent crop years.”.

15 (c) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
16 TIES.—Subsections (a), (c)(1), and (j) of such section are  
17 amended by striking “1995” each place it appears and  
18 inserting “1998”.

19 (d) TERMINATION OF ASSESSMENT.—Subsection  
20 (i)(1) of such section is amended by striking “1995” and  
21 inserting “1993”.

22 **SEC. 1111. WOOL AND MOHAIR PROGRAM.**

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



1           (1) by striking “and” at the end of subpara-  
2 graph (C);

3           (2) by striking subparagraph (D); and

4           (3) by adding at the end the following new sub-  
5 paragraphs:

6                   “(D) \$125,000 for the 1994 marketing  
7 year;

8                   “(E) \$100,000 for the 1995 marketing  
9 year;

10                   “(F) \$75,000 for 1996 marketing year;  
11 and

12                   “(G) \$50,000 for each of the 1997 and  
13 subsequent marketing years.”.

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

21       (c) CONTINUATION OF DEFICIT REDUCTION ACTIVI-  
22 TIES IN CROP YEARS AFTER 1995.—Subsections (a) and  
23 (b)(2) of section 703 of the National Wool Act of 1954  
24 (7 U.S.C. 1782) are amended by striking “1995” both  
25 places it appears and inserting “1998”.

1 (d) TERMINATION OF MARKETING ASSESSMENT.—  
2 Section 704(c) of the National Wool Act of 1954 (7 U.S.C.  
3 1783(c)) is amended by striking “1995” and inserting  
4 “1992”.

5 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

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

9 (A) by striking “, strategic,” in the first  
10 sentence; and

11 (B) by striking “as a measure of national  
12 security and to promote” and inserting “that as  
13 a method to promote”.

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

17 (A) in paragraph (1), by striking “para-  
18 graphs (2) and (3)” and inserting “paragraph  
19 (2)”;

20 (B) in paragraph (2), by striking “Except  
21 as provided in paragraph (3), for” and inserting  
22 “For”; and

23 (C) by striking paragraph (3).

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

4                   (A) by inserting “(a)” after “SEC. 708.”;  
5                   and

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

8           “(b)(1) Except as provided in paragraph (2), to the  
9           extent that the Secretary determines that the amount of  
10          funds that would otherwise be made available under sub-  
11          section (a) in any marketing year for agreements entered  
12          into under such subsection is less than the amount made  
13          available under such subsection in the previous marketing  
14          year, the difference in such amounts shall be provided  
15          from amounts available to support the prices of wool and  
16          mohair under section 703 of this title. Any amount pro-  
17          vided under this subsection shall be considered to be an  
18          expenditure made in connection with payments to produc-  
19          ers under this title for purposes of section 705 of this title.

20          “(2) Paragraph (1) shall not apply if the Secretary  
21          determines that any portion of the difference between the  
22          amounts made available under subsection (a) between two  
23          consecutive marketing years is the result of a per unit re-  
24          duction in the amount of the assessment imposed under  
25          the agreements entered into under such subsection.”.

1 **SEC. 1112. CONFORMING AMENDMENTS TO CONTINUE DEF-**  
2 **ICIT REDUCTION ACTIVITIES IN CROP YEARS**  
3 **AFTER 1995.**

4 (a) SUPPLEMENTAL SET-ASIDE AND ACREAGE LIM-  
5 TATION AUTHORITY.—Section 113 of the Agricultural Act  
6 of 1949 (7 U.S.C. 1445h) is amended by striking “1995”  
7 and inserting “1998”.

8 (b) DEFICIENCY AND LAND DIVERSION PAY-  
9 MENTS.—Subsections (a)(1), (b), and (c) of section 114  
10 of the Agricultural Act of 1949 (7 U.S.C. 1445j) are  
11 amended by striking “1995” each place it appears and  
12 inserting “1998”.

13 (c) DISASTER PAYMENTS.—Section 208 of the Agri-  
14 cultural Act of 1949 (7 U.S.C. 1446i) is amended—

15 (1) in the section heading, by striking “**1995**”  
16 and inserting “**1998**”;

17 (2) in subsection (d), by striking “1995” and  
18 inserting “1998”.

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

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

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

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

1 (A) by striking “1995” each place it ap-  
2 pears and inserting “1998”; and

3 (B) by striking “1996” each place it ap-  
4 pears and inserting “1999”; and

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

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

10 (1) in subsections (c)(3) and (h)(2)(A) of sec-  
11 tion 503 (7 U.S.C. 1463), by striking “1995” each  
12 place it appears and inserting “1998”;

13 (2) in subsections (b)(1) and (b)(2) of section  
14 505 (7 U.S.C. 1465), by striking “1995” each place  
15 it appears and inserting “1998”; and

16 (3) in section 509 (7 U.S.C. 1469), by striking  
17 “1995” and inserting “1998”.

18 (f) NORMALLY PLANTED ACREAGE.—Section 1001  
19 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309)  
20 is amended in subsections (a), (b)(1), and (c) by striking  
21 “1995” each place it appears and inserting “1998”.

22 (g) AGRICULTURE AND FOOD ACT OF 1981.—Sec-  
23 tion 1014 of the Agriculture and Food Act of 1981 (7  
24 U.S.C. 4110) is amended by striking “1995” and insert-  
25 ing “1998”.

1 (h) FOOD SECURITY ACT OF 1985.—The Food Secu-  
2 rity Act of 1985 (Public Law 99–198; 99 Stat. 1354) is  
3 amended—

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

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

9 (3) in section 1001C(a) (7 U.S.C. 1308–3(a)),  
10 by striking “1995” both places it appears and in-  
11 serting “1998”;

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

14 (5) in section 1019 (7 U.S.C. 1310a), by strik-  
15 ing “1995” and inserting “1998”.

16 (i) OPTIONS PILOT PROGRAM.—The Options Pilot  
17 Program Act of 1990 (subtitle E of title XI of Public Law  
18 101–624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amend-  
19 ed—

20 (1) in subsections (a) and (b) of section 1153,  
21 by striking “1995” each place it appears and insert-  
22 ing “1998”; and

23 (2) in section 1154(b)(1)(A), by striking  
24 “1995” both places it appears and inserting “1998”.

1 (j) READJUSTMENT OF SUPPORT LEVELS.—Section  
 2 1302 of the Agricultural Reconciliation Act of 1990 (7  
 3 U.S.C. 1421 note) is amended in subsections (b)(1),  
 4 (b)(3), and (d)(1)(C) by striking “1995” each place it ap-  
 5 pears and inserting “1998”.

## 6 **Subtitle B—Restructuring of Loan** 7 **Programs**

### 8 **SEC. 1201. RESTRUCTURING OF CERTAIN LOAN PROGRAMS.**

9 (a) LOAN PROGRAMS UNDER THE RURAL ELEC-  
 10 TRIFICATION ACT OF 1936.—

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

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

15 (B) by redesignating subsection (c) as sub-  
 16 section (b); and

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

19 “(c) INSURED ELECTRIC LOANS.—

20 “(1) HARDSHIP LOANS.—

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

1           “(i) The average revenue per kilowatt-  
2           hour sold by the applicant is not less than  
3           120 percent of the average revenue per kil-  
4           owatt-hour sold by all utilities in the State  
5           in which the borrower provides service.

6           “(ii) The average residential revenue  
7           per kilowatt-hour sold by the applicant is  
8           not less than 120 percent of the average  
9           residential revenue per kilowatt-hour sold  
10          by all utilities in the State in which the  
11          borrower provides service.

12          “(iii) The average per capita income  
13          of the residents receiving electric service  
14          from the applicant is less than the average  
15          per capita income of the residents of the  
16          State in which the applicant provides serv-  
17          ice, or the median household income of the  
18          households receiving electric service from  
19          the applicant is less than the median  
20          household income of the households in the  
21          State.

22          “(B) SEVERE HARDSHIP LOANS.—The Ad-  
23          ministrator may make an insured electric loan  
24          at an interest rate of 5 percent per annum to  
25          an applicant therefor if, in the sole discretion of



1 the Administrator, the applicant has experi-  
2 enced a severe hardship.

3 “(C) LIMITATION.—The Administrator  
4 may not make a loan under this paragraph to  
5 an applicant for the purpose of furnishing or  
6 improving electric service to a consumer located  
7 in an urban or urbanized area (as defined by  
8 the Bureau of the Census) if the average num-  
9 ber of consumers per mile of line of the total  
10 electric system of the applicant exceeds 17.

11 “(2) MUNICIPAL RATE LOANS.—

12 “(A) IN GENERAL.—The Administrator  
13 shall make insured electric loans, to the extent  
14 of qualifying applications therefor, at the inter-  
15 est rate described in subparagraph (B) for the  
16 term or terms selected by the applicant pursu-  
17 ant to subparagraph (C).

18 “(B) INTEREST RATE.—

19 “(i) IN GENERAL.—Subject to clause  
20 (ii), the interest rate described in this sub-  
21 paragraph on a loan to a qualifying appli-  
22 cant shall be—

23 “(I) the interest rate determined  
24 by the Administrator to be equal to  
25 the current market yield on outstand-

1           ing municipal obligations with remain-  
2           ing periods to maturity similar to the  
3           term selected by the applicant pursu-  
4           ant to subparagraph (C), but not  
5           greater than the rate determined  
6           under section 307(a)(3)(A) of the  
7           Consolidated Farm and Rural Devel-  
8           opment Act which is based on the cur-  
9           rent market yield on outstanding mu-  
10          nicipal obligations; plus

11                 “(II) if the applicant for the loan  
12           makes an election pursuant to sub-  
13           paragraph (D) to include in the loan  
14           agreement the right of the applicant  
15           to prepay the loan, a rate equal to the  
16           amount by which—

17                 “(aa) the interest rate on  
18           commercial loans for a similar  
19           period that afford the borrower  
20           such a right; exceeds

21                 “(bb) the interest rate on  
22           commercial loans for such period  
23           that do not afford the borrower  
24           such a right.

1           “(ii) MAXIMUM RATE.—The interest  
2 rate described in this subparagraph on a  
3 loan to an applicant therefor shall not ex-  
4 ceed 7 percent if—

5           “(I) the average number of con-  
6 sumers per mile of line of the total  
7 electric system of the applicant is less  
8 than 5.50; or

9           “(II)(aa) the average revenue per  
10 kilowatt-hour sold by the applicant is  
11 more than the average revenue per  
12 kilowatt-hour sold by all utilities in  
13 the State in which the borrower pro-  
14 vides service; and

15           “(bb) the average per capita in-  
16 come of the residents receiving electric  
17 service from the applicant is less than  
18 the average per capita income of the  
19 residents of the State in which the ap-  
20 plicant provides service, or the median  
21 household income of the households  
22 receiving electric service from the ap-  
23 plicant is less than the median house-  
24 hold income of the households in the  
25 State.

1           “(iii) EXCEPTION.—Clause (ii) shall  
2           not apply to a loan to be made to an appli-  
3           cant for the purpose of furnishing or im-  
4           proving electric service to consumers lo-  
5           cated in an urban or urbanized area (as  
6           defined by the Bureau of the Census) if  
7           the average number of consumers per mile  
8           of line of the total electric system of the  
9           applicant exceeds 17.

10          “(C) LOAN TERM.—

11               “(i) IN GENERAL.—Subject to clause  
12               (ii), the applicant for a loan under this  
13               paragraph may select the term during  
14               which the loan is to be repaid, and, at the  
15               end of such term (and any succeeding term  
16               selected by the applicant under this sub-  
17               paragraph), may renew the loan for an-  
18               other term selected by the applicant.

19               “(ii) MAXIMUM TERM.—Notwith-  
20               standing clause (i), the applicant may not  
21               select a term that ends more than 35 years  
22               after the beginning of the 1st term the ap-  
23               plicant selects under clause (i).

24          “(D) CALL PROVISION.—The Adminis-  
25          trator shall offer any applicant for a loan under

1           this paragraph the option to include in the loan  
2           agreement the right of the applicant to prepay  
3           the loan on terms consistent with similar provi-  
4           sions of commercial loans.

5           “(3) OTHER SOURCE OF CREDIT NOT RE-  
6           QUIRED IN CERTAIN CASES.—The Administrator  
7           may not require any applicant for a loan made  
8           under this subsection who is eligible for a loan under  
9           paragraph (1) to obtain a loan from another source  
10          as a condition of approving the application for the  
11          loan or advancing any amount under the loan.

12          “(d) INSURED TELEPHONE LOANS.—

13               “(1) HARDSHIP LOANS.—

14                   “(A) IN GENERAL.—The Administrator  
15                   shall make insured telephone loans, to the ex-  
16                   tent of qualifying applications therefor, at an  
17                   interest rate of 5 percent per annum, to any ap-  
18                   plicant who meets each of the following require-  
19                   ments:

20                           “(i) The average number of subscrib-  
21                           ers per mile of line in the service area of  
22                           the applicant is not more than 4.

23                           “(ii) The applicant is capable of pro-  
24                           ducing net income or margins, before in-  
25                           terest payments on the loan applied for, of

1 not less than 100 percent (but not more  
2 than 300 percent) of the interest require-  
3 ments on all of the outstanding and pro-  
4 posed loans of the applicant.

5 “(iii) The Administrator has approved  
6 a telecommunications modernization plan  
7 for the State under paragraph (3), and, if  
8 the plan was developed by telephone bor-  
9 rowers under this title, the applicant is a  
10 participant in the plan.

11 “(B) AUTHORITY TO WAIVE TIER RE-  
12 QUIREMENT.—The Administrator may waive  
13 the requirement of subparagraph (A)(ii) in any  
14 case in which the Administrator determines  
15 (and sets forth the reasons therefor in writing)  
16 that the requirement would prevent emergency  
17 restoration of the telephone system of the appli-  
18 cant or result in severe hardship to the appli-  
19 cant.

20 “(C) EFFECT OF LACK OF FUNDS.—On re-  
21 quest of any applicant who is eligible for a loan  
22 under this paragraph for which funds are not  
23 available, the applicant shall be considered to  
24 have applied for a loan under title IV.

25 “(2) COST-OF-MONEY LOANS.—

1           “(A) IN GENERAL.—The Administrator  
2           may make insured telephone loans for the pur-  
3           chase and installation of telephone lines, sys-  
4           tems, and facilities (other than buildings used  
5           primarily for administrative purposes, vehicles  
6           not used primarily in construction, and personal  
7           customer premise equipment) directly related to  
8           the furnishing, improvement, or extension of  
9           rural telecommunications service or the acqui-  
10          sition of a rural telecommunications capability, at  
11          an interest rate equal to the then cost of money  
12          to the Government of the United States for  
13          loans of similar maturity, but not more than 7  
14          percent per annum, to any applicant therefor  
15          who meets the following requirements:

16               “(i) The average number of subscrib-  
17               ers per mile of line in the service area of  
18               the applicant is not more than 15.

19               “(ii) The applicant is capable of pro-  
20               ducing net income or margins, before in-  
21               terest payments on the loan applied for, of  
22               not less than 100 percent (but not more  
23               than 500 percent) of the interest require-  
24               ments on all of the outstanding and pro-  
25               posed loans of the applicant.

1           “(iii) The Administrator has approved  
2           a telecommunications modernization plan  
3           for the State under paragraph (3), and, if  
4           the plan was developed by telephone bor-  
5           rowers under this title, the applicant is a  
6           participant in the plan.

7           “(B) CALL PROVISION.—The Adminis-  
8           trator shall offer any applicant for a loan under  
9           this paragraph the option to include in the loan  
10          agreement the right of the applicant to prepay  
11          the loan.

12          “(C) CONCURRENT LOAN AUTHORITY.—On  
13          request of any applicant for a loan under this  
14          paragraph during any fiscal year, the Adminis-  
15          trator shall—

16               “(i) consider the application to be for  
17               a loan under this paragraph and a loan  
18               under section 408; and

19               “(ii) if the applicant is eligible there-  
20               for, make a loan to the applicant under  
21               this paragraph in an amount equal to the  
22               amount that bears the same ratio to the  
23               total amount of loans for which the appli-  
24               cant is eligible under this paragraph and  
25               under section 408, as the amount made



1           available for loans under this paragraph  
2           for the fiscal year bears to the total  
3           amount made available for loans under this  
4           paragraph and under section 408 for the  
5           fiscal year.

6           “(D) EFFECT OF LACK OF FUNDS.—On  
7           request of any applicant who is eligible for a  
8           loan under this paragraph for which funds are  
9           not available, the applicant shall be considered  
10          to have applied for a loan guarantee under sec-  
11          tion 306.

12          “(3) STATE TELECOMMUNICATIONS MOD-  
13          ERNIZATION PLANS.—

14          “(A) APPROVAL.—If, within 6 months  
15          after final regulations are promulgated to carry  
16          out this paragraph, the public utility commis-  
17          sion of any State develops a telecommunications  
18          modernization plan that meets the requirements  
19          of subparagraph (B), then the Administrator  
20          shall approve the plan for the State. Otherwise,  
21          the Administrator shall approve any tele-  
22          communications modernization plan for the  
23          State that meets such requirements, which is  
24          developed by a majority of the borrowers of

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

3 “(B) REQUIREMENTS.—A telecommuni-  
4 cations modernization plan must, at a mini-  
5 mum, meet the following objectives:

6 “(i) The plan must provide for the  
7 elimination of party line service.

8 “(ii) The plan must provide for the  
9 availability of telecommunications services  
10 for improved business, educational, and  
11 medical services.

12 “(iii) The plan must encourage and  
13 improve computer networks and informa-  
14 tion highways for subscribers in rural  
15 areas.

16 “(iv) The plan must provide for—

17 “(I) subscribers in rural areas to  
18 be able to receive through telephone  
19 lines—

20 “(aa) multiple voices;

21 “(bb) video images; and

22 “(cc) data at a rate of at  
23 least 1,000,000 bits of informa-  
24 tion per second; and

1 “(II) the proper routing of infor-  
2 mation to subscribers.

3 “(v) The plan must provide for uni-  
4 form deployment schedules to ensure that  
5 advanced services are deployed at the same  
6 time in rural and nonrural areas.

7 “(C) FINALITY OF APPROVAL.—A tele-  
8 communications modernization plan approved  
9 under subparagraph (A) may not subsequently  
10 be disapproved.”.

11 (2) RURAL TELEPHONE BANK LOAN PRO-  
12 GRAM.—Section 408 of the Rural Electrification Act  
13 of 1936 (7 U.S.C. 948) is amended—

14 (A) in subsection (a)—

15 (i) by striking “, (1)” and all that fol-  
16 lows through “(3)” and inserting “(1) for  
17 the purchase and installation of telephone  
18 lines, systems, and facilities (other than  
19 buildings used primarily for administrative  
20 purposes, vehicles not used primarily in  
21 construction, and personal customer  
22 premise equipment) directly related to the  
23 furnishing, improvement, or extension of  
24 rural telecommunications service or the ac-

1           quisition of a rural telecommunications ca-  
2           pability, and (2)”; and

3                   (ii) by striking “(2) hereof” and in-  
4           serting “clause (1)”;  
5           (B) in subsection (b)—

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

8           “(4)(A) The Governor of the telephone bank  
9           may make a loan under this section only to an appli-  
10          cant therefor who meets the following requirements:

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

14                   “(ii) The applicant is capable of producing  
15           net income or margins, before interest pay-  
16           ments on the loan applied for, of not less than  
17           100 percent (but not more than 500 percent) of  
18           the interest requirements on all of the outstand-  
19           ing and proposed loans of the applicant.

20                   “(iii) The Administrator has approved,  
21           under section 305(d)(3), a telecommunications  
22           modernization plan for the State in which the  
23           applicant is located, and, if the plan was devel-  
24           oped by telephone borrowers under title III, the  
25           applicant is a participant in the plan.”;

1 (ii) in paragraph (8)—

2 (I) by inserting “(A)” after  
3 “(8)”;

4 (II) by striking “if such prepay-  
5 ment is not made later than Septem-  
6 ber 30, 1988” and inserting “except  
7 for any prepayment penalty provided  
8 for in a loan agreement entered into  
9 before the date of the enactment of  
10 the Omnibus Budget Reconciliation  
11 Act of 1993”; and

12 (III) by adding at the end the  
13 following:

14 “(B) If a borrower prepays part or all of a loan  
15 made under this section, then, notwithstanding sec-  
16 tion 407(b), the Governor of the telephone bank  
17 shall—

18 “(i) use the full amount of the prepayment  
19 to repay obligations of the telephone bank is-  
20 sued pursuant to section 407(b) before October  
21 1, 1991, to the extent any such obligations are  
22 outstanding; and

23 “(ii) in repaying such obligations, first  
24 repay the advances bearing the greatest rate of  
25 interest.”; and

1 (iii) by adding at the end the follow-  
2 ing:

3 “(9) On request of any applicant for a loan  
4 under this section during any fiscal year, the Gov-  
5 ernor of the telephone bank shall—

6 “(A) consider the application to be for a  
7 loan under this section and a loan under section  
8 305(d)(2); and

9 “(B) if the applicant is eligible therefor,  
10 make a loan to the applicant under this section  
11 in an amount equal to the amount that bears  
12 the same ratio to the total amount of loans for  
13 which the applicant is eligible under this section  
14 and under section 305(d)(2), as the amount  
15 made available for loans under this section for  
16 the fiscal year bears to the total amount made  
17 available for loans under this section and under  
18 section 305(d)(2) for the fiscal year.

19 “(10) On request of any applicant who is eligi-  
20 ble for a loan under this section for which funds are  
21 not available, the applicant shall be considered to  
22 have applied for a loan under section 305(d)(2).”;  
23 and

24 (C) by adding at the end the following:

1       “(e) Loans and advances made under this section on  
 2 or after November 5, 1990, shall bear interest at a rate  
 3 determined under this section, taking into account all as-  
 4 sets and liabilities of the telephone bank. This subsection  
 5 shall not apply to loans obligated before the date of the  
 6 enactment of this subsection.”.

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

9       **“SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPRO-**  
 10                               **PRIATIONS.**

11       “(a) IN GENERAL.—There are authorized to be ap-  
 12 propriated to the Administrator such sums as may be nec-  
 13 essary for the cost of loans in the following amounts, for  
 14 the following purposes and periods of time:

15           “(1) ELECTRIC HARDSHIP LOANS.—For loans  
 16 under section 305(c)(1)—

17                       “(A) for fiscal year 1994, \$125,000,000;  
 18                       and

19                       “(B) for each of fiscal years 1995 through  
 20 1998, \$125,000,000, increased by the adjust-  
 21 ment percentage for the fiscal year.

22           “(2) ELECTRIC MUNICIPAL RATE LOANS.—For  
 23 loans under section 305(c)(2)—

24                       “(A) for fiscal year 1994, \$600,000,000;  
 25                       and

1           “(B) for each of fiscal years 1995 through  
2           1998, \$600,000,000, increased by the adjust-  
3           ment percentage for the fiscal year.

4           “(3) TELEPHONE HARDSHIP LOANS.—For  
5           loans under section 305(d)(1)—

6           “(A) for fiscal year 1994, \$125,000,000;  
7           and

8           “(B) for each of fiscal years 1995 through  
9           1998, \$125,000,000, increased by the adjust-  
10          ment percentage for the fiscal year.

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

13          “(A) for fiscal year 1994, \$198,000,000;  
14          and

15          “(B) for each of fiscal years 1995 through  
16          1998, \$198,000,000, increased by the adjust-  
17          ment percentage for the fiscal year.

18          “(b) ADJUSTMENT PERCENTAGE DEFINED.—As  
19          used in subsection (a), the term ‘adjustment percentage’  
20          means, with respect to a fiscal year, the percentage (if  
21          any) by which—

22          “(1) the average of the Consumer Price Index  
23          (as defined in section 1(f)(5) of the Internal Reve-  
24          nue Code of 1986) for the 12-month period ending



1 on July 31 of the immediately preceding fiscal year;  
2 exceeds

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

6 “(c) MANDATORY LEVELS.—The Administrator shall  
7 make insured loans under this title from the Rural Elec-  
8 trification and Telephone Revolving Fund established  
9 under section 301, for the purposes, in the amounts, and  
10 for the periods of time specified in subsection (a), as pro-  
11 vided in advance in appropriations Acts.

12 “(d) AVAILABILITY OF FUNDS FOR INSURED  
13 LOANS.—Amounts made available for loans under section  
14 305 are authorized to remain available until expended.”.

15 (4) RULE OF INTERPRETATION.—Section  
16 309(a) of such Act (7 U.S.C. 939(a)) is amended by  
17 adding at the end the following: “The preceding sen-  
18 tence shall not be construed to make section  
19 408(b)(2) or 412 applicable to this title.”.

20 (5) MISCELLANEOUS AMENDMENTS.—

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

23 (i) by inserting “(a)” before “The Ad-  
24 ministrator”;

1                   (ii) by striking “telephone service in  
2                   rural areas, as hereinafter provided;” and  
3                   inserting “electric and telephone service in  
4                   rural areas, as provided in this Act, and  
5                   for the purpose of assisting electric bor-  
6                   rowers to implement demand side manage-  
7                   ment and energy conservation programs”;  
8                   and

9                   (iii) by adding at the end the follow-  
10                  ing:

11               “(b) Not later than January 1, 1994, the Adminis-  
12               trator shall issue interim regulations to implement the au-  
13               thority contained in subsection (a) to make loans for the  
14               purpose of assisting electric borrowers to implement de-  
15               mand side management and energy conservation pro-  
16               grams. If such regulations are not issued by such date,  
17               the Administrator shall consider any demand side manage-  
18               ment program which is approved by a State agency to be  
19               eligible for such loans.”

20               (B) Section 4 of such Act (7 U.S.C. 904)  
21               is amended by inserting “and for the furnishing  
22               and improving of electric service to persons in  
23               rural areas, including by assisting electric bor-  
24               rowers to implement demand side management

1           and energy conservation programs” after  
2           “central station service”.

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

5                         (i) by inserting “(a)” before “The Ad-  
6                         ministrators is”;

7                         (ii) by designating the 2nd undesig-  
8                         nated paragraph as subsection (b); and

9                         (iii) by adding at the end the follow-  
10           ing:

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

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

17                         (i) by inserting “, except as provided  
18                         in section 203(b),” before “shall be deemed  
19                         to mean any area”; and

20                         (ii) by striking “city, village, or bor-  
21                         ough having a population in excess of fif-  
22                         teen hundred inhabitants” and inserting  
23                         “urban or urbanized area, as defined by  
24                         the Bureau of the Census”.

1           (E) Section 203(b) of such Act (7 U.S.C.  
2           923(b)) is amended by striking “one thousand  
3           five hundred” and inserting “5,000”.

4           (F) Section 307 of such Act (7 U.S.C.  
5           937) is amended by adding at the end the fol-  
6           lowing: “The Administrator may not request  
7           any applicant for an electric loan under this Act  
8           to apply for and accept a loan in an amount ex-  
9           ceeding 30 percent of the credit needs of the  
10          applicant.”.

11          (G) Section 406 of such Act (7 U.S.C.  
12          946) is amended by adding at the end the fol-  
13          lowing:

14          “(i) The Governor of the telephone bank may invest  
15          in obligations of the United States the amounts in the ac-  
16          count in the Treasury of the United States numbered  
17          12X8139 (known as ‘the RTB Equity Fund’).”.

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

20                  (i) by inserting “(a) No CONSIDER-  
21                  ATION OF BORROWER’S LEVEL OF GEN-  
22                  ERAL FUNDS.—” before “The Adminis-  
23                  trator”; and

24                  (ii) by adding at the end the follow-  
25                  ing:

1       “(b) NO LOAN ORIGATION FEES.—The Adminis-  
2 trator and the Governor of the telephone bank may not  
3 charge any fee or charge not expressly provided in this  
4 Act in connection with any loan under this Act.”.

5               (I) Title III of such Act (7 U.S.C. 931–  
6               940d) is amended by inserting after section  
7               306B the following:

8       **“SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS**  
9               **FOR LOANS, LOAN GUARANTEES, AND LIEN**  
10              **ACCOMMODATIONS.**

11       “A distribution borrower not in default on the repay-  
12 ment of any loan made or guaranteed under this Act shall  
13 be eligible for a loan, loan guarantee, or lien accommoda-  
14 tion under this title. For the purpose of determining such  
15 eligibility, a default by a borrower from which a distribu-  
16 tion borrower purchases wholesale power shall not be con-  
17 sidered a default by the distribution borrower.

18       **“SEC. 306D. ADMINISTRATIVE PROHIBITIONS APPLICABLE**  
19              **TO ELECTRIC BORROWERS.**

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

1 standing principal balance on all loans made or guaran-  
 2 teed to the borrower by the Administrator.”.

3 (b) EXPANDED ELIGIBILITY FOR LOANS FOR WATER  
 4 AND WASTE DISPOSAL FACILITIES.—Section 306(a)(1) of  
 5 the Consolidated Farm and Rural Development Act (7  
 6 U.S.C. 1926(a)(1)) is amended by inserting after the 1st  
 7 sentence the following: “The Secretary may also make  
 8 loans to any borrower to whom a loan has been made  
 9 under the Rural Electrification Act of 1936, for the con-  
 10 servation, development, use, and control of water, and the  
 11 installation of drainage or waste disposal facilities, pri-  
 12 marily serving farmers, ranchers, farm tenants, farm la-  
 13 borers, rural businesses, and other rural residents.”.

14 (c) REGULATIONS.—Not later than October 1, 1993,  
 15 the Administrator of the Rural Development Administra-  
 16 tion shall issue interim final rules to implement the  
 17 amendments made by this section.

18 **SEC. 1202. REORGANIZATION OF RURAL DEVELOPMENT**  
 19 **FUNCTIONS.**

20 (a) ADMINISTRATION OF RURAL ELECTRIFICATION  
 21 ACT OF 1936 TRANSFERRED TO THE RURAL DEVELOP-  
 22 MENT ADMINISTRATION.—

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

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

3 **“SECTION 1. SHORT TITLE; ADMINISTRATION OF ACT.**

4 “(a) SHORT TITLE.—This Act may be cited as the  
5 ‘Rural Electrification Act of 1936’.

6 “(b) ADMINISTRATION OF ACT.—The Administrator  
7 of the Rural Development Administration (in this Act re-  
8 ferred to as the ‘Administrator’) shall carry out this Act  
9 under the general direction and supervision of the Sec-  
10 retary of Agriculture.”.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 3(a) of such Act (7 U.S.C.  
13 903(a)) is amended by striking “appointed pur-  
14 suant to the provisions of this Act”.

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

17 (i) by striking “authorized to be ap-  
18 pointed by this Act”; and

19 (ii) by striking “Rural Electrification  
20 Administration created by this Act” and  
21 inserting “Rural Development Administra-  
22 tion”.

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

1           trification Administration” and inserting  
2           “Rural Development Administration”:

3                   (i) Section 306A(b) (7 U.S.C.  
4                   936a(b)).

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

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

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

8                   (v) Section 410(a)(1) (7 U.S.C.  
9                   950(a)(1)).

10       (b) OTHER FUNCTIONS OF THE RURAL ELEC-  
11 TRIFICATION ADMINISTRATION TRANSFERRED TO THE  
12 RURAL DEVELOPMENT ADMINISTRATION.—Section 364  
13 of the Consolidated Farm and Rural Development Act  
14 (7 U.S.C. 2006f) is amended by adding at the end the  
15 following:

16       “(g) TRANSFER OF FUNCTIONS OF THE RURAL  
17 ELECTRIFICATION ADMINISTRATION TO THE RURAL DE-  
18 VELOPMENT ADMINISTRATION.—

19           “(1) IN GENERAL.—All rights, interests, obliga-  
20 tions, and duties of the Administrator of the Rural  
21 Electrification Administration arising before the  
22 date of the enactment of this subsection, from any  
23 loan made, insured, or guaranteed by, or other ac-  
24 tion of, the Rural Electrification Administration



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

3 “(2) REFERENCES.—Any reference in any law,  
4 regulation, or order in effect immediately before the  
5 date of the enactment of this subsection to the Rural  
6 Electrification Administration or to the Adminis-  
7 trator of the Rural Electrification Administration, is  
8 deemed to be a reference to the Rural Development  
9 Administration or to the Administrator of the Rural  
10 Development Administration, respectively.

11 “(3) EFFECT ON PENDING PROCEEDINGS AND  
12 PARTIES TO SUCH PROCEEDINGS.—

13 “(A) NONABATEMENT OF PROCEEDINGS.—  
14 This subsection shall not be construed to abate  
15 any proceeding commenced by or against the  
16 Rural Electrification Administration or the Ad-  
17 ministrator of the Rural Electrification Admin-  
18 istration.

19 “(B) EFFECT ON PARTIES.—If an officer  
20 of the Rural Electrification Administration, in  
21 the official capacity of such officer, is a party  
22 to a proceeding pending on the date of the en-  
23 actment of this subsection, then such action  
24 shall be continued with the Administrator, or  
25 other appropriate officer, of the Rural Develop-

1           ment Administration substituted or added as a  
2           party.

3           “(4) INCIDENTAL TRANSFERS.—The Secretary  
4           shall transfer all personnel from the Rural Elec-  
5           trification Administration to the Rural Development  
6           Administration, and shall make such determinations  
7           as may be appropriate to carry out this subsection.”.

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

12          “(h) STRUCTURE OF THE RURAL DEVELOPMENT AD-  
13          MINISTRATION.—

14                 “(1) DEPUTY ADMINISTRATOR FOR RURAL  
15                 UTILITIES.—The Administrator of the Rural Devel-  
16                 opment Administration shall appoint a Deputy Ad-  
17                 ministrator for Rural Utilities who shall admin-  
18                 ister—

19                         “(A) the programs authorized by the Rural  
20                         Electrification Act of 1936; and

21                         “(B) the rural water and waste disposal  
22                         programs administered by the Rural Develop-  
23                         ment Administration.

1           “(2) ASSISTANT ADMINISTRATORS.—The Ad-  
 2           ministrator of the Rural Development Administra-  
 3           tion may appoint—

4                   “(A) an Assistant Administrator for the  
 5                   electric programs authorized by the Rural Elec-  
 6                   trification Act of 1936;

7                   “(B) an Assistant Administrator for the  
 8                   telephone programs authorized by such Act;

9                   “(C) an Assistant Administrator who shall  
 10                  be responsible for—

11                           “(i) rural utility technical engineering  
 12                           standards and specifications; and

13                           “(ii) other utility management and ac-  
 14                           counting functions assigned by the Admin-  
 15                           istrator; and

16                   “(D) an Assistant Administrator for water  
 17                  and sewer programs.”.

18           (d) RURAL ECONOMIC DEVELOPMENT.—

19                   (1) IN GENERAL.—Such section 364 (7 U.S.C.  
 20                   2006f), as amended by subsections (b) and (c) of  
 21                   this section, is amended by adding at the end the  
 22                   following:

23                   “(i) RURAL ECONOMIC DEVELOPMENT.—A borrower  
 24                   of a loan or loan guarantee under the Rural Electrification  
 25                   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

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

3 **CHAPTER 1—ENSURING ADEQUATE FOOD**  
4 **ASSISTANCE**

5 **SEC. 1311. MAXIMUM BENEFIT LEVEL.**

6 Section 3(o) of the Act (7 U.S.C. 2012(o)) is amend-  
7 ed by striking “(4) through” and all that follows through  
8 the end of the subsection, and inserting the following:  
9 “and (4) on October 1, 1993, and each October 1 there-  
10 after, adjust the cost of such diet to reflect 104 percent  
11 of the cost of the thrifty food plan in the preceding June  
12 (without regard to adjustments made to such costs in any  
13 previous year), as determined by the Secretary, and round  
14 the result to the nearest lower dollar increment for each  
15 household size.”.

16 **SEC. 1312. HELPING LOW-INCOME HIGH SCHOOL STU-**  
17 **DENTS.**

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

23 **SEC. 1313. FAMILIES WITH HIGH SHELTER EXPENSES.**

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

1 (1) in the fourth sentence by striking “: *Pro-*  
2 *vided*, That the amount” and all that follows  
3 through “June 30”; and

4 (2) in the fifth sentence by striking “under  
5 clause (2) of the preceding sentence”.

6 (b) LIMITATIONS.—

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

11 “In the 12-month period ending September 30, 1994, such  
12 excess shelter expense deduction shall not exceed \$214 a  
13 month in the 48 contiguous States and the District of Co-  
14 lumbia, and shall not exceed, in Alaska, Hawaii, Guam,  
15 and the Virgin Islands of the United States, \$372, \$305,  
16 \$259, and \$158 a month, respectively.”.

17 (2) REMOVAL OF CAP.—Effective October 1,  
18 1994, section 5(e) of the Act (7 U.S.C. 2014(e)), as  
19 amended by paragraph (1), is amended by striking  
20 the fifth sentence.

21 **SEC. 1314. RESOURCE EXCLUSION FOR EARNED INCOME**

22 **TAX CREDITS.**

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

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

8 **SEC. 1315. HOMELESS FAMILIES IN TRANSITIONAL HOUS-**  
9 **ING.**

10 Section 5(k)(2)(F) of the Act (7 U.S.C.  
11 2014(k)(2)(F)) is amended to read as follows:

12 “(F) housing assistance payments made to a  
13 third party on behalf of the household residing in  
14 transitional housing for the homeless;”.

15 **SEC. 1316. HOUSEHOLDS BENEFITING FROM GENERAL AS-**  
16 **SISTANCE VENDOR PAYMENTS.**

17 Section 5(k)(1)(B) of the Act (7 U.S.C.  
18 2014(k)(1)(B)) is amended by striking “living expenses”  
19 and inserting “housing expenses, not including energy or  
20 utility-cost assistance,”.

21 **SEC. 1317. CONTINUING BENEFITS TO ELIGIBLE HOUSE-**  
22 **HOLDS.**

23 Section 8(c)(2)(B) of the Act (7 U.S.C.  
24 2017(c)(2)(B)) is amended by inserting “of more than one  
25 month in” after “following any period”.

1 **SEC. 1318. IMPROVING THE NUTRITIONAL STATUS OF CHIL-**  
2 **DREN IN PUERTO RICO.**

3 Section 19(a)(1)(A) of the Act (7 U.S.C.  
4 2028(a)(1)(A)) is amended by—

5 (1) striking “\$1,091,000,000” and inserting  
6 “\$1,111,000,000”; and

7 (2) striking “\$1,133,000,000” and inserting  
8 “\$1,158,000,000”.

9 **CHAPTER 2—PROMOTING SELF**  
10 **SUFFICIENCY**

11 **SEC. 1321. INCOME EXCLUSION FOR EDUCATION ASSIST-**  
12 **ANCE.**

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

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

17 “(3) all educational loans on which payment is  
18 deferred (including any loan origination fees or in-  
19 surance premiums associated with such loans),  
20 grants, scholarships, fellowships, veterans’ edu-  
21 cational benefits, and the like awarded to a house-  
22 hold member enrolled at a recognized institution of  
23 post-secondary education, at a school for the handi-  
24 capped, in a vocational education program, or in a  
25 program that provides for completion of a secondary  
26 school diploma or obtaining the equivalent thereof,”;



1           (2) striking “, and no portion” and all that fol-  
2       lows through “for living expenses,” in subsection  
3       (d)(5); and

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

5       **SEC. 1322. CHILD SUPPORT PAYMENTS TO NON-HOUSE-**  
6                               **HOLD MEMBERS.**

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

10    “: *Provided*, That child support payments made by a  
11    household member to or for a person who is not a member  
12    of the household shall be excluded from the income of the  
13    household of the person making such payments if such  
14    household member was legally obligated to make such pay-  
15    ments: *Provided further*, That the Secretary is authorized  
16    to prescribe by regulation the method(s), which may in-  
17    clude calculation on a retrospective basis, that State agen-  
18    cies may use to determine the amount of child support  
19    excluded,”.

20       **SEC. 1323. CHILD SUPPORT EXCLUSION.**

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

22           (1) in subsection (d)(13)—

23                   (A) by striking “at the option” and all  
24           that follows through “subsection (m),” and in-  
25           serting “(A)”; and

1 (B) by adding at the end “or (B) the first  
 2 \$50 of any child support payment in the month  
 3 received if such payment was made by the ab-  
 4 sent parent in the month when due,”; and  
 5 (2) by striking subsection (m).

6 **SEC. 1324. IMPROVING ACCESS TO EMPLOYMENT AND**  
 7 **TRAINING ACTIVITIES.**

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

11 (1) striking “\$160 a month for each depend-  
 12 ent” and inserting “\$200 a month for a dependent  
 13 child under 2 years of age and \$175 a month for  
 14 any other dependent”; and

15 (2) striking “, regardless of the dependent’s  
 16 age,”.

17 (b) **REIMBURSEMENTS TO PARTICIPANTS IN EM-**  
 18 **PLOYMENT AND TRAINING PROGRAMS.**—

19 (1) **COSTS OTHER THAN COSTS OF DEPENDENT**  
 20 **CARE.**—Section 6(d)(4)(I)(i)(I) of the Act (7 U.S.C.  
 21 2015(d)(4)(I)(i)(I)) is amended by striking “, except  
 22 that” and all that follows through “per month” and  
 23 inserting the following—

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

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

7               (2) COSTS OF DEPENDENT CARE.—Section  
8       6(d)(4)(I)(i)(II) of the Act (7 U.S.C.  
9       2015(d)(4)(I)(i)(II)) is amended to read as follows—

10              “(II) the actual costs of such dependent care  
11       expenses that are determined by the State agency to  
12       be necessary for the participation of an individual in  
13       the program (other than an individual who is the  
14       caretaker relative of a dependent in a family receiv-  
15       ing benefits under part A of title IV of the Social  
16       Security Act (42 U.S.C. 601 et seq.) in a local area  
17       where an employment, training, or education pro-  
18       gram under title IV of such Act is in operation, or  
19       was in operation, on the date of enactment of the  
20       Hunger Prevention Act of 1988) up to any limit set  
21       by the State agency (which limit shall not be less  
22       than the limit for the dependent care deduction  
23       under section 5(e)), but in no event shall such pay-  
24       ment or reimbursements exceed the applicable local  
25       market rate as determined by procedures consistent

1 with any such determination under the Social Secu-  
 2 rity Act. Individuals subject to the program under  
 3 this paragraph may not be required to participate if  
 4 dependent costs exceed the limit established by the  
 5 State agency under this subclause or other actual  
 6 costs exceed any limit established under subclause  
 7 (I).”.

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

10 (1) striking “\$25” and all that follows through  
 11 “dependent care costs)”, and inserting “the payment  
 12 made under section 6(d)(4)(I)(i)(I) and subject to  
 13 any limits the State has established under such sec-  
 14 tion”; and

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

19 **SEC. 1325. VEHICLES NEEDED TO SEEK AND CONTINUE EM-**  
 20 **PLOYMENT AND FOR HOUSEHOLD TRANS-**  
 21 **PORTATION.**

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

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

6 **SEC. 1326. VEHICLES NECESSARY TO CARRY FUEL OR**  
7 **WATER.**

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

10 “The Secretary shall exclude from financial resources the  
11 value of a vehicle that a household depends upon to carry  
12 fuel for heating or water for home use when such trans-  
13 ported fuel or water is the primary source of fuel or water  
14 for the household.”.

15 **SEC. 1327. DEMONSTRATION PROJECTS TESTING RE-**  
16 **SOURCE ACCUMULATION.**

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

19 “(k) The Secretary may conduct, under such terms  
20 and conditions as the Secretary may prescribe, for a pe-  
21 riod not to exceed 4 years, demonstration projects to test  
22 allowing eligible households to accumulate resources up to  
23 \$10,000 for later expenditure for a purpose directly relat-  
24 ed to improving the education, training, or employability  
25 (including self employment) of household members, for the

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

### 7           **CHAPTER 3—SIMPLIFYING THE** 8           **PROVISION OF FOOD ASSISTANCE**

#### 9   **SEC. 1331. SIMPLIFYING THE HOUSEHOLD DEFINITION FOR** 10           **HOUSEHOLDS WITH CHILDREN AND OTHERS.**

11       Section 3(i) of the Act (7 U.S.C. 2012(i)) is amend-  
 12 ed—

13           (1) in the first sentence—

14               (A) by striking “(2)” and inserting “or  
 15               (2)”;

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

21       “. Spouses who live together, parents and their chil-  
 22       dren 21 years of age or younger (who are not them-  
 23       selves parents living with their children or married  
 24       living with their spouses) who live together, and chil-  
 25       dren (excluding foster children) under 18 years of

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

4 (C) striking “, unless one of ” and all that  
 5 follows through “disabled member”; and

6 (2) in the second sentence by striking “clause  
 7 (1) of the preceding sentence” and inserting “the  
 8 preceding sentences”.

9 **SEC. 1332. ELIGIBILITY OF CHILDREN OF PARENTS PAR-**  
 10 **TICIPATING IN DRUG OR ALCOHOL ABUSE**  
 11 **TREATMENT PROGRAMS.**

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

13 (1) in the last sentence of subsection (i) by in-  
 14 serting “, together with their children,” after “nar-  
 15 cotics addicts or alcoholics”; and

16 (2) in subsection (g)(5) by inserting “, and  
 17 their children,” after “or alcoholics”.

18 **SEC. 1333. RESOURCES OF HOUSEHOLDS WITH DISABLED**  
 19 **MEMBERS.**

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

1 **SEC. 1334. ENSURING ADEQUATE FUNDING FOR THE FOOD**  
2 **STAMP PROGRAM.**

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

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

7 “The Secretary shall, once every 3 months, submit a re-  
8 port to the Committee on Agriculture of the House of Rep-  
9 resentatives and to the Committee on Agriculture, For-  
10 estry, and Nutrition of the Senate setting forth the Sec-  
11 retary’s best estimate of the preceding quarter’s expendi-  
12 ture, including administrative costs, as well as the cumu-  
13 lative totals for the fiscal year. In each quarterly report,  
14 the Secretary shall also state whether there is reason to  
15 believe that supplemental appropriations will be needed to  
16 support the operation of the program through the end of  
17 the fiscal year.”; and

18 (2) striking subsections (b), (c), and (d) and re-  
19 designating subsections (e) and (f) as subsections  
20 (b) and (c), respectively.



**CHAPTER 4—IMPROVING PROGRAM  
INTEGRITY**

**SEC. 1341. USE AND DISCLOSURE OF INFORMATION PROVIDED BY RETAIL FOOD STORES AND WHOLE-SALE 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 follow-

ing—

1 “Such regulations shall establish the criteria to be used  
2 by the Secretary to determine that such information is  
3 needed. Such regulations shall not prohibit”.

4 **SEC. 1342. ADDITIONAL MEANS OF CLAIMS COLLECTION.**

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

7 (1) striking “and (B)” and inserting “(B)”;  
8 and

9 (2) striking the semi-colon at the end and in-  
10 serting the following:

11 “, and (C) such safeguards shall not prevent the use  
12 by, or disclosure of such information, to agencies of  
13 the Federal Government (including the United  
14 States Postal Service) for purposes of collecting the  
15 amount of an overissuance of coupons, as deter-  
16 mined under section 13(b) of this Act and excluding  
17 claims arising from an error of the State agency,  
18 that has not been recovered pursuant to such sec-  
19 tion, from refunds of Federal taxes as authorized  
20 pursuant to section 3720A of title 31 of the United  
21 States Code, or from Federal pay (including salaries  
22 and pensions) as authorized pursuant to section  
23 5514 of title 5 of the United States Code;”.

24 (b) RECOVERY.—Section 13 of the Act (7 U.S.C.  
25 2022) is amended by adding the following:

1       “(d) The amount of an overissuance of coupons, as  
2 determined under subsection (b) and except for claims  
3 arising from an error of the State agency, that has not  
4 been recovered pursuant to such subsection may be recov-  
5 ered from refunds of Federal taxes, as authorized pursu-  
6 ant to section 3720A of title 31 of the United States Code,  
7 or from Federal pay (including salaries and pensions) as  
8 authorized by section 5514 of title 5 of the United States  
9 Code.”.

10 **SEC. 1343. DEMONSTRATION PROJECTS TESTING ACTIVI-**  
11 **TIES DIRECTED AT STREET TRAFFICKING IN**  
12 **COUPONS.**

13       Section 17 of the Act (7 U.S.C. 2026) is amended  
14 by adding a new subsection (l) at the end thereof as fol-  
15 lows—

16       “(l) The Secretary may use up to \$4 million of funds  
17 provided in advance in appropriations Acts for projects au-  
18 thorized by this section in Fiscal Year 1994 to conduct  
19 projects in which State or local food stamp agencies test  
20 innovative ideas for working with State or local law en-  
21 forcement agencies to investigate and prosecute coupon  
22 street trafficking by recipients, buyers, and authorized re-  
23 tail stores.”.

1     **CHAPTER 5—IMPROVING FOOD STAMP**  
2                     **PROGRAM MANAGEMENT**

3     **SEC. 1351. CLARIFICATION OF CATEGORICAL ELIGIBILITY.**

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

6                 (1) striking “and the third sentence of section  
7             3(i)” each place it appears in subsection (a) and in-  
8             serting the “, the third sentence of section 3(i), and  
9             section 20(f)”; and

10                (2) striking “II,” in subsection (j).

11     **SEC. 1352. TECHNICAL AMENDMENTS RELATED TO ELEC-**  
12                     **TRONIC BENEFIT TRANSFER.**

13             (a) ELIGIBILITY DISQUALIFICATION OF INDIVID-  
14     UALS.—Section 6(b)(1)(B) of the Act (7 U.S.C.  
15     2015(b)(1)(B)) is amended by striking “or authorization  
16     cards” and inserting “, authorization cards, or access  
17     devices”.

18             (b) ELIGIBILITY DISQUALIFICATION OF RETAIL  
19     FOOD STORES AND WHOLESALE FOOD CONCERNS.—Sec-  
20     tion 12(b)(3)(B) of the Act (7 U.S.C. 2021(b)(3)(B)) is  
21     amended by—

22                 (1) striking “or authorization cards” and in-  
23             serting “, authorization cards, or access devices”;  
24             and

1           (2) striking “or cards” and inserting “, cards,  
2       or devices”.

3   **SEC. 1353. DISQUALIFICATION OF RECIPIENTS FOR TRAD-**  
4                   **ING FIREARMS, AMMUNITION, EXPLOSIVES,**  
5                   **OR CONTROLLED SUBSTANCES FOR COU-**  
6                   **PONS.**

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

10           “(ii) for a period of 1 year upon—

11               “(I) the second occasion of any such deter-  
12       mination; or

13               “(II) the first occasion of a finding of the  
14       trading of a controlled substance (as defined in  
15       section 102 of the Controlled Substances Act  
16       (21 U.S.C. 802)); and

17           “(iii) permanently upon—

18               “(I) the third occasion of any such deter-  
19       mination;

20               “(II) the second occasion of a finding of  
21       the trading of a controlled substance (as de-  
22       fined in section 102 of the Controlled Sub-  
23       stances Act (21 U.S.C. 802)) for coupons; or

1           “(III) the first occasion of a finding of the  
2           trading of firearms, ammunition, or explosives  
3           for coupons.”.

4   **SEC. 1354. UNCAPPED CIVIL MONEY PENALTY FOR TRAF-**  
5                   **FICKING IN COUPONS.**

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

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

13           Effective on the date of enactment of this Act, section  
14   12(b)(3)(C) of the Act (7 U.S.C. 2021(b)(3)(C)) is  
15   amended—

16           (1) by striking “substances (as the term is”  
17           and inserting “substance (as”; and

18           (2) by striking “(except” and all that follows  
19           through “) in”, and inserting “in”.

20   **SEC. 1356. MODIFYING THE FOOD STAMP QUALITY CON-**  
21                   **TROL SYSTEM.**

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

24           (1) in paragraph (1)(C)—

1 (A) by striking “payment error tolerance  
2 level” and inserting “national performance  
3 measure”; and

4 (B) by striking “equal to” and all that fol-  
5 lows through the period at the end, and insert-  
6 ing the following:

7 “equal to—

8 “(i) the product of—

9 “(I) the value of all allotments issued  
10 by the State agency in the fiscal year;  
11 times

12 “(II) the lesser of—

13 “(aa) the ratio of—

14 “(1) the amount by which  
15 the State agency’s payment error  
16 rate for the fiscal year exceeds  
17 the national performance meas-  
18 ure for the fiscal year, to

19 “(2) the national perform-  
20 ance measure for the fiscal year;  
21 or

22 “(bb) one; times

23 “(III) the amount by which the State  
24 agency’s payment error rate for the fiscal

1                   year exceeds the national performance  
2                   measure for the fiscal year.

3                   “(ii) The amount of liability shall not be  
4                   affected by corrective action under subpara-  
5                   graph (B).”;

6                   (2) in paragraph (3)(A) by striking “60 days  
7                   (or 90 days at the discretion of the Secretary)” and  
8                   inserting “120 days”; and

9                   (3) in paragraph (6) by striking “shall be used”  
10                  and all that follows through “level” the last place it  
11                  appears.

12               (b) STUDY BY THE OFFICE OF TECHNOLOGY AS-  
13               SESSMENT.—The Office of Technology Assessment shall  
14               undertake a study of measurement error, any bias in pen-  
15               alty amounts, extreme value bias, regression formula, and  
16               of geographical and temporal uniformity of measurements,  
17               in the food stamp program quality control system, and  
18               shall report the results and recommendations of such  
19               study to the Committee on Agriculture of the House of  
20               Representatives and the Committee on Agriculture, Nutri-  
21               tion, and Forestry of the Senate not later than 12 months  
22               after the date of enactment of this Act.

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



1 error rate. The Secretary shall also conduct controlled ex-  
2 periments under which various reviewers review identical  
3 cases, with the objective of determining the degree of uni-  
4 formity in quality control error-rate measurements and  
5 the extent to which different levels of investment of re-  
6 sources in the review process affect measurement error.  
7 The Secretary shall report the results and recommenda-  
8 tions (including recommendations as to what measures  
9 would best reduce measurement error and increase uni-  
10 formity of quality control error-rate measurements at rea-  
11 sonable cost) of such study to the Committee on Agri-  
12 culture of the House of Representatives and the Commit-  
13 tee on Agriculture, Nutrition, and Forestry of the Senate  
14 not later than 2 years after the date of enactment of this  
15 Act.

16 **CHAPTER 6—UNIFORM REIMBURSEMENT**  
17 **RATES**

18 **SEC. 1361. UNIFORM REIMBURSEMENT RATES.**

19 (a) AMENDMENTS.—Section 16 of the Act (7 U.S.C.  
20 2025) is amended—

21 (1) in subsection (a)—

22 (A) by striking “and (5)” and inserting  
23 “(5)”;

24 (B) by inserting before the colon the fol-  
25 lowing—

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

1 beginning July 1, 1995, and 50 percent for any subse-  
2 quent period.”.

3 (b) APPLICATION OF AMENDMENTS.—The reductions  
4 in enhanced Federal match rates for administration re-  
5 sulting from the amendments made by subsection (a) shall  
6 apply to payments to States for expenditures incurred only  
7 after—

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

10 (2) in the case of a State with a State legisla-  
11 ture which is not scheduled to have a regular legisla-  
12 tive session in 1994, the end of the State fiscal year  
13 that ends during 1995;

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

18 **CHAPTER 7—IMPLEMENTATION AND**  
19 **EFFECTIVE DATES**

20 **SEC. 1371. IMPLEMENTATION AND EFFECTIVE DATES.**

21 (a) GENERAL EFFECTIVE DATE AND IMPLEMENTA-  
22 TION.—Except as otherwise provided in this subtitle, this  
23 subtitle and the amendments made by this subtitle shall  
24 take effect, and shall be implemented beginning on, Octo-  
25 ber 1, 1993.

1 (b) SPECIAL EFFECTIVE DATES AND IMPLEMENTA-  
2 TION.—(1) Sections 1312, 1315, 1316, 1317, 1322, 1323,  
3 1326, 1331, 1333, and 1353 and the amendments made  
4 by such sections shall take effect, and shall be imple-  
5 mented beginning on, July 1, 1994.

6 (2) Paragraphs (1) and (3) of section 1356(a) and  
7 the amendments made by such paragraphs shall take ef-  
8 fect, and shall be implemented beginning on, October 1,  
9 1991.

10 (3) Paragraph (2) of section 1356(a) and the amend-  
11 ment made by such paragraph shall take effect, and shall  
12 be implemented beginning on, October 1, 1992.

## 13 **Subtitle D—Miscellaneous** 14 **Provisions**

### 15 **SEC. 1401. MAXIMUM EXPENDITURES UNDER MARKET PRO-** 16 **MOTION PROGRAM FOR FISCAL YEARS 1994** 17 **THROUGH 1998.**

18 (a) LIMITATION.—Section 211(c)(1) of the Agricul-  
19 tural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended  
20 by striking “not less than \$200,000,000 for each of the  
21 fiscal years 1991 through 1995” and inserting “an  
22 amount equal to \$147,734,000 for each of the fiscal years  
23 1991 through 1998”.

1 (b) APPLICATION OF AMENDMENTS.—The amend-  
2 ment made by this section shall apply with respect to fiscal  
3 years beginning after September 30, 1993.

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

5 (a) AUTHORITY TO IMPOSE FEES.—

6 (1) ENTRANCE AND ADMISSION FEES.—The  
7 Secretary of Agriculture may charge admission or  
8 entrance fees at National Monuments, National Vol-  
9 canic Monuments, National Scenic Areas, and areas  
10 of concentrated public use administered by the Sec-  
11 retary.

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

18 (b) AMOUNT OF FEES.—The amount of the admis-  
19 sion, entrance, and recreation fees authorized to be im-  
20 posed under this section shall be determined by the Sec-  
21 retary.

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

23 (1) The term “area of concentrated public use”  
24 means an area administered by the Secretary that  
25 meets each of the following criteria:

1           (A) The area is managed primarily for out-  
2 door recreation purposes.

3           (B) Facilities and services necessary to ac-  
4 commodate heavy public use are provided in the  
5 area.

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

8           (D) Public access to the area is provided  
9 in such a manner that admission fees can be ef-  
10 ficiently collected at one or more centralized lo-  
11 cations.

12          (2) The term “boat launching facility” includes  
13 any boat launching facility regardless of whether  
14 specialized facilities or services, such as mechanical  
15 or hydraulic boat lifts or facilities, are provided.

16          (3) The term “campground” means any camp-  
17 ground where a majority of the following amenities  
18 are provided, as determined by the Secretary:

19               (A) Tent or trailer spaces.

20               (B) Drinking water.

21               (C) An access road.

22               (D) Refuse containers.

23               (E) Toilet facilities.

1 (F) The personal collection of recreation  
2 use fees by an employee or agent of the Sec-  
3 retary.

4 (G) Reasonable visitor protection.

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

8 (4) The term “Secretary” means the Secretary  
9 of Agriculture.

10 **SEC. 1403. ADDITIONAL PROGRAM CHANGES TO MEET REC-**  
11 **ONCILIATION REQUIREMENTS.**

12 The Secretary of Agriculture shall consolidate person-  
13 nel and field, regional, and national offices of agencies  
14 within the Department of Agriculture in order to reduce  
15 personnel and duplicative overhead expenses as a result  
16 of the consolidation such that Department expenditures  
17 are reduced by—

- 18 (1) \$90,000,000 in fiscal year 1995;  
19 (2) \$97,000,000 in fiscal year 1996;  
20 (3) \$135,000,000 in fiscal year 1997; and  
21 (4) \$178,000,000 in fiscal year 1998.

22 **SEC. 1404. ENVIRONMENTAL CONSERVATION ACREAGE RE-**  
23 **SERVE PROGRAM AMENDMENTS.**

24 (a) ENROLLMENT REQUIREMENT.—

25 (1) CONSERVATION RESERVE PROGRAM.—

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

4 (i) by striking “may” and inserting  
5 “shall”;

6 (ii) by striking “the amount of acres  
7 specified in section 1230(b)” and inserting  
8 “a total of 38,000,000 acres during the  
9 1986 through 1995 calendar years”; and

10 (iii) by striking “each of calendar  
11 years 1994 and 1995” and inserting “the  
12 1995 calendar year”.

13 (B) CONFORMING AMENDMENT.—Section  
14 1230(b) of such Act (16 U.S.C. 3830(b)) is  
15 amended by striking “to place in” and all that  
16 follows through “acres”.

17 (2) WETLANDS RESERVE PROGRAM.—

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

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

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



1           “(2) a total of not less than 975,000 acres dur-  
2           ing the 1991 through 2000 calendar years.”.

3           (B) CONFORMING AMENDMENT.—Section  
4           1237(c) of such Act (16 U.S.C. 3837(c)) is  
5           amended by striking “1995” and inserting  
6           “2000”.

7           (b) USE OF COMMODITY CREDIT CORPORATION.—  
8           Section 1241 of such Act (16 U.S.C. 3841) is amended—  
9           (1) in subsection (a)—

10           (A) by striking “(a)(1) During each of the  
11           fiscal years ending September 30, 1986, and  
12           September 30, 1987” and inserting “(a) During  
13           each of the fiscal years 1994 through 2000”;  
14           and

15           (B) by striking paragraph (2); and  
16           (2) in subsection (b), by striking “(A) through  
17           (E)” and inserting “A through E”.

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

20           (a) CONVERSION OF PROGRAM TO FOUR LEVELS OF  
21           COVERAGE.—The Federal Crop Insurance Act is amend-  
22           ed—

23           (1) in subsection (a) of section 508 (7 U.S.C.  
24           1508)—

1 (A) in the first sentence, by striking “If  
 2 sufficient actuarial data are available, as deter-  
 3 mined by the Board,” and inserting “Subject to  
 4 section 508B, based on the actuarial and un-  
 5 derwriting data available to the Board,”; and

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

9 (2) by inserting after section 508A (7 U.S.C.  
 10 1508a) the following new section:

11 **“SEC. 508B. FOUR LEVELS OF CROP INSURANCE COV-**  
 12 **ERAGE.**

13 “(a) FOUR LEVELS OF COVERAGE.—In making crop  
 14 insurance available under section 508 to producers of agri-  
 15 cultural commodities grown in the United States, the Cor-  
 16 poration shall make available four levels of insurance cov-  
 17 erage against losses in yields of the insured commodity:

18 “(1) LEVEL I.—Coverage level I shall be avail-  
 19 able only to those producers who do not purchase in-  
 20 surance at coverage levels II, III, or IV and shall  
 21 provide for the indemnification of those producers  
 22 for losses in yield to the extent that such losses ex-  
 23 ceed 65 percent of the determined yield of the com-  
 24 modity for the farm, as established under subsection  
 25 (b).

1           “(2) LEVELS II, III, AND IV.—Coverage levels  
2           II, III, and IV shall provide for the indemnification  
3           of producers for those losses in yield to the extent  
4           that such losses exceed 50, 35, and 25 percent, re-  
5           spectively, of—

6                   “(A) the average proven yield on the farm  
7                   for a representative period based on the actual  
8                   production history of the farm, as determined  
9                   from the producer’s records; or

10                   “(B) if such records are not available or  
11                   are insufficient, the recorded or appraised aver-  
12                   age yield of the commodity on the farm for a  
13                   representative period, subject to such adjust-  
14                   ments as the Board may prescribe to ensure  
15                   that the average yield for farms in the same  
16                   area, which are subject to the same conditions,  
17                   are fair and just.

18           “(b) DETERMINED YIELD.—For purposes of sub-  
19           section (a)(1), the determined yield for a commodity shall  
20           be equal to—

21                   “(1) in the case of a crop of any commodity for  
22                   which the Agricultural Stabilization and Conserva-  
23                   tion Service establishes a yield for the farm, the  
24                   yield so established; and

1           “(2) in the case of a crop of any other commod-  
2       ity, the recorded or appraised average yield of the  
3       commodity on the farm for a representative period,  
4       subject to such adjustments as the Board may pre-  
5       scribe to ensure that the average yield for farms in  
6       the same area, which are subject to the same condi-  
7       tions, are fair and just.

8       “(c) USE OF ASCS YIELD.—If the Agricultural Sta-  
9       bilization and Conservation Service has established a yield  
10      for a crop of a commodity for a farm and such yield is  
11      higher than the yield determined for the farm under sub-  
12      section (a)(2) for coverage levels II, III, or IV, the pro-  
13      ducer may elect to use such higher yield for purpose of  
14      coverage levels II, III, and IV. Use of such higher yield  
15      shall be subject to an additional premium for the coverage  
16      at such a rate as the Board determines appropriate to ac-  
17      curately reflect the increased risk involved and that the  
18      Board determines to be actuarially sufficient to cover  
19      claims for losses on such insurance and to establish a rea-  
20      sonable reserve against unforeseen losses. No premium  
21      subsidy or administrative subsidy may be provided by the  
22      Corporation in connection with any additional coverage  
23      provided under this subsection.

24      “(d) PRICE ELECTIONS.—The Corporation shall es-  
25      tablish 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:

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

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

7               “(B) with respect to each policy providing for  
8 coverage level II, III, or IV, the portion of the pre-  
9 mium that is equal to the amount that would have  
10 been paid under subparagraph (A) if the producer  
11 had elected coverage level I.”.

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

15       “(h) REINSURANCE.—The Corporation shall provide  
16 reinsurance, to the maximum extent practicable, upon  
17 such terms and conditions as the Board may determine  
18 to be consistent with subsections (a) and (b) and with  
19 sound reinsurance principles promulgated pursuant to the  
20 Office of Federal Procurement Policy Act (41 U.S.C. 401,  
21 et seq.), which the Board shall modify as necessary to con-  
22 form to the purposes of this Act, taking into account the  
23 expenses of the Corporation paid on its own policies of  
24 insurance. Reinsurance shall be provided to insurers in-  
25 cluding 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-

1   sured companies and the availability of private reinsurance  
2   so permits.”.

3       (d) APPLICATION OF AMENDMENTS.—The amend-  
4   ments made by this section shall apply beginning with  
5   crops to be harvested in 1995.

## 6           **TITLE II—COMMITTEE ON** 7           **ARMED SERVICES**

### 8   **SEC. 2001. LIMITATION ON COST-OF-LIVING ADJUSTMENTS** 9           **FOR MILITARY RETIREES.**

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

12           “(2) PRE-AUGUST 1, 1986 MEMBERS.—

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

19                   “(i) the price index for the base quar-  
20               ter of that year, exceeds

21                   “(ii) the base index.

22               “(B) SPECIAL RULE FOR FISCAL YEARS  
23       1994 THROUGH 1998.—In the case of the in-  
24       creases in retired pay that, pursuant to para-  
25       graph (1), become effective on December 1 of



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

| <b>“Fiscal year:</b> | <b>First month for which<br/>increase is payable:</b> |
|----------------------|---|
| 1994 .....           | April 1994.   |
| 1995 .....           | July 1995.  |
| 1996 .....           | October 1996.   |
| 1997 .....           | January 1998.   |
| 1998 .....           | April 1999.   |

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

10 **SEC. 2002. ELIMINATION OF MILITARY PAY RAISE FOR FIS-**  
 11 **CAL YEAR 1994 AND REDUCTION IN THE**  
 12 **AMOUNT OF THE RAISE FOR FISCAL YEARS**  
 13 **1995 THROUGH 1998.**

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

19 (b) ONE PERCENT REDUCTION IN SUBSEQUENT FIS-  
 20 CAL YEARS.—If the General Schedule of compensation for  
 21 Federal classified employees is increased under section  
 22 5303 of title 5, United States Code, as amended by title

1 X of this Act, during fiscal year 1995, 1996, 1997, or  
2 1998, the elements of compensation of members of the  
3 uniformed services shall likewise be increased during that  
4 fiscal year in the manner provided in section 1009 of title  
5 37, United States Code, based on the corresponding in-  
6 crease under section 5303 of title 5, United States Code  
7 (as so amended).

8 (c) EFFECTIVE DATE OF RAISES.—Notwithstanding  
9 subsections (a) and (b)(1) of section 1009 of title 37,  
10 United States Code, during the 10-year period beginning  
11 on January 1, 1994, any increase in the elements of com-  
12 pensation of members of the uniformed services that is  
13 required to be made under such section during a fiscal  
14 year shall take effect on January 1 of that year rather  
15 than on the date the corresponding increase under section  
16 5303 of title 5, United States Code, as amended by title  
17 X of this Act, takes effect.

18 **TITLE III—COMMITTEE ON**  
19 **BANKING, FINANCE AND**  
20 **URBAN AFFAIRS**

21 **SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.**

22 (a) IN GENERAL.—Section 11(d)(11) of the Federal  
23 Deposit Insurance Act (12 U.S.C. 1821(d)(11)) is amend-  
24 ed to read as follows:

25 “(11) DEPOSITOR PREFERENCE.—

1           “(A) IN GENERAL.—Subject to section  
2           5(e)(2)(C), amounts realized from the liquida-  
3           tion or other resolution of any insured deposi-  
4           tory institution by any receiver appointed for  
5           such institution shall be distributed to pay  
6           claims (other than secured claims to the extent  
7           of any such security) in the following order of  
8           priority:

9                   “(i) Administrative expenses of the re-  
10                  ceiver.

11                  “(ii) Any deposit liability of the insti-  
12                  tution.

13                  “(iii) Any claim of an employee of the  
14                  institution, other than a senior executive  
15                  officer (as defined by the Corporation pur-  
16                  suant to section 32(f)), for pay accrued  
17                  but unpaid as of the date the receiver was  
18                  appointed for the institution.

19                  “(iv) Any other general or senior li-  
20                  ability of the institution (which is not a li-  
21                  ability described in clause (v) or (vi)).

22                  “(v) Any obligation subordinated to  
23                  depositors or other general creditors  
24                  (which is not an obligation described in  
25                  clause (vi)).

1           “(vi) Any obligation to shareholders  
2           arising as a result of their status as share-  
3           holders (including any depository institu-  
4           tion holding company or any shareholder  
5           or creditor of such company).

6           “(B) EFFECT ON STATE LAW.—

7           “(i) IN GENERAL.—The provisions of  
8           subparagraph (A) shall not supersede the  
9           law of any State except to the extent such  
10          law is inconsistent with the provisions of  
11          such subparagraph, and then only to the  
12          extent of the inconsistency.

13          “(ii) PROCEDURE FOR DETERMINA-  
14          TION OF INCONSISTENCY.—Upon the Cor-  
15          poration’s own motion or upon the request  
16          of any person with a claim described in  
17          subparagraph (A)(i) or any State which is  
18          submitted to the Corporation in accordance  
19          with procedures which the Corporation  
20          shall prescribe, the Corporation shall deter-  
21          mine whether any provision of the law of  
22          any State is inconsistent with any provi-  
23          sion of subparagraph (A) and the extent of  
24          any such inconsistency.

1           “(iii) JUDICIAL REVIEW.—The final  
2           determination of the Corporation under  
3           clause (ii) shall be subject to judicial re-  
4           view under chapter 7 of title 5, United  
5           States Code.

6           “(C) ACCOUNTING REPORT.—Any distribu-  
7           tion by the Corporation in connection with any  
8           claim described in subparagraph (A)(vi) shall be  
9           accompanied by the accounting report required  
10          under paragraph (15)(B).”.

11       (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

15           (A) in subparagraph (A), by striking “sub-  
16       ject to subparagraph (B),”;

17           (B) in inserting “and” after the semicolon  
18       at the end of subparagraph (A);

19           (C) by striking subparagraph (B); and

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

22           (2) Section 11(g)(4) of the Federal Deposit In-  
23       surance Act (12 U.S.C. 1921(g)(4)) is amended by  
24       striking “If the Corporation” and inserting “Subject  
25       to subsection (d)(11), if the Corporation”.

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

5 **SEC. 3002. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

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

9 “(a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE  
10 BANKS.—

11 “(1) STOCKHOLDER DIVIDENDS.—

12 “(A) IN GENERAL.—After all necessary ex-  
13 penses of a Federal reserve bank have been  
14 paid or provided for, the stockholders of the  
15 bank shall be entitled to receive an annual divi-  
16 dend of 6 percent on paid-in capital stock.

17 “(B) DIVIDEND CUMULATIVE.—The enti-  
18 tlement to dividends under subparagraph shall  
19 be cumulative.

20 “(2) DEPOSIT OF NET EARNINGS IN SURPLUS  
21 FUND.—That portion of net earnings of each Fed-  
22 eral reserve bank which remains after dividend  
23 claims under subparagraph (A) have been fully met  
24 shall be deposited in the surplus fund of the bank.

1           “(3) PAYMENT TO TREASURY.—During fiscal  
2       years 1994 through 1998, any amount in the sur-  
3       plus fund of any Federal reserve bank in the excess  
4       of the amount equal to 3 percent of the total paid-  
5       in capital and surplus of the member banks of such  
6       bank shall be transferred to the Board for transfer  
7       to the Secretary of the Treasury for deposit in the  
8       general fund of the Treasury.”.

9       (b) ADDITIONAL TRANSFERS FOR FISCAL YEARS  
10     1997 AND 1998.—

11           (1) IN GENERAL.—In addition to the amounts  
12       required to be transferred from the surplus funds of  
13       the Federal reserve banks pursuant to section  
14       7(a)(3) of the Federal Reserve Act, the Federal re-  
15       serve banks shall transfer from such surplus funds  
16       to the Board of Governors of the Federal Reserve  
17       System for transfer to the Secretary of the Treasury  
18       for deposit in the general fund of the Treasury, a  
19       total amount of \$106,000,000 in fiscal year 1997  
20       and a total amount of \$107,000,000 in fiscal year  
21       1998.

22           (2) ALLOCATION BY FED.—Of the total amount  
23       required to be paid by the Federal reserve banks  
24       under paragraph (1) for fiscal year 1997 or 1998,  
25       the Board of Governors of the Federal Reserve Sys-

1       tem shall determine the amount each such bank  
2       shall pay in such fiscal year.

3           (3) REPLENISHMENT OF SURPLUS FUND PRO-  
4       HIBITED.—No Federal reserve bank may replenish  
5       such bank’s surplus fund by the amount of any  
6       transfer by such bank under paragraph (1) during  
7       the fiscal year for which such transfer is made.

8       (c) TECHNICAL AND CONFORMING AMENDMENTS.—

9           (1) The penultimate undesignated paragraph of  
10       section 7 of the Federal Reserve Act (12 U.S.C.  
11       290) is amended by striking “The net earnings de-  
12       rived” and inserting “(b) USE OF EARNINGS TRANS-  
13       FERRED TO THE TREASURY.—The net earnings de-  
14       rived”.

15          (2) The last undesignated paragraph of section  
16       7 of the Federal Reserve Act (12 U.S.C. 531) is  
17       amended by striking “Federal reserve banks” and  
18       inserting “(c) EXEMPTION FROM TAXATION.—Fed-  
19       eral reserve banks”.

20   **SEC. 3003. USE OF RETURN DATA FOR INCOME VERIFICA-**  
21                           **TION UNDER CERTAIN HOUSING ASSISTANCE**  
22                           **PROGRAMS.**

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



1 (1) CONSENT FORMS.—In subsection (b)—

2 (A) in the matter preceding paragraph (1),  
3 by inserting “(including the Indian housing pro-  
4 gram under title II of the United States Hous-  
5 ing Act of 1937)” before the 1st comma;

6 (B) in paragraph (1), by striking “and” at  
7 the end;

8 (C) in paragraph (2), by striking the pe-  
9 riod at the end and inserting “; and”;

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

12 “(3) sign a consent from approved by the Sec-  
13 retary authorizing the Secretary to request the Com-  
14 missioner of Social Security and the Secretary of the  
15 Treasury to release information pursuant to section  
16 6103(l)(7)(D)(ix) of the Internal Revenue Code of  
17 1986 with respect to such applicant or participant  
18 for the sole purpose of the Secretary verifying in-  
19 come information pertinent to the applicant’s or par-  
20 ticipant’s eligibility or level of benefits.”; and

21 (E) in the last sentence, by striking “This”  
22 and inserting the following: “Except as pro-  
23 vided in this subsection, this”.

24 (2) APPLICANT AND PARTICIPANT PROTEC-  
25 TIONS.—In subsection (c)(2)—

1 (A) in subparagraph (A)—

2 (i) in the matter preceding clause

3 (i)—

4 (I) by inserting after “compensa-  
5 tion law” the following: “or pursuant  
6 to section 6103(i)(7)(D)(ix) of the In-  
7 ternal Revenue Code of 1986 from the  
8 Commissioner of Social Security or  
9 the Secretary of the Treasury”; and

10 (II) by inserting “(in the case of  
11 information obtained pursuant to such  
12 section 303(i))” before “representa-  
13 tives”; and

14 (ii) in clause (ii), by inserting “or  
15 public housing agency” after “owner” each  
16 place it appears;

17 (B) in subparagraph (B), by inserting  
18 after “wages” each place it appears the follow-  
19 ing: “, other earnings or income,”; and

20 (C) in subparagraph (C), by inserting be-  
21 fore the second comma the following: “at a  
22 hearing that provides the basic elements of due  
23 process”.

24 (3) PENALTY.—In subsection (c)(3)—

1 (A) in subparagraph (A), by inserting “or  
2 section 6103(l)(7)(D)(ix) of the Internal Reve-  
3 nue Code of 1986” after “Social Security Act”;  
4 and

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

7 (i) by striking clause (i) and inserting  
8 the following: “(i) a negligent or knowing  
9 disclosure of information referred to in this  
10 section, section 303(i) of the Social Secu-  
11 rity Act, or section 6103(l)(7)(D)(ix) of  
12 the Internal Revenue Code of 1986 about  
13 such person by an officer or employee of  
14 any public housing agency or owner (or  
15 employee thereof), which disclosure is not  
16 authorized by this section, such section  
17 303(i), such section 6103(l)(7)(D)(ix), or  
18 any regulation implementing this section,  
19 such section 303(i), or such section  
20 6103(l)(7)(D)(ix), or”; and

21 (ii) in clause (ii), by inserting “such  
22 6103(l)(7)(D)(ix),” after “303(i),”.

23 (4) CONFORMING AMENDMENT.—The heading  
24 of subsection (c) of section 904 of the Stewart B.  
25 McKinney Homeless Assistance Amendments Act of

1       1988 is amended by striking “STATE EMPLOY-  
2       MENT”.

3       **SEC. 3004. GNMA REMIC GUARANTEE FEES.**

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

7       “(E)(i) Notwithstanding subparagraphs (A) through  
8       (D), fees charged for the guaranty of, or commitment to  
9       guaranty, multiclass securities backed by a trust or pool  
10      of securities or notes guaranteed by the Association under  
11      this subsection and other related fees shall be charged by  
12      the Association in an amount not to exceed the value, as  
13      determined by the Association, of the guarantee or com-  
14      mitment to guarantee. The Association shall take such ac-  
15      tion as may be necessary to reasonably assure that such  
16      portion of the value of the guaranties or commitments to  
17      guaranty as the Association determines is appropriate ac-  
18      crued to the benefit of mortgagors under mortgages exe-  
19      cuted after the date of the enactment of this subparagraph  
20      by or upon which such securities or notes are backed.

21      “(ii) For each Federal fiscal year, the Association  
22      shall submit a report to the Congress describing any ac-  
23      tivities of the Association with respect to guarantying and  
24      making commitments to guaranty multiclass securities de-  
25      scribed in clause (i). The report shall be submitted not

1 later than 90 days after the end of the fiscal year for  
2 which the report is made and shall identify the extent of  
3 such activities during the fiscal year, the size of each  
4 transaction closed during the fiscal year involving such se-  
5 curities, the number of mortgages involved in each such  
6 transaction, the amount of the fees charged and earned  
7 by the Association for such transactions, and any persons  
8 receiving payments for any services provided with respect  
9 to any such transactions and the amounts of such pay-  
10 ments, and shall include an estimate of the portion of the  
11 value of the guarantee or commitment to guarantee accru-  
12 ing to the benefit of mortgagors and a description of any  
13 action taken by the Association to ensure such accrual.

14       “(iii) The Association shall provide for the initial im-  
15 plementation of the program for which fees are charged  
16 under the first sentence of clause (i) by notice published  
17 in the Federal Register. The notice shall be effective upon  
18 publication and shall provide an opportunity for public  
19 comment. Not later than 12 months after publication of  
20 the notice, the Association shall issue regulations for such  
21 program based on the notice, comments received, and the  
22 experience of the Association in carrying out the program  
23 during such period.”.

1 **SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PRE-**  
 2 **MIUMS.**

3 To improve the actuarial soundness of the Mutual  
 4 Mortgage Insurance Fund under the National Housing  
 5 Act, the Secretary of Housing and Urban Development  
 6 shall increase the rate at which the Secretary earns the  
 7 single premium payment collected at the time of insurance  
 8 of a mortgage that is an obligation of such Fund (with  
 9 respect to the rate in effect on the date of the enactment  
 10 of this Act). In establishing such increased rate, the Sec-  
 11 retary shall consider any current audit findings and re-  
 12 serve analyses and information regarding the expected av-  
 13 erage duration of mortgages that are obligations of such  
 14 Fund and may consider any other information that the  
 15 Secretary determines to be appropriate.

16 **TITLE IV—EDUCATION AND**  
 17 **LABOR**

18 **SEC. 4000. TABLE OF CONTENTS.**

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

TITLE IV—EDUCATION AND LABOR

Sec. 4000. Table of contents.

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.

Sec. 4002. Federal Direct Student Loan Program.

CHAPTER 2—CONFORMING AMENDMENTS

Sec. 4021. Preserving loan access.

- Sec. 4022. Guaranty agency reserves.
- Sec. 4023. Terms of loans.
- Sec. 4024. Assignment of loans.
- Sec. 4025. Termination of guaranty agency agreements; assumption of guaranty agency functions by the Secretary.
- Sec. 4026. Administrative cost allowance.
- Sec. 4027. Consolidation loans.
- Sec. 4028. Student Loan Marketing Association.
- Sec. 4029. Amendment to the Balanced Budget and Emergency Deficit Control Act of 1985.

#### CHAPTER 3—EFFECTIVE DATES; STUDY

- Sec. 4031. Effective dates.
- Sec. 4032. Study of Internal Revenue Service collection of student loans.
- Sec. 4033. Preference of committee for IRS collection mechanism.

#### Subtitle B—Cost Sharing by States

- Sec. 4101. Cost sharing by States.

#### 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.
- Sec. 4202. Continued coverage of costs of a pediatric vaccine under group health plans.
- Sec. 4203. Temporary rules governing preemption of certain State laws.

## 1     **Subtitle A—Federal Direct Loan** 2                                   **Program**

## 3     **CHAPTER 1—AMENDMENTS TO PART D OF** 4                   **TITLE IV OF THE HIGHER EDUCATION** 5                   **ACT OF 1965**

### 6     **SEC. 4001. SHORT TITLE; REFERENCES.**

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

9           (b) REFERENCES.—References in this subtitle to  
10    “the Act” are references to the Higher Education Act of  
11    1965 (20 U.S.C. 1001 et seq.).

1 **SEC. 4002. FEDERAL DIRECT STUDENT LOAN PROGRAM.**

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

4 **“PART D—FEDERAL DIRECT STUDENT LOAN**  
5 **PROGRAM**

6 **“SEC. 451. PURPOSE; PROGRAM AUTHORIZATION.**

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

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

10 “(2) to provide a variety of repayment plans,  
11 including income contingent repayment through the  
12 EXCEL Account, to borrowers so that they have  
13 flexibility in managing their student loan repayment  
14 obligations, and so that those obligations do not  
15 foreclose community service-oriented career choices  
16 for those borrowers;

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

21 “(4) to avoid the unnecessary cost, to taxpayers  
22 and borrowers, and administrative complexity associ-  
23 ated with the Federal Family Education Loan Pro-  
24 gram under part B of this title through the use of  
25 a direct student loan program; and



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

4           “(b) PROGRAM AUTHORITY.—There are hereby made  
5           available, in accordance with the provisions of this part,  
6           such sums as may be necessary to make loans to all eligi-  
7           ble students in attendance at participating institutions of  
8           higher education selected by the Secretary (and the eligi-  
9           ble parents of such students), to enable such students to  
10          pursue their courses of study at such institutions during  
11          the period beginning July 1, 1994. Such loans shall be  
12          made by participating institutions that have agreements  
13          with the Secretary to originate loans, or by alternative  
14          originators designated by the Secretary to make loans for  
15          students in attendance at participating institutions (and  
16          their parents).

17       **“SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT**  
18                               **LOANS.**

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

24                       “(1) directly to an institution of higher edu-  
25          cation that has an agreement with the Secretary

1 under section 454(a) to participate in the direct stu-  
2 dent loan programs under this part and that also  
3 has an agreement with the Secretary under section  
4 454(b) to originate loans under this part, or

5 “(2) through an alternative originator des-  
6 ignated by the Secretary to students and parents of  
7 students attending institutions of higher education  
8 that have an agreement with the Secretary under  
9 section 454(a) but that do not have an agreement  
10 with the Secretary under section 454(b).

11 “(b) FEES FOR ORIGINATION SERVICES.—

12 “(1) FEES FOR INSTITUTIONS.—The Secretary  
13 shall pay fees to institutions of higher education (or  
14 a consortium of such institutions) with agreements  
15 under section 454(b), in an amount established by  
16 the Secretary, to assist in meeting the costs of loan  
17 origination. Such fees—

18 “(A) shall be paid by the Secretary based  
19 on all the loans made under this part to a par-  
20 ticular borrower in the same academic year;

21 “(B) shall be subject to a sliding scale that  
22 decreases the amount of such fees as the num-  
23 ber of borrowers increases; and

24 “(C)(i) for academic year 1994–1995, shall  
25 not exceed a program-wide average of \$10 per

1           borrower for all the loans made under this part  
2           in the same academic year; and

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

6           “(2) FEES FOR ALTERNATIVE ORIGINATORS.—

7           The Secretary shall pay fees for loan origination  
8           services to alternative originators of loans made  
9           under this part in an amount established by the Sec-  
10          retary in accordance with the terms of the contract  
11          between the Secretary and each such alternative  
12          originator.

13          “(c) NO ENTITLEMENT TO PARTICIPATE OR ORIGI-  
14          NATE.—No institution of higher education shall have a  
15          right to participate in the programs authorized by this  
16          part, to originate loans, or to perform any program func-  
17          tion under this part. Nothing in this subsection shall be  
18          construed so as to limit the entitlement of an eligible stu-  
19          dent attending a participating institution (or the eligible  
20          parent of such student) to borrow under this part.

21       **“SEC. 453. SELECTION OF INSTITUTIONS FOR PARTICIPA-**  
22       **TION AND ORIGINATION.**

23          “(a) PHASE-IN OF PROGRAM.—

24          “(1) GENERAL AUTHORITY.—The Secretary  
25          shall enter into agreements pursuant to section

1       454(a) with institutions of higher education to par-  
2       ticipate in the direct student loan programs under  
3       this part, and agreements pursuant to section  
4       454(b) with institutions of higher education to origi-  
5       nate loans in such programs, for academic years be-  
6       ginning on or after July 1, 1994. Alternative origi-  
7       nation services, through which an entity other than  
8       the participating institution at which the student is  
9       in attendance originates the loan, shall be provided  
10      by the Secretary, through one or more contracts  
11      under section 456 or such other means as the Sec-  
12      retary may provide, for students attending partici-  
13      pating institutions that do not originate direct stu-  
14      dent loans under this part. Such agreements for the  
15      first year of the program shall, to the extent fea-  
16      sible, be entered into not later than January 1,  
17      1994.

18           “(2) TRANSITION PROVISIONS.—In order to en-  
19      sure an expeditious but orderly transition from the  
20      loan programs under part B of this title to the di-  
21      rect student loan programs under this part, the Sec-  
22      retary shall, in the exercise of his or her discretion,  
23      determine the number of institutions with which he  
24      or she shall enter into agreements under sections  
25      454 (a) and (b) for any academic year, except that

1 the Secretary shall exercise such discretion so as to  
2 achieve the following goals:

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

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

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

15 “(D) for academic year 1997–1998, loans  
16 made under this part shall represent 100 per-  
17 cent of the sum of new student loan volume  
18 under this part and part B of this title.

19 “(3) CASH MANAGEMENT.—The requirements  
20 of the Cash Management Improvement Act of 1990  
21 (Public Law 101–453) shall apply to the program  
22 under this part only to the extent specified in a  
23 schedule established by the Secretaries of Education  
24 and the Treasury, except that such schedule shall

1 provide for the application of all such requirements  
2 not later than July 1, 1998.

3 “(b) SELECTION CRITERIA FOR PARTICIPATION.—

4 “(1) APPLICATION.—Each institution of higher  
5 education desiring to participate in the direct stu-  
6 dent loan program under this part shall submit an  
7 application satisfactory to the Secretary containing  
8 such information and assurances as the Secretary  
9 may require.

10 “(2) AGREEMENT.—When the program author-  
11 ized under this part is fully implemented, the Sec-  
12 retary shall enter into agreements under section  
13 454(a) with institutions that submit applications in  
14 accordance with paragraph (1).

15 “(3) TRANSITION SELECTION CRITERIA.—Until  
16 such full implementation, the Secretary shall select  
17 institutions for participation in the direct student  
18 loan program under this part, and shall enter into  
19 agreements with them under section 454(a), from  
20 among those institutions that submit the applica-  
21 tions described in paragraph (1), and meet such  
22 other eligibility requirements as the Secretary may  
23 prescribe, by—

24 “(A)(i) categorizing such institutions ac-  
25 cording to anticipated loan volume, length of

1 academic program, and control of the institu-  
2 tion; and

3 “(ii) selecting institutions that are reason-  
4 ably representative of the respective categories;  
5 and

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

8 “(c) SELECTION CRITERIA FOR ORIGINATION.—

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

12 “(A) has an agreement under subsection  
13 454(a);

14 “(B) desires to originate loans under this  
15 part; and

16 “(C) meets the criteria specified in para-  
17 graph (2).

18 “(2) TRANSITION SELECTION CRITERIA.—For  
19 academic year 1994–1995, the Secretary may ap-  
20 prove an institution to originate loans only if such  
21 institution—

22 “(A) made loans under part E of this title  
23 in academic year 1993–1994 and did not exceed  
24 the applicable maximum default rate under sec-

1           tion 464(g) for the most recent fiscal year for  
2           which data are available;

3           “(B) is not on the reimbursement system  
4           of payment for any of the programs under sub-  
5           part 1 or 3 of part A, part C, or part E;

6           “(C) is not overdue on program or finan-  
7           cial reports or audits required under this title;

8           “(D) is not subject to an emergency ac-  
9           tion, or a limitation, suspension, or termination  
10          under section 428(b)(1)(T), 432(h), or 487(c);

11          “(E) in the opinion of the Secretary, has  
12          not had significant deficiencies identified by the  
13          State postsecondary review entity under subpart  
14          1 of part H of this title;

15          “(F) in the opinion of the Secretary, has  
16          not had severe performance deficiencies for any  
17          of the programs under this title, including those  
18          demonstrated by audits or program reviews  
19          submitted or conducted during the 5 calendar  
20          years immediately preceding the date of appli-  
21          cation;

22          “(G) provides an assurance that it has no  
23          delinquent outstanding debts to the United  
24          States, unless such debts are being repaid  
25          under or in accordance with a repayment ar-



1           rangement satisfactory to the United States, or  
2           the Secretary in his or her discretion deter-  
3           mines that the existence or amount of such  
4           debts has not been finally determined by the  
5           cognizant Federal agency or agencies; and

6           “(H) meets such other criteria as the Sec-  
7           retary may establish to protect the financial in-  
8           terest of the United States and to promote the  
9           purposes of this part.

10          “(3) REGULATIONS GOVERNING APPROVAL  
11          AFTER TRANSITION.—For academic year 1995–1996  
12          and subsequent academic years, the Secretary shall  
13          publish regulations governing the approval of institu-  
14          tions to originate loans.

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

22          **“SEC. 454. AGREEMENTS WITH INSTITUTIONS.**

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

1           “(1) provide for the establishment and mainte-  
2           nance of a direct student loan program at the insti-  
3           tution under which the institution will—

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

7                   “(B) estimate the need of each such stu-  
8                   dent as required by part F of this title for an  
9                   academic year, provided that any loan obtained  
10                  by a student under this part with the same  
11                  terms (except as otherwise provided in this  
12                  part) as loans made under section 428A or  
13                  428H, or a loan obtained by a parent under  
14                  this part with the same terms (except as other-  
15                  wise provided in this part) as loans made under  
16                  section 428B, or obtained under any State-  
17                  sponsored or private loan program, may be used  
18                  to offset the expected family contribution of the  
19                  student for that year;

20                  “(C) provide a statement that certifies the  
21                  eligibility of any student to receive a loan under  
22                  this part that is not in excess of the annual or  
23                  aggregate limit applicable to the amount of  
24                  such loan, except that the institution may, in  
25                  exceptional circumstances specified in regula-

1           tions prescribed by the Secretary, refuse to cer-  
2           tify a statement that permits a student to re-  
3           ceive a loan under this part, or certify a loan  
4           amount that is less than the student's deter-  
5           mination of need (as determined under part F  
6           of this title), if the reason for such action is  
7           documented and provided in written form to  
8           such student;

9           “(D) set forth a schedule for disbursement  
10          of the proceeds of the loan in installments, con-  
11          sistent with the requirements of section 428G  
12          (other than subsection (b)(1) of such section);  
13          and

14          “(E) provide timely and accurate informa-  
15          tion—

16               “(i) concerning the status of student  
17               borrowers (and students on whose behalf  
18               parents borrow under this part) while such  
19               students are in attendance at the institu-  
20               tion and concerning any new information  
21               of which the institution becomes aware for  
22               such students (or their parents) after they  
23               leave the institution, to the Secretary for  
24               the servicing and collecting of loans made  
25               under this part; and

1           “(ii) if the institution does not have  
2           an agreement with the Secretary under  
3           subsection (b), concerning student eligi-  
4           bility and need, as determined under sub-  
5           paragraphs (A) and (B), to the Secretary  
6           as needed for the alternative origination of  
7           loans to eligible students and parents in  
8           accordance with this part;

9           “(2) provide assurances that the institution will  
10          comply with requirements established by the Sec-  
11          retary relating to student loan information with re-  
12          spect to loans made under this part;

13          “(3) provide that the institution accepts respon-  
14          sibility and financial liability stemming from its fail-  
15          ure to perform its functions pursuant to the agree-  
16          ment;

17          “(4) provide that students at the institution  
18          and their parents (with respect to such students)  
19          will not be eligible to participate in the programs  
20          under part B of this title for the period during  
21          which such institution participates in the direct stu-  
22          dent loan program under this part;

23          “(5) provide for the implementation of a quality  
24          assurance system, as established by the Secretary, to

1 ensure that the institution is complying with pro-  
2 gram requirements and meeting program objectives;

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

9 “(7) include such other provisions as the Sec-  
10 retary determines are necessary to protect the inter-  
11 ests of the United States and to promote the pur-  
12 poses of this part.

13 “(b) ORIGINATION.—An agreement with any institu-  
14 tion of higher education for the origination of loans under  
15 this part shall—

16 “(1) supplement the agreement entered into in  
17 accordance with subsection (a);

18 “(2) include provisions established by the Sec-  
19 retary that are similar to the participation agree-  
20 ment provisions described in paragraphs (1)(E)(ii),  
21 (2), (3), (4), (5), (6), and (7) of subsection (a), as  
22 modified to relate to the origination of loans by the  
23 institution;

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

4           “(4) provide that the note or evidence of obliga-  
5       tion on the loan shall be the property of the Sec-  
6       retary.

7       “(c) WITHDRAWAL AND TERMINATION PROCE-  
8       DURES.—The Secretary shall establish procedures by  
9       which institutions may withdraw or be terminated from  
10      the program under this part.

11   **“SEC. 455. TERMS AND CONDITIONS OF LOANS.**

12       “(a) IN GENERAL.—

13           “(1) PARALLEL TERMS, CONDITIONS, BENE-  
14       FITS, AND AMOUNTS.—Unless otherwise specified in  
15       this part, loans made to borrowers under this part  
16       shall have the same terms, conditions, and benefits,  
17       and be available in the same amounts, as loans made  
18       to borrowers under sections 428, 428A, 428B, and  
19       428H of this title.

20           “(2) DESIGNATION OF LOANS.—Loans made to  
21       borrowers under this part that, except as otherwise  
22       specified in this part, have the same terms, condi-  
23       tions, and benefits as loans made to borrowers  
24       under—

1           “(A) section 428 shall be known as ‘Fed-  
2           eral Direct Student Loans’;

3           “(B) section 428A shall be known as ‘Fed-  
4           eral Direct Supplemental Loans for Students’;

5           “(C) section 428B shall be known as ‘Fed-  
6           eral Direct PLUS Loans’; and

7           “(D) section 428H shall be known as ‘Fed-  
8           eral Direct Unsubsidized Student Loans’.

9           “(b) INTEREST RATES.—

10           “(1) RATES FOR FDSL AND FDUSL.—(A) For  
11           Federal Direct Student Loans and Federal Direct  
12           Unsubsidized Student Loans made before July 1,  
13           1997, the applicable rate of interest shall, during  
14           any 12-month period beginning on July 1 and end-  
15           ing on June 30, be determined on the preceding  
16           June 1 and be equal to—

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

20           “(ii) 3.1 percent,  
21           except that such rate shall not exceed 9 percent.

22           “(B) For Federal Direct Student Loans and  
23           Federal Direct Unsubsidized Student Loans made  
24           on or after July 1, 1997, the applicable rate of inter-  
25           est shall, during any 12-month period beginning on

1 July 1 and ending on June 30, be determined on the  
2 preceding June 1 for all such loans and be equal  
3 to—

4 “(i) the bond equivalent rate of the secu-  
5 rity with a comparable maturity as established  
6 by the Secretary; plus

7 “(ii) 1 percent,  
8 except that such rate shall not exceed 9 percent.

9 “(2) RATES FOR FDSLS.—(A) For Federal Di-  
10 rect Supplemental Loans for Students made before  
11 July 1, 1997, the applicable rate of interest shall,  
12 during any 12-month period beginning on July 1  
13 and ending on June 30, be determined on the pre-  
14 ceding June 1 and be equal to—

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

18 “(ii) 3.1 percent,  
19 except that such rate shall not exceed 11 percent.

20 “(B) For Federal Direct Supplemental Loans  
21 for Students made on or after July 1, 1997, the ap-  
22 plicable rate of interest shall, during any 12-month  
23 period beginning on July 1 and ending on June 30,  
24 be determined on the preceding June 1 for all such  
25 loans and be equal to—



1           “(i) the bond equivalent rate of the secu-  
2           rity with a comparable maturity as established  
3           by the Secretary; plus

4           “(ii) 1.5 percent,  
5           except that such rate shall not exceed 11 percent.

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

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

15                 “(ii) 3.1 percent,  
16           except that such rate shall not exceed 10 percent.

17           “(B) For Federal Direct PLUS loans made on  
18           or after July 1, 1997, the applicable rate of interest  
19           shall, during any 12-month period beginning on July  
20           1 and ending on June 30, be determined on the pre-  
21           ceding June 1 for all such loans and be equal to—

22                 “(i) the bond equivalent rate of the secu-  
23           rity with a comparable maturity as established  
24           by the Secretary; plus

25                 “(ii) 2.1 percent,

1       except that such rate shall not exceed 10 percent.

2           “(4) PUBLICATION.—The Secretary shall deter-  
3       mine the applicable rates of interest under this sub-  
4       section after consultation with the Secretary of  
5       Treasury and shall publish such rate in the Federal  
6       Register as soon as practicable after the date of de-  
7       termination.

8           “(c) LOAN FEE.—For academic years 1994–1995,  
9       1995–1996, and 1996–1997, the Secretary shall charge  
10      the borrower of a loan made under this part a loan fee  
11      of 5 percent of the principal amount of the loan. For aca-  
12      demic years 1997–1998 and succeeding academic years,  
13      the Secretary shall charge the borrower of a loan made  
14      under this part a loan fee of 3.65 percent of the principal  
15      amount of the loan.

16          “(d) REPAYMENT PLANS.—

17           “(1) DESIGN AND SELECTION.—Consistent with  
18      criteria established by the Secretary, the Secretary  
19      shall offer to a borrower of a loan made under this  
20      part a variety of plans for repayment of such loan,  
21      including principal and interest on the loan. The  
22      borrower shall be entitled to accelerate, without pen-  
23      alty, repayment on his or her loans. The borrower  
24      may choose—

1           “(A) a standard repayment plan, with a  
2           fixed annual repayment amount paid over a  
3           fixed period of time, consistent with subsection  
4           (a)(1) of this section;

5           “(B) an extended repayment plan, with a  
6           fixed annual repayment amount paid over an  
7           extended period of time, provided that the bor-  
8           rower annually repays a minimum amount de-  
9           termined by the Secretary, consistent with the  
10          requirements of section 428(b)(1)(L);

11          “(C) a graduated repayment plan, with an-  
12          nual repayment amounts established at two or  
13          more graduated levels and paid over a fixed or  
14          extended period of time, provided that any of  
15          the borrower’s scheduled payments shall not be  
16          less than 50 percent, nor more than 150 per-  
17          cent, of what the amortized payment on the  
18          amount owed would be if the loan were repaid  
19          under the standard repayment plan; and

20          “(D) except for the borrower of a Federal  
21          Direct PLUS Loan, an income contingent re-  
22          payment plan known as the ‘EXCEL Account,’  
23          with varying annual repayment amounts based  
24          on the income of the borrower, paid over an ex-  
25          tended period of time, not to exceed a maxi-

1           mum length of time determined by the Sec-  
2           retary.

3           “(2) SELECTION BY SECRETARY.—If a bor-  
4           rower of a loan made under this part does not select  
5           a repayment plan described in paragraph (1), the  
6           Secretary may provide the borrower with a repay-  
7           ment plan described in subparagraph (A), (B), or  
8           (C) of paragraph (1).

9           “(3) CHANGES IN SELECTIONS.—The borrower  
10          of a loan made under this part may change his or  
11          her selection of a repayment plan under paragraph  
12          (1), or the Secretary’s selection of a plan for the  
13          borrower under paragraph (2), as the case may be,  
14          under such terms and conditions as may be estab-  
15          lished by the Secretary.

16          “(4) ALTERNATIVE REPAYMENT PLANS.—The  
17          Secretary may provide, on a case-by-case basis, an  
18          alternative repayment plan to a borrower of a loan  
19          under this part who demonstrates to the satisfaction  
20          of the Secretary that the terms and conditions of the  
21          repayment plans available under paragraph (1) are  
22          not adequate to accommodate the borrower’s excep-  
23          tional circumstances. In designing such alternative  
24          repayment plans, the Secretary shall ensure that  
25          such plans do not exceed the cost to the Federal

1 Government, as determined on the basis of the  
2 present value of future payments by such borrowers,  
3 of loans made using the plans available under para-  
4 graph (1).

5 “(5) REPAYMENT AFTER DEFAULT.—The Sec-  
6 retary may require any borrower who has defaulted  
7 on a loan made under this part to—

8 “(A) pay all reasonable collection costs as-  
9 sociated with such loan; and

10 “(B) repay the loan pursuant to an  
11 EXCEL Account in accordance with subsection  
12 (e).

13 “(e) REPAYMENT THROUGH EXCEL ACCOUNTS.—

14 “(1) INFORMATION AND PROCEDURES.—The  
15 Secretary may obtain such information as is reason-  
16 ably necessary regarding the income of a borrower  
17 (and the borrower’s spouse, if applicable) of a loan  
18 made under this part that is, or may be, repaid pur-  
19 suant to an EXCEL Account for the purpose of de-  
20 termining the annual repayment obligation of the  
21 borrower. Return and return information (as defined  
22 in section 6103 of the Internal Revenue Code of  
23 1986) may be obtained under the preceding sentence  
24 only to the extent authorized by section 6103(l)(13)  
25 of such Code. The Secretary shall establish proce-

1       dures for determining the borrower's repayment obli-  
2       gation on that loan for such year, and such other  
3       procedures as are necessary to implement effectively  
4       repayment pursuant to an EXCEL Account.

5       “(2) REPAYMENT BASED ON ADJUSTED GROSS  
6       INCOME.—A repayment schedule for a loan made  
7       under this part and repaid pursuant to an EXCEL  
8       Account shall be based on adjusted gross income (as  
9       defined in section 62 of the Internal Revenue Code  
10      of 1986, 26 U.S.C. 62) of the borrower or, if the  
11      borrower is married and files a Federal income tax  
12      return jointly with his or her spouse, on adjusted  
13      gross income of the borrower and his or her spouse.

14      “(3) ADDITIONAL DOCUMENTS.—A borrower  
15      who chooses, or is required, to repay a loan made  
16      under this part pursuant to an EXCEL Account,  
17      and for whom adjusted gross income is unavailable  
18      or does not reasonably reflect his or her current in-  
19      come, shall provide to the Secretary other docu-  
20      mentation of income satisfactory to the Secretary,  
21      which documentation the Secretary may use to de-  
22      termine an appropriate repayment schedule.

23      “(4) REPAYMENT SCHEDULES.—EXCEL Ac-  
24      count repayment schedules shall be established by  
25      the Secretary through regulations and shall require

1 payments measured as a percentage of the appro-  
2 priate portion of the annual income of the borrower  
3 (and the borrower's spouse, if applicable) as deter-  
4 mined by the Secretary.

5 “(5) CALCULATION OF BALANCE DUE.—The  
6 balance due on a loan made under this part that is  
7 repaid pursuant to an EXCEL Account shall equal  
8 the unpaid principal amount of the loan, any ac-  
9 crued interest, and any fees, such as late charges,  
10 assessed on such loan. The Secretary may limit by  
11 regulation the amount of interest that may be cap-  
12 italized on such loan, and the timing of any such  
13 capitalization.

14 “(6) NOTIFICATION TO BORROWERS.—The Sec-  
15 retary shall establish procedures under which a bor-  
16 rower of a loan made under this part who chooses  
17 or is required to repay such loan pursuant to an  
18 EXCEL Account is notified of the terms and condi-  
19 tions of such plan, including notification of such bor-  
20 rower—

21 “(A) that the Internal Revenue Service will  
22 disclose to the Secretary tax return information  
23 as authorized under section 6103(l)(13) of the  
24 Internal Revenue Code of 1986; and

1           “(B) that if a borrower considers that spe-  
2           cial circumstances, such as a loss of employ-  
3           ment by the borrower or his or her spouse, war-  
4           rant an adjustment in the borrower’s loan re-  
5           payment as determined using the information  
6           described in subparagraph (A), or the alter-  
7           native documentation described in paragraph  
8           (3), the borrower may contact the Secretary,  
9           who shall determine whether such adjustment is  
10          appropriate, in accordance with criteria estab-  
11          lished by the Secretary.

12       “(f) DEFERMENT.—

13           “(1) EFFECT ON PRINCIPAL AND INTEREST.—  
14          A borrower of a loan made under this part who  
15          meets the requirements described in paragraph (2)  
16          shall be eligible for a deferment, during which peri-  
17          odic installments of principal need not be paid, and  
18          interest—

19           “(A) shall not accrue, in the case of a Fed-  
20          eral Direct Student Loan or a Federal Direct  
21          Consolidation Loan that consolidated only Fed-  
22          eral Direct Student Loans, or a combination of  
23          such loans and Federal Student Loans for  
24          which the student borrower received an interest  
25          subsidy under section 428; or



1           “(B) shall accrue and be capitalized or  
2           paid by the borrower, in the case of a Federal  
3           Direct Supplemental Loan for Students loan, a  
4           Federal Direct PLUS Loan, a Federal Direct  
5           Unsubsidized Student Loan, or a Federal Di-  
6           rect Consolidation Loan other than those de-  
7           scribed in subparagraph (A).

8           “(2) ELIGIBILITY.—A borrower of a loan made  
9           under this part shall be eligible for a deferment dur-  
10          ing any period—

11           “(A) during which the borrower—

12           “(i) is pursuing at least a half-time  
13           course of study at an eligible institution, as  
14           determined by such institution; or

15           “(ii) is pursuing a course of study  
16           pursuant to a graduate fellowship program  
17           approved by the Secretary, or pursuant to  
18           a rehabilitation training program for indi-  
19           viduals with disabilities approved by the  
20           Secretary,

21           except that no borrower shall be eligible for a  
22           deferment under this subparagraph, or a loan  
23           made under this part (other than a Federal Di-  
24           rect PLUS Loan, or a Federal Direct Consoli-

1           dation Loan), while serving in a medical intern-  
2           ship or residency program;

3           “(B) not in excess of 3 years during which  
4           the borrower is seeking and unable to find full-  
5           time employment; or

6           “(C) not in excess of 3 years during which  
7           the Secretary determines, in accordance with  
8           regulations prescribed under section 435(o),  
9           that the borrower has experienced or will expe-  
10          rience an economic hardship, regardless of the  
11          reason for such hardship.

12          “(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A  
13          borrower of a loan made under this part may consolidate  
14          such loan with the loans described in subsections (a)(4)  
15          and (d)(1)(C) of section 428C only under the terms and  
16          conditions established by the Secretary under this part.  
17          Loans made under this subsection shall be known as ‘Fed-  
18          eral Direct Consolidation Loans’.

19          “(h) BORROWER DEFENSES.—Notwithstanding any  
20          other provision of State or Federal law, the Secretary shall  
21          specify in regulations (except as authorized under section  
22          458(a)) which acts or omissions of an institution of higher  
23          education a borrower may assert as a defense to repay-  
24          ment of a loan made under this part, except that in no  
25          event may a borrower recover from the Secretary, in any

1 action arising from or relating to a loan made under this  
2 part, an amount in excess of the amount such borrower  
3 has repaid on such loan.

4 “(i) NONDISCHARGEABILITY IN BANKRUPTCY.—Not-  
5 withstanding any other provision of law, a loan made  
6 under this part shall not be dischargeable in bankruptcy.

7 **“SEC. 456. CONTRACTS.**

8 “(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

9 “(1) IN GENERAL.—The Secretary may award  
10 one or more contracts for services and supplies  
11 under subsection (b). The entities with which the  
12 Secretary may enter into such contracts may in-  
13 clude, but are not limited to, agencies with agree-  
14 ments with the Secretary under sections 428(b) and  
15 (c), if such agencies are otherwise qualified and com-  
16 ply with the procedures applicable to the award of  
17 such contracts.

18 “(2) EXEMPTION.—(A) The Secretary may,  
19 through June 30, 1998, award contracts under this  
20 section without regard to the requirements in section  
21 303 of the Federal Property and Administrative  
22 Services Act of 1949 (41 U.S.C. 253), section 18 of  
23 the Office of Federal Procurement Policy Act (41  
24 U.S.C. 416), and section 8(e) of the Small Business  
25 Act (15 U.S.C. 637(e)) and the corresponding re-

1       quirements of the Federal Acquisition Regulations if  
2       the Secretary—

3               “(i) determines in writing, on a case-by-  
4               case basis, that the Government’s need for the  
5               services and supplies to be provided under the  
6               contract is of such an unusual and compelling  
7               urgency that sources from which the Secretary  
8               solicits bids or proposals must be limited; and

9               “(ii) notifies the Congress in writing of  
10              that determination not more than 30 days after  
11              the award of the contract.

12             “(B) The Secretary may make the determina-  
13             tion described in subparagraph (A)(i) if the Sec-  
14             retary determines that exemption from the require-  
15             ments described in subparagraph (A) is in the public  
16             interest and necessary for the orderly transition  
17             from the loan programs under part B to the direct  
18             student loan programs under this part.

19             “(C) On and after July 1, 1998, all statutory  
20             and regulatory requirements described in subpara-  
21             graph (A) shall apply to the award of a contract  
22             under this section.

23             “(b) CONTRACTS FOR ORIGINATION, SERVICING, AND  
24     DATA SYSTEMS.—The Secretary may enter into one or  
25     more contracts for—

1           “(1) the alternative origination of loans to stu-  
2       dents attending institutions with agreements to par-  
3       ticipate in the program under this part (or their par-  
4       ents), if such institutions do not have agreements  
5       with the Secretary under section 454(b);

6           “(2) the servicing and collection of loans made  
7       under this part;

8           “(3) the establishment and operation of one or  
9       more data systems for the maintenance of records  
10      on all loans made under this part;

11          “(4) services to assist in the orderly transition  
12      from the loan programs under part B to the direct  
13      student loan programs under this part; and

14          “(5) such other aspects of the direct student  
15      loan programs as the Secretary determines are nec-  
16      essary to ensure the successful operation of the  
17      programs.

18   **“SEC. 457. REPORTS.**

19          “(a) ANNUAL REPORTS.—The Secretary shall submit  
20      to the Congress not later than July 1, 1993, and each  
21      July 1 for the 5 succeeding years an annual report de-  
22      scribing the progress and status of the loan program  
23      under this part.

24          “(b) RESEARCH, DEMONSTRATION, AND EVALUA-  
25      TION.—The Secretary may use a portion of the funds de-

1 scribed in section 459 for research on, or the demonstra-  
2 tion or evaluation of, any aspects of the program author-  
3 ized by this part, including flexible repayment plans.

4 **“SEC. 458. REGULATORY ACTIVITIES.**

5       “(a) NOTICE IN LIEU OF REGULATIONS FOR FIRST  
6 YEAR OF PROGRAM.—The Secretary shall publish in the  
7 Federal Register whatever standards, criteria, and proce-  
8 dures, consistent with the provisions of this part, the Sec-  
9 retary determines are reasonable and necessary to the suc-  
10 cessful implementation of the first year of the direct stu-  
11 dent loan program authorized by this part. Section 431  
12 of the General Education Provisions Act shall not apply  
13 to the publication of such standards, criteria, and proce-  
14 dures.

15       “(b) CLOSING DATE FOR APPLICATIONS FROM IN-  
16 STITUTIONS.—The Secretary shall establish a date not  
17 later than October 1, 1993, as the closing date for receiv-  
18 ing applications from institutions of higher education de-  
19 siring to participate in the first year of the direct loan  
20 program under this part.

21       “(c) PUBLICATION OF LIST OF PARTICIPATING IN-  
22 STITUTIONS AND CONTROL GROUP.—Not later than Jan-  
23 uary 1, 1994, the Secretary shall publish in the Federal  
24 Register a list of the institutions of higher education se-

1 lected to participate in the first year of the direct loan  
2 program under this part.

3 **“SEC. 459. FUNDS FOR ADMINISTRATIVE EXPENSES.**

4       “Each fiscal year, there shall be available to the Sec-  
5 retary of Education from funds not otherwise appro-  
6 priated, funds to be obligated for administrative costs  
7 under this part, including the costs of the transition from  
8 the loan programs under part B to the direct student loan  
9 programs under this part and transition support for the  
10 expenses of guaranty agencies in servicing outstanding  
11 loans in their portfolios and in guaranteeing new loans,  
12 not to exceed \$261,000,000 in fiscal year 1994,  
13 \$346,000,000 in fiscal year 1995, \$552,000,000 in fiscal  
14 year 1996, \$596,000,000 in fiscal year 1997, and  
15 \$749,000,000 in fiscal year 1998. If in any fiscal year,  
16 the Secretary determines that additional funds for admin-  
17 istrative expenses are needed as a result of such transi-  
18 tion, or the expansion of the direct student loan programs  
19 under this part, the Secretary is authorized to use funds  
20 available under this section for a subsequent fiscal year  
21 for such expenses, except that the total expenditures by  
22 the Secretary shall not exceed \$2,504,000,000 in fiscal  
23 years 1994 through 1998. The Secretary is also author-  
24 ized to carry over funds available under this section to  
25 a subsequent fiscal year.”.

1 **CHAPTER 2—CONFORMING AMENDMENTS**

2 **SEC. 4021. PRESERVING LOAN ACCESS.**

3 (a) PURPOSE.—It is the purpose of the amendments  
4 made by this section to provide the Secretary with flexible  
5 authority as needed to preserve access to student and par-  
6 ent loans under part B of title IV of the Act during the  
7 transition from the Federal Family Education Loan Pro-  
8 gram under such part to the Federal Direct Student Loan  
9 Program under part D of such title.

10 (b) ADVANCES TO GUARANTY AGENCIES FOR LEND-  
11 ER-OF-LAST RESORT SERVICES.—

12 (1) AMENDMENT.—Section 428(j) of the Act is  
13 amended by adding at the end thereof the following  
14 new paragraph:

15 “(4) ADVANCES TO GUARANTY AGENCIES FOR  
16 LENDER-OF-LAST RESORT SERVICES DURING TRAN-  
17 SITION TO DIRECT LENDING.—(A) In order to en-  
18 sure the availability of loan capital during the tran-  
19 sition from the Federal Family Education Loan pro-  
20 gram under this part to the Federal Direct Student  
21 Loan program under part D of this title, the Sec-  
22 retary is authorized to provide a guaranty agency  
23 with additional advance funds in accordance with  
24 section 422(c)(7), with such restrictions on the use  
25 of such funds as are determined appropriate by the



1 Secretary, in order to ensure that the guaranty  
2 agency will make loans as the lender-of-last-resort.  
3 Such agency shall make such loans in accordance  
4 with this subsection and the requirements of the  
5 Secretary.

6 “(B) Notwithstanding any other provision of  
7 this part, a guaranty agency serving as a lender-of-  
8 last-resort under this paragraph shall be paid a fee,  
9 established by the Secretary, for making such loans  
10 in lieu of interest and special allowance subsidies,  
11 and shall be required to assign such loans to the  
12 Secretary on demand. Upon such assignment, the  
13 portion of the advance represented by the loans as-  
14 signed shall be considered repaid by such guaranty  
15 agency.”.

16 (2) CONFORMING AMENDMENT.—Section  
17 422(c)(7) of the Act is amended by striking “to a  
18 guaranty agency” through the end thereof and in-  
19 serting the following: “to a guaranty agency—

20 “(A) in accordance with section 428(j), in  
21 order to ensure that the guaranty agency shall  
22 make loans as the lender-of-last-resort during  
23 the transition from the Federal Family Edu-  
24 cation Loan Program under this part to the

1 Federal Direct Student Loan Program under  
2 part D of this title; or

3 “(B) if the Secretary is seeking to termi-  
4 nate the guaranty agency’s agreement, or as-  
5 suming the guaranty agency’s functions, in ac-  
6 cordance with section 428(c)(10)(F)(v), in  
7 order to assist the agency in meeting its imme-  
8 diate cash needs, ensure the uninterrupted pay-  
9 ment of claims, or ensure that the guaranty  
10 agency shall make loans as described in sub-  
11 paragraph (A);”.

12 (c) LENDER REFERRAL SERVICES.—Section 428(e)  
13 of the Act is amended—

14 (1) in paragraph (1)—

15 (A) by amending the paragraph heading to  
16 read as follows: “IN GENERAL; AGREEMENTS  
17 WITH GUARANTY AGENCIES.—”;

18 (B) by inserting the subparagraph designa-  
19 tion “(A)” immediately after the paragraph  
20 heading;

21 (C) by striking “in any State” and insert-  
22 ing “with which the Secretary has an agree-  
23 ment under subparagraph (B)”;

24 (D) by adding at the end thereof the fol-  
25 lowing new subparagraph:

1           “(B)(i) The Secretary may enter into agree-  
2           ments with guaranty agencies that meet standards  
3           established by the Secretary to provide lender refer-  
4           ral services in geographic areas specified by the Sec-  
5           retary. Such guaranty agencies shall be paid in ac-  
6           cordance with paragraph (3) for such services.

7           “(ii) The Secretary shall publish in the Federal  
8           Register whatever standards, criteria, and proce-  
9           dures consistent with the provisions of this part and  
10          part D of this title, the Secretary determines are  
11          reasonable and necessary to provide lender referral  
12          services under this subsection and ensure loan access  
13          to student and parent borrowers during the transi-  
14          tion from the loan programs under this part to the  
15          direct student loan programs under part D of this  
16          title. Section 431 of the General Education Provi-  
17          sions Act shall not apply to the publication of such  
18          standards, criteria, and procedures.”;

19               (2) in paragraph (2)—

20               (A) in the matter preceding subparagraph  
21               (A), by striking “in a State” and inserting  
22               “with which the Secretary has an agreement  
23               under paragraph (1)(B)”;

24               (B) by amending subparagraph (A) to read  
25               as follows:

1           “(A) such student is either a resident of,  
2           or is accepted for enrollment in, or is attending,  
3           an eligible institution located in a geographic  
4           area for which the Secretary (I) determines  
5           that loans are not available to all eligible stu-  
6           dents, and (II) has entered into an agreement  
7           with a guaranty agency under paragraph (1)(B)  
8           to provide lender referral services; and”;

9           (4) in paragraph (3), by striking “The” and in-  
10          serting “From funds available for costs of transition  
11          under section 459 of the Act, the”; and

12          (5) by striking paragraph (5).

13          (d) STUDENT LOAN MARKETING ASSOCIATION.—  
14          Section 439(q) of the Act is amended—

15          (1) in paragraph (1)(A)—

16                  (A) in the first sentence, by striking “the  
17                  Association or its designated agency may begin  
18                  making loans” and inserting “the Association  
19                  or its designated agent shall, subject to the lim-  
20                  itations in section 428(j)(3), begin making  
21                  loans to such eligible borrowers”; and

22                  (B) by striking the second sentence;

23          (2) in paragraph (2)(A), by striking “the Asso-  
24          ciation or its designated agent may” and inserting

1 “the Association or its designated agent shall, sub-  
2 ject to the limitations in section 428(j)(3),”; and

3 (3) in paragraph (3), by striking “that—”  
4 through the end thereof and inserting the following:  
5 “that the conditions that caused the implementation  
6 of this subsection have ceased to exist.”.

7 **SEC. 4022. GUARANTY AGENCY RESERVES.**

8 Section 422 of the Act is amended by adding at the  
9 end thereof the following new subsection:

10 “(g) PRESERVATION OF GUARANTY AGENCY RE-  
11 SERVES.—

12 “(1) AUTHORITY TO RECOVER FUNDS.—Not-  
13 withstanding any other provision of law, the reserve  
14 funds of the guaranty agencies, and any assets pur-  
15 chased with such reserve funds, regardless of who  
16 holds or controls the reserves or assets, shall be con-  
17 sidered to be the property of the United States to  
18 be used in the operation of the program authorized  
19 by this part or the program authorized by part D of  
20 this title. However, the Secretary may not require  
21 the return of all of a guaranty agency reserve funds  
22 to the Secretary unless he or she determines that  
23 such return is essential to the operation of the pro-  
24 gram authorized by this part or the program author-  
25 ized by part D of this title, or to ensure the orderly

1 termination of the guaranty agency's operations and  
2 the liquidation of its assets. The reserves shall be  
3 maintained by each guaranty agency to pay program  
4 expenses and contingent liabilities, as authorized by  
5 the Secretary, except that the Secretary may—

6 “(A) direct a guaranty agency to return to  
7 the Secretary a portion of its reserve fund  
8 which the Secretary determines is unnecessary  
9 to pay the program expenses and contingent li-  
10 abilities of the guaranty agency; and

11 “(B) direct the guaranty agency to require  
12 the return, to the guaranty agency or to the  
13 Secretary, of any reserve funds or assets held  
14 by, or under the control of, any other entity,  
15 which the Secretary determines are necessary to  
16 pay the program expenses and contingent liabil-  
17 ities of the guaranty agency, or which are re-  
18 quired for the orderly termination of the guar-  
19 anty agency's operations and the liquidation of  
20 its assets.

21 “(2) TERMINATION PROVISIONS IN CON-  
22 TRACTS.—To ensure that the funds and assets of  
23 the guaranty agency are preserved, any contract  
24 with respect to the administration of a guaranty  
25 agency's reserve funds, or the administration of any

1 assets purchased or acquired with the reserve funds  
2 of the guaranty agency, that is entered into or ex-  
3 tended by the guaranty agency, or any other party  
4 on behalf of or with the concurrence of the guaranty  
5 agency, after the effective date of this provision shall  
6 provide that the contract is terminable by the Sec-  
7 retary upon 30 days notice to the contracting parties  
8 if the Secretary determines that such contract in-  
9 cludes an impermissible transfer of the reserve funds  
10 or assets, or is otherwise inconsistent with the terms  
11 or purposes of this section.”.

12 **SEC. 4023. TERMS OF LOANS.**

13 Section 428 of the Act is amended—

14 (1) in subsection (b)(1)(D), by striking “be  
15 subject to” through the end thereof and inserting  
16 the following: “be subject to income contingent re-  
17 payment in accordance with subsection (m);”; and

18 (2) in subsection (m)—

19 (A) by amending paragraph (1) to read as  
20 follows:

21 “(1) **AUTHORITY OF SECRETARY TO RE-**  
22 **QUIRE.**—The Secretary may require any borrower  
23 who has defaulted on a loan made under this part  
24 that is assigned to the Secretary under subsection  
25 (c)(8) to repay that loan under an income contingent

1        repayment plan, the terms and conditions of which  
2        shall be established by the Secretary and the same  
3        as, or similar to, the EXCEL Account established  
4        for purposes of part D of this title.”; and

5                (B) by striking paragraphs (2) through (4)  
6        and inserting the following:

7                “(2) LOANS FOR WHICH INCOME CONTINGENT  
8        REPAYMENT MAY BE REQUIRED.—A loan made  
9        under this part may be required to be repaid under  
10       this subsection if the note or other evidence of the  
11       loan has been assigned to the Secretary pursuant to  
12       subsection (c)(8).”.

13   **SEC. 4024. ASSIGNMENT OF LOANS.**

14        Section 428(c)(8) of the Act is amended by—

15                (1) inserting the subparagraph designation  
16        “(A)” after the paragraph heading;

17                (2) striking the second and third sentences; and

18                (3) adding at the end thereof the following new  
19        subparagraph:

20                “(B) An orderly transition from the Federal  
21        Family Education Loan program under this part to  
22        the Federal Direct Student Loan program under  
23        part D of this title shall be deemed to be in the Fed-  
24        eral fiscal interest, and a guaranty agency shall



1 promptly assign loans to the Secretary under this  
2 paragraph upon his or her request.”.

3 **SEC. 4025. TERMINATION OF GUARANTY AGENCY AGREE-**  
4 **MENTS; ASSUMPTION OF GUARANTY AGENCY**  
5 **FUNCTIONS BY THE SECRETARY.**

6 Section 428(c)(10) of the Act is amended—

7 (1) in subparagraph (C), by inserting a comma  
8 and “as appropriate,” immediately after “the Sec-  
9 retary shall”;

10 (2) in subparagraph (D)—

11 (A) by inserting the clause designation  
12 “(i)” after “(D)”;

13 (B) by striking “Each” and inserting “If  
14 the Secretary is not seeking to terminate the  
15 guaranty agency’s agreement under subpara-  
16 graph (E), or assuming the guaranty agency’s  
17 functions under subparagraph (F), a”;

18 (C) by adding at the end thereof the fol-  
19 lowing new clause:

20 “(ii) If the Secretary is seeking to terminate  
21 the guaranty agency’s agreement under subpara-  
22 graph (E), or assuming the guaranty agency’s func-  
23 tions under subparagraph (F), a management plan  
24 described in subparagraph (C) shall include the  
25 means by which the Secretary and the guaranty

1 agency shall work together to ensure the orderly ter-  
2 mination of the operations, and liquidation of the as-  
3 sets of, the guaranty agency.”;

4 (3) in subparagraph (E)—

5 (A) in clause (ii), by striking “or” at the  
6 end thereof;

7 (B) in clause (iii), by striking the period at  
8 the end thereof and inserting a semicolon; and

9 (C) by adding at the end thereof the fol-  
10 lowing new clauses:

11 “(iv) the Secretary determines that such  
12 action is necessary to protect the Federal fiscal  
13 interest;

14 “(v) the Secretary determines that such  
15 action is necessary to ensure the continued  
16 availability of loans to student or parent bor-  
17 rowers; or

18 “(vi) the Secretary determines that such  
19 action is necessary to ensure an orderly transi-  
20 tion from the loan programs under this part to  
21 the direct student loan programs under part D  
22 of this title.”;

23 (4) in subparagraph (F)—

1 (A) in the matter preceding clause (i), by  
2 striking “Except as provided in subparagraph  
3 (G), if” and inserting “If”;

4 (B) by amending clause (v) to read as fol-  
5 lows:

6 “(v) provide the guaranty agency with ad-  
7 ditional advance funds in accordance with sec-  
8 tion 422(c)(7), with such restrictions on the use  
9 of such funds as is determined appropriate by  
10 the Secretary, in order to—

11 “(I) meet the immediate cash needs of  
12 the guaranty agency;

13 “(II) ensure the uninterrupted pay-  
14 ment of claims; or

15 “(III) ensure that the guaranty agen-  
16 cy will make loans as the lender-of-last-  
17 resort, in accordance with subsection  
18 (j)(4);”;

19 (C) in clause (vi)—

20 (i) by striking “and to avoid” and in-  
21 serting “to avoid”;

22 (ii) by striking the period at the end  
23 thereof and inserting “, and to ensure an  
24 orderly transition from the loan programs

1 under this part to the direct student loan  
2 programs under part D of this title.”; and

3 (iii) by redesignating such clause as  
4 clause (vii); and

5 (D) by inserting after clause (v) the follow-  
6 ing new clause:

7 “(vi) use all funds and assets of the guar-  
8 anty agency to assist in the activities under-  
9 taken in accordance with this subparagraph and  
10 take appropriate action to require the return, to  
11 the guaranty agency or the Secretary, of any  
12 funds or assets provided by the guaranty agen-  
13 cy, under contract or otherwise, to any person  
14 or organization; or”;

15 (5) by striking subparagraph (G);

16 (6) by redesignating subparagraphs (H), (I),  
17 and (J) as subparagraphs (I), (J), and (K), respec-  
18 tively;

19 (7) by inserting after subparagraph (F) the fol-  
20 lowing new subparagraphs:

21 “(G) Notwithstanding any other provision of  
22 Federal or State law, if the Secretary has termi-  
23 nated or is seeking to terminate a guaranty agency’s  
24 agreement under subparagraph (E), or has assumed

1 a guaranty agency's functions under subparagraph  
2 (F)—

3 “(i) such guaranty agency may not file for  
4 bankruptcy;

5 “(ii) no State court may issue any order  
6 affecting the Secretary's actions with respect to  
7 such guaranty agency;

8 “(iii) any contract with respect to the ad-  
9 ministration of a guaranty agency's reserve  
10 funds, or the administration of any assets pur-  
11 chased or acquired with the reserve funds of the  
12 guaranty agency, that is entered into or ex-  
13 tended by the guaranty agency, or any other  
14 party on behalf of or with the concurrence of  
15 the guaranty agency, after the effective date of  
16 this provision shall provide that the contract is  
17 terminable by the Secretary upon 30 days no-  
18 tice to the contracting parties if the Secretary  
19 determines that such contract includes an im-  
20 permissible transfer of the reserve funds or as-  
21 sets, or is otherwise inconsistent with the terms  
22 or purposes of this section; and

23 “(iv) no provision of State law shall apply  
24 to the actions of the Secretary in terminating  
25 the operations of a guaranty agency.

1           “(H) Notwithstanding any other provision of  
 2       law, the Secretary’s liability for any outstanding li-  
 3       abilities of a guaranty agency (other than outstand-  
 4       ing student loan guarantees under this part), the  
 5       functions of which the Secretary has assumed, shall  
 6       not exceed the fair market value of the reserves of  
 7       the guaranty agency, minus any necessary liquida-  
 8       tion or other administrative costs.”; and

9           (8) in subparagraph (K) (as redesignated by  
 10      paragraph (6)), by striking “system, together”  
 11      through the end thereof and inserting the following:  
 12      “system and the progress of the transition from the  
 13      loan programs under this part to the direct student  
 14      loan programs under part D of this title.”.

15   **SEC. 4026. ADMINISTRATIVE COST ALLOWANCE.**

16       Section 428(f)(1) of the Act is amended—

17           (1) in subparagraph (A), by striking “The Sec-  
 18       retary” and inserting “For a fiscal year prior to fis-  
 19       cal year 1994, the Secretary”; and

20           (2) in subparagraph (B), by inserting “prior to  
 21       fiscal year 1994” after “any fiscal year”.

22   **SEC. 4027. CONSOLIDATION LOANS.**

23       Section 428C of the Act is amended—

24           (1) by amending subsection (a)(3)(A) to read as  
 25       follows:

1           “(3) DEFINITION OF ELIGIBLE BORROWERS.—

2           (A) For the purpose of this section, the term ‘eligi-  
3           ble borrower’ means a borrower who, at the time of  
4           application for a consolidation loan is in repayment  
5           status, or in a grace period preceding repayment, or  
6           is a delinquent or defaulted borrower who will reen-  
7           ter repayment through loan consolidation.”;

8           (2) in subsection (b)—

9           (A) in paragraph (1)—

10           (i) in subparagraph (A)(ii), by insert-  
11           ing “with income-sensitive repayment  
12           terms” after “obtain a consolidation loan”;

13           (ii) by redesignating subparagraph  
14           (E) as subparagraph (F); and

15           (iii) by inserting after subparagraph  
16           (D) the following new subparagraph:

17           “(E) that the lender shall offer an income-  
18           sensitive repayment schedule, established by the  
19           lender in accordance with the regulations of the  
20           Secretary, to the borrower of any consolidation  
21           loan made by the lender on or after July 1,  
22           1994; and”;

23           (B) in paragraph (4), by amending sub-  
24           paragraph (C) to read as follows:

1           “(C)(i) provides that periodic installments  
2           of principal need not be paid, but interest shall  
3           accrue and be paid in accordance with clause  
4           (ii), during any period for which the borrower  
5           would be eligible for a deferral under section  
6           428(b)(1)(M), and that any such period shall  
7           not be included in determining the repayment  
8           period pursuant to subsection (c)(2) of this sec-  
9           tion; and

10           “(ii) provides that interest shall accrue and  
11           be paid—

12                   “(I) by the Secretary, in the case of  
13                   a consolidation loan that consolidated only  
14                   Federal Stafford Loans for which the stu-  
15                   dent borrower received an interest subsidy  
16                   under section 428; or

17                   “(II) by the borrower, or capitalized,  
18                   in the case of a consolidation loan other  
19                   than one described in subclause (I);”;

20           (C) by adding at the end thereof the fol-  
21           lowing new paragraph:

22           “(5) DIRECT LOANS.—In the event that a bor-  
23           rower is unable to obtain a consolidation loan with  
24           income-sensitive repayment terms acceptable to the  
25           borrower from a lender with an agreement under



1 subsection (a)(1), the Secretary shall offer any such  
2 borrower who applies for it, a direct consolidation  
3 loan to be repaid pursuant to an EXCEL Account  
4 under part D of this title, except that the Secretary  
5 shall not offer such loans if, in his or her judgment,  
6 the Department does not yet have the necessary  
7 origination and servicing arrangements in place for  
8 such loans.”; and

9 (3) in subsection (c)—

10 (A) in paragraph (1), by amending sub-  
11 paragraphs (B) and (C) to read as follows:

12 “(B) A consolidation loan made before July 1,  
13 1994, shall bear interest at an annual rate on the  
14 unpaid principal balance of the loan that is equal to  
15 the greater of—

16 “(i) the weighted average of the interest  
17 rates on the loans consolidated, rounded to the  
18 nearest whole percent; or

19 “(ii) 9 percent.

20 “(C) A consolidation loan made on or after July  
21 1, 1994, shall bear interest at an annual rate on the  
22 unpaid principal balance of the loan that is equal to  
23 the weighted average of the interest rates on the  
24 loans consolidated, rounded upward to the nearest  
25 whole percent.”;

1 (B) in paragraph (2)(A)—

2 (i) in the matter preceding clause (i),  
3 by striking out “income sensitive repay-  
4 ment schedules. Such repayment terms”  
5 and inserting in lieu thereof “income sen-  
6 sitive repayment schedules, established by  
7 the lender in accordance with the regula-  
8 tions of the Secretary. Except as required  
9 by such income sensitive repayment sched-  
10 ules, or by the terms of repayment pursu-  
11 ant to an EXCEL Account offered by the  
12 Secretary under subsection (b)(5), such re-  
13 payment terms”;

14 (ii) by redesignating clauses (i), (ii),  
15 (iii), (iv), and (v) as clauses (ii), (iii), (iv),  
16 (v), and (vi), respectively;

17 (iii) by inserting immediately preced-  
18 ing clause (ii) (as redesignated by clause  
19 (ii)) the following new clause:

20 “(i) is less than \$7,500, then such consoli-  
21 dation loan shall be repaid in not more than 10  
22 years;”; and

23 (iv) by adding a period at the end of  
24 clause (vi) (as redesignated by clause (ii));

1 (C) by striking out subparagraph (B) of  
2 paragraph (2); and

3 (D) by redesignating subparagraph (C) of  
4 paragraph (2) as subparagraph (B); and

5 (E) in paragraph (3)(A), by inserting after  
6 the subparagraph designation the following:  
7 “except as required by the terms of repayment  
8 pursuant to an EXCEL Account offered by the  
9 Secretary under subsection (b)(5),”.

10 **SEC. 4028. STUDENT LOAN MARKETING ASSOCIATION.**

11 Section 439 of the Act is further amended by adding  
12 at the end thereof the following new subsection:

13 “(s) TRANSITION STUDY.—The Secretaries of Edu-  
14 cation and the Treasury shall prepare a study, to be com-  
15 pleted within 6 months of the enactment of this provision,  
16 which shall examine alternatives concerning the status, op-  
17 erations, and purposes of the Association during and after  
18 the transition from the Federal Family Education Loan  
19 program to the Federal Direct Student Loan program.  
20 Such study shall—

21 “(1) consider how best to meet the needs of  
22 students and taxpayers;

23 “(2) reflect the need for the Association to  
24 maintain liquidity and perform other functions for  
25 the Federal Family Education Loan program during

1 the transition from such program to the Federal Di-  
 2 rect Student Loan program under part D of this  
 3 title, including additional duties as specified by the  
 4 Secretary of Education or the Secretary of the  
 5 Treasury;

6 “(3) consider any appropriate change to part D  
 7 of title VII, relating to the College Construction  
 8 Loan Insurance Association; and

9 “(4) be considered by the Secretaries of Edu-  
 10 cation and the Treasury in developing any legislative  
 11 proposals concerning any changes to the status of  
 12 the Association as a Government-sponsored enter-  
 13 prise or its duties under the Federal Family Edu-  
 14 cation Loan program.”.

15 **SEC. 4029. AMENDMENT TO THE BALANCED BUDGET AND**  
 16 **EMERGENCY DEFICIT CONTROL ACT OF 1985.**

17 The Balanced Budget and Emergency Deficit Control  
 18 Act of 1985 is amended—

19 (1) in section 252(c)(1)(B), by striking “guar-  
 20 anteed”;

21 (2) in section 256(b)—

22 (A) by striking the subsection designation  
 23 and heading and inserting the following:

24 “(b) EFFECT OF ORDERS ON STUDENT LOAN PRO-  
 25 GRAMS.—

1           “(1) FEDERAL FAMILY EDUCATION LOAN PRO-  
2       GRAM.—(A)”;

3           (B) by redesignating paragraphs (2) and  
4           (3) as subparagraphs (B) and (C), respectively,  
5           and by indenting such subparagraphs by an ad-  
6           ditional 2 ems spaces;

7           (C) in paragraph (1)(A) (as redesignated  
8           in subparagraph (B)), by striking “described in  
9           paragraphs (2) and (3)” and inserting “de-  
10          scribed in subparagraphs (B) and (C)”;

11          (D) in paragraph (1)(B) (as redesignated  
12          in subparagraph (C)), by redesignating sub-  
13          paragraphs (A) and (B) as clauses (i) and (ii),  
14          respectively; and

15          (E) by adding at the end thereof the fol-  
16          lowing new paragraph:

17          “(2) FEDERAL DIRECT STUDENT LOAN PRO-  
18       GRAM.—(A) Any reductions that are required to be  
19       achieved from the Federal Direct Student Loan pro-  
20       gram operated under part D of title IV of the High-  
21       er Education Act of 1965 as a consequence of an  
22       order issued pursuant to section 254, shall be  
23       achieved only by the application of the measures de-  
24       scribed in subparagraph (B).

1           “(B) For any loan made during the period be-  
 2           ginning on the date that an order issued under sec-  
 3           tion 254 takes effect with respect to a fiscal year,  
 4           and ending at the close of such fiscal year, the loan  
 5           fee that is authorized to be collected pursuant to  
 6           section 456(c) of such Act shall be increased by 0.50  
 7           percent.”.

### 8       **CHAPTER 3—EFFECTIVE DATES; STUDY**

#### 9       **SEC. 4031. EFFECTIVE DATES.**

10       (a) IN GENERAL.—Except as otherwise provided in  
 11       this section, the amendments made by this subtitle shall  
 12       be effective upon enactment.

13       (b) INCOME CONTINGENT REPAYMENT.—The  
 14       amendments made by section 4023 of this Act shall be  
 15       effective for loans made in accordance with section 428  
 16       for periods of instruction beginning on or after July 1,  
 17       1993, or made on or after July 1, 1993, in the case of  
 18       loans made in accordance with section 428A, 428B, or  
 19       428C of the Act.

20       (c) ADMINISTRATIVE COST ALLOWANCE.—The  
 21       amendments made by section 4026 of this Act shall be  
 22       effective on October 1, 1994.

23       (d) CONSOLIDATION LOANS.—The amendments  
 24       made by section 4027 of this Act (other than the amend-  
 25       ment made by section 4027(2)(B)) shall be effective for

1 loans made in accordance with section 428C of the Act  
2 or after July 1, 1994.

3 **SEC. 4032. STUDY OF INTERNAL REVENUE SERVICE COL-**  
4 **LECTION OF STUDENT LOANS.**

5 (a) GENERAL RULE.—The Secretary of Education,  
6 in consultation with the Secretary of the Treasury, shall  
7 conduct a study of the feasibility of implementing a system  
8 for the repayment of Federal student loans through wage  
9 withholding or other means involving the Internal Revenue  
10 Service. Such study shall include an examination of—

11 (1) whether the Internal Revenue Service could  
12 implement such a system within its current re-  
13 sources and without adversely affecting the ability of  
14 the Internal Revenue Service to collect tax revenues,

15 (2) the cumulative impact on voluntary compli-  
16 ance with the tax system of increased disclosure of  
17 tax return information and increased Internal Reve-  
18 nue Service involvement in nontax collection activi-  
19 ties,

20 (3) the anticipated effect on the management of  
21 Federal student loan collections and on borrower re-  
22 payment of such loans, and

23 (4) the ability of the Internal Revenue Service  
24 to effectively service student loans.

1 (b) RECOMMENDATIONS.—Not later than the date 6  
2 months after the date of the enactment of this Act, the  
3 Secretary of Education shall submit to the Congress a re-  
4 port on the study conducted under subsection (a), together  
5 with such legislative recommendations as such Secretary  
6 may deem advisable.

7 **SEC. 4033. PREFERENCE OF COMMITTEE FOR IRS COLLEC-**  
8 **TION MECHANISM.**

9 It is the sense of the Committee on Education and  
10 Labor that—

11 (1) the Committee may not, consistent with its  
12 jurisdiction under the Rules of the House of Rep-  
13 resentatives, amend this Act to include provisions  
14 providing for the collection of student loans pursu-  
15 ant to the Internal Revenue Code of 1986 using the  
16 Internal Revenue Service of the Department of the  
17 Treasury;

18 (2) the Committee would support the amend-  
19 ment of this Act to include such provisions, as well  
20 as amendments to the Higher Education Act of  
21 1965, in the manner proposed by H.R. \_\_\_\_\_ as  
22 introduced on May 11, 1993; and

23 (3) the Committee recommends that the House  
24 of Representatives consider and adopt such amend-  
25 ments.



## 1   **Subtitle B—Cost Sharing by States**

### 2   **SEC. 4101. COST SHARING BY STATES.**

3       (a) AMENDMENT.—Section 428 of the Higher Edu-  
4 cation Act of 1965 (20 U.S.C. 1001 et seq.) is amended  
5 by adding at the end thereof the following new subsection:

6       “(n) STATE SHARE OF DEFAULT COSTS.—(1) In the  
7 case of any State in which there are located any institu-  
8 tions of higher education with cohort default rates that  
9 exceed 20 percent, such State shall pay to the Secretary  
10 an amount equal to—

11           “(A) the new loan volume attributable to all in-  
12 stitutions in the State for the current fiscal year,  
13 multiplied by

14           “(B) the percentage specified in paragraph (2),  
15 multiplied by

16           “(C) the quotient of—

17               “(i) the sum of the amounts calculated  
18 under paragraph (3) for each such institution  
19 in the State, divided by

20               “(ii) the total amount of loan volume at-  
21 tributable to current and former students of in-  
22 stitutions located in that State entering repay-  
23 ment in the period used to calculate the cohort  
24 default rate.

1       “(2) For purposes of paragraph (1)(B), the percent-  
2 age used shall be—

3               “(A) 12.5 percent for fiscal year 1995;

4               “(B) 20 percent for fiscal year 1996; and

5               “(C) 50 percent for fiscal year 1997 and suc-  
6 ceeding fiscal years.

7       “(3) For purposes of paragraph (1)(C)(i), the  
8 amount shall be determined by calculating for each insti-  
9 tution the amount by which—

10               “(A) the amount of the loans received for at-  
11 tendance by its current and former students who (i)  
12 enter repayment during the fiscal year used for the  
13 calculation of the cohort default rate, and (ii) de-  
14 fault before the end of the following fiscal year; ex-  
15 ceeds

16               “(B) 20 percent of the loans received for at-  
17 tendance by all the current and former students who  
18 enter repayment during the fiscal year used for the  
19 calculation of the cohort default rate.

20       “(4) A State may charge a fee to an institution of  
21 higher education that participates in the program under  
22 this part and is located in that State according to a fee  
23 structure, approved by the Secretary, that is based on the  
24 institution’s cohort default rate and the State’s risk of loss  
25 under this subsection. Such fee structure shall include a

1 process by which an institution with a high cohort default  
2 rate is exempt from any fees under this paragraph if such  
3 institution demonstrates to the satisfaction of the State  
4 that exceptional mitigating circumstances, as determined  
5 by the State and approved by the Secretary, contributed  
6 to its cohort default rate.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall be effective on October 1, 1994.

9 **Subtitle C—ERISA Amendments**  
10 **Relating to Group Health Plans**

11 **SEC. 4201. COORDINATION OF ERISA PREEMPTION RULES**  
12 **WITH TITLE XIX PROVISIONS PROVIDING FOR**  
13 **LIABILITY OF THIRD PARTIES.**

14 (a) IN GENERAL.—Paragraph (8) of section 514(b)  
15 of the Employee Retirement Income Security Act of 1974  
16 (29 U.S.C. 1144(b)(8)) is amended to read as follows:

17 “(8)(A) Subsection (a) of this section shall not apply  
18 to any State law to the extent necessary to permit the  
19 State to comply with the following requirements for the  
20 receipt of Federal financial assistance under title XIX of  
21 the Social Security Act:

22 “(i) subparagraphs (A), (B), and (H) of section  
23 1902(a)(25) of such Act (relating to third-party li-  
24 ability) and section 1903(o) of such Act (relating to

1       medicaid as secondary payor), as in effect on Octo-  
2       ber 1, 1993; and

3               “(ii) sections 1902(a)(45) and 1912 of such Act  
4       (relating to assignment of rights of payment), as in  
5       effect on May 12, 1993.

6       “(B) Paragraph (2)(B) shall not apply to any State  
7       law to the extent necessary to permit the compliance of  
8       the State with any of the requirements described in sub-  
9       paragraph (A).”.

10       (b) EFFECTIVE DATE.—The amendment made by  
11       subsection (a) shall take effect October 1, 1993.

12       **SEC. 4202. CONTINUED COVERAGE OF COSTS OF A PEDI-**  
13                       **ATRIC VACCINE UNDER GROUP HEALTH**  
14                       **PLANS.**

15       (a) IN GENERAL.—Part 6 of subtitle B of title I of  
16       the Employee Retirement Income Security Act of 1974  
17       (29 U.S.C. 1161 et seq.) is amended by adding at the end  
18       the following new section:

19       **“SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDI-**  
20                       **ATRIC VACCINE UNDER GROUP HEALTH**  
21                       **PLANS.**

22       “A group health plan may not reduce its coverage of  
23       the costs of pediatric vaccines (as defined under section  
24       2162 of the Public Health Service Act) below the coverage  
25       it provided as of May 1, 1993.”.

1 (b) CONFORMING AMENDMENT.—The table of con-  
 2 tents in section 1 of such Act is amended by adding after  
 3 the item relating to section 608 the following new item:

“Sec. 609. Continued coverage of costs of a pediatric vaccine under group  
 health plans.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply with respect to plan years begin-  
 6 ning after the date of the enactment of this Act.

7 **SEC. 4203. TEMPORARY RULES GOVERNING PREEMPTION**  
 8 **OF CERTAIN STATE LAWS.**

9 Paragraph (5) of section 514(b) of the Employee Re-  
 10 tirement Income Security Act of 1974 (29 U.S.C.  
 11 1144(b)(5)) is amended to read as follows:

12 “(5)(A)(i) Except as provided in clauses (ii) and (iii),  
 13 subsection (a) shall not apply to the Hawaii Prepaid  
 14 Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-  
 15 51).

16 “(ii) Nothing in clause (i) shall be construed to ex-  
 17 empt from subsection (a) any State tax law relating to  
 18 employee benefit plans.

19 “(iii) Notwithstanding clause (i), parts 1 and 4 of  
 20 this subtitle, and the preceding sections of this part to  
 21 the extent they govern matters which are governed by the  
 22 provisions of such parts 1 and 4, shall supersede the Ha-  
 23 waii Prepaid Health Care Act (as in effect on or after Jan-  
 24 uary 14, 1983), but the Secretary may enter into coopera-

1 tive arrangements under this subparagraph and section  
2 506 with officials of the State of Hawaii to assist them  
3 in effectuating the policies of provisions of such Act which  
4 are superseded by such parts 1 and 4 and the preceding  
5 sections of this part.

6 “(B)(i) Except as provided in clauses (ii) and (iii),  
7 subsection (a) shall not apply to subtitle 2 of title 19 of  
8 the Annotated Code of Maryland (relating to the Health  
9 Services Cost Review Commission).

10 “(ii) Nothing in clause (i) shall be construed to ex-  
11 empt from subsection (a)—

12 “(I) any State tax law relating to employee ben-  
13 efit plans, or

14 “(II) any amendment of the provision referred  
15 to in clause (i) enacted on or after May 12, 1993,  
16 to the extent it provides for more than the effective  
17 administration of such Act as in effect on such date.

18 “(iii) Notwithstanding clause (i), parts 1 and 4 of  
19 this subtitle, and the preceding sections of this part to  
20 the extent they govern matters which are governed by the  
21 provisions of such parts 1 and 4, shall supersede the provi-  
22 sion referred to in clause (i) (as in effect on or after May  
23 12, 1993), but the Secretary may enter into cooperative  
24 arrangements under this subparagraph and section 506  
25 with officials of the State of Maryland to assist them in

1 effectuating the policies of such provision which are super-  
2 seded by such parts 1 and 4 and the preceding sections  
3 of this part.

4 “(C)(i) Except as provided in clauses (ii) and (iii),  
5 subsection (a) shall not apply to the following provisions  
6 of the law of the State of Minnesota:

7 “(I) section 295.52, Minnesota Statutes, as  
8 amended in May 1993 by House File 1178 (relating  
9 to receipts tax on providers);

10 “(II) section 19 of article 9 of the Minnesota  
11 Health Right Act, as amended in May 1993 by  
12 House File 1178 (relating to passthrough of 2 per-  
13 cent gross receipts tax on providers); and

14 “(III) subdivision 2 of section 3 of article 1 of  
15 such Act, article 7 of such Act, and section 1 of arti-  
16 cle 3 of Minnesota House File 1178 and section 4  
17 and all that follows through the end of such article  
18 3, as enacted in May 1993 (relating to data collec-  
19 tion).

20 “(ii) Nothing in clause (i) shall be construed to ex-  
21 empt from subsection (a)—

22 “(I) any State tax law relating to employee ben-  
23 efit plans (other than a provision described in clause  
24 (i)), and

1           “(II) any amendment of any provision referred  
2           to in clause (i) enacted on or after May 12, 1993,  
3           to the extent it provides for more than the effective  
4           administration of such provision as in effect on such  
5           date.

6           “(iii) Notwithstanding clause (i), parts 1 and 4 of  
7           this subtitle, and the preceding sections of this part to  
8           the extent they govern matters which are governed by the  
9           provisions of such parts 1 and 4, shall supersede the provi-  
10          sions described in clause (i) (as in effect on or after May  
11          12, 1993), but the Secretary may enter into cooperative  
12          arrangements under this subparagraph and section 506  
13          with officials of the State of Minnesota to assist them in  
14          effectuating the policies of such provisions which are su-  
15          perseded by such parts 1 and 4 and the preceding sections  
16          of this part.

17          “(D)(i) Except as provided in clauses (ii), (iv), (v),  
18          and (vii), subsection (a) shall not apply to the following  
19          provisions of the law of the State of New York:

20                 “(I) subdivisions 1(b) and 4(e) of section  
21                 2807–c of the Public Health Law (relating to 13  
22                 percent surcharge);

23                 “(II) subdivision 1(c) of section 2807–c of the  
24                 Public Health Law (relating to uniform hospital  
25                 charges);



1           “(III) subdivision 2-a of section 2807-c of the  
2       Public Health Law (relating to the variable sur-  
3       charge for HMOs);

4           “(IV) subdivision 14 of section 2807-c of the  
5       Public Health Law (relating to basic percentage al-  
6       lowances for bad debt and charity care);

7           “(V) subdivision 14-b of section 2807-c of the  
8       Public Health Law (relating to health care services  
9       allowances);

10          “(VI) subdivision 14-c of section 2807-c of the  
11       Public Health Law (relating to further allowances  
12       for financially distressed hospitals); and

13          “(VII) section 18 of chapter 266 of the laws of  
14       1986, as amended (relating to excess malpractice in-  
15       surance adjustments).

16       “(ii) Except as provided in clause (iii), nothing in  
17       clause (i) shall be construed to exempt from subsection  
18       (a)—

19           “(I) any State tax law relating to employee ben-  
20       efit plans, or

21           “(II) any provision referred to in clause (i) to  
22       the extent that any law of the State of New York  
23       appropriates amounts based on amounts collected by  
24       the State under such provision for any purpose other

1       than carrying out the programs established under  
2       the provisions described in clause (i).

3       “(iii) Notwithstanding clause (ii), subsection (a) shall  
4       not apply to any provision of the law of the State of New  
5       York to the extent that such provision constitutes—

6               “(I) an HMO surcharge of the type provided  
7       for under subdivision 2-a of such section 2807-c (as  
8       in effect on February 2, 1993), or

9               “(II) an allowance, of the type provided for  
10      under the provisions referred to in clause (i) (as so  
11      in effect), for bad debts, charity care, health care  
12      services, or excess malpractice insurance,  
13      but only if the law of such State appropriates amounts  
14      based on and equivalent to amounts collected by the State  
15      under such provision solely for the purpose of carrying out  
16      one or more programs established under the provisions de-  
17      scribed in clause (i).

18      “(iv) Subsection (a) shall apply to any provision of  
19      the law of the State of New York to the extent that such  
20      provision constitutes a surcharge of the type provided for  
21      under subdivisions 1(b) and 4(e) of section 2807-c of the  
22      Public Health Law of the State of New York (as in effect  
23      on February 2, 1993) unless such provision provides for  
24      use of amounts collected under such provision solely for

1 the purpose of carrying out one or more programs estab-  
2 lished under the provisions described in clause (i).

3 “(v) Nothing in clause (i) shall be construed to ex-  
4 empt from subsection (a) any amendment of any provision  
5 referred to in clause (i) enacted on or after February 2,  
6 1993, to the extent it provides for more than the effective  
7 administration of such provisions as in effect on such date,  
8 unless such amendment constitutes only a change in the  
9 methodology of determining payments to hospitals and  
10 would result in—

11 “(I) a surcharge described in clause (iii)(I) of  
12 not more than 9 percent with respect to which the  
13 requirements of clause (iii) are met,

14 “(II) an allowance described in clause (iii)(II)  
15 which does not exceed in the aggregate a Statewide  
16 average of not more than 10 percent and with re-  
17 spect to which the requirements of clause (iii) are  
18 met, or

19 “(III) a surcharge described in clause (iv) of  
20 not more than 13 percent with respect to which the  
21 requirements of clause (iv) are met.

22 “(vi) Subsection (a) shall not apply to any amend-  
23 ment to chapter 2 of the laws of 1988 of the State of  
24 New York, as amended, to the extent that such amend-

1 ment extends the period for which the provisions referred  
2 to in clause (i) are in effect.

3 “(vii) Notwithstanding clause (i), parts 1 and 4 of  
4 this subtitle, and the preceding sections of this part to  
5 the extent they govern matters which are governed by the  
6 provisions of such parts 1 and 4, shall supersede the provi-  
7 sions described in clause (i) (as in effect on or after Feb-  
8 ruary 2, 1993), but the Secretary may enter into coopera-  
9 tive arrangements under this subparagraph and section  
10 506 with officials of the State of New York to assist them  
11 in effectuating the policies of such provisions which are  
12 superseded by such parts 1 and 4 and the preceding sec-  
13 tions of this part.

14 “(viii) The provisions of this subparagraph shall be  
15 effective as of February 2, 1993.

16 “(E) This paragraph shall cease to be effective as of  
17 May 12, 1995.”.

18 **TITLE V—COMMITTEE ON**  
19 **ENERGY AND COMMERCE**  
20 **Subtitle A—Medicare Program**

21 **SEC. 5000. REFERENCES IN SUBTITLE; TABLE OF CON-**  
22 **TENTS OF SUBTITLE.**

23 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
24 cept as otherwise specifically provided, whenever in this  
25 subtitle an amendment is expressed in terms of an amend-

1 ment to or repeal of a section or other provision, the ref-  
 2 erence shall be considered to be made to that section or  
 3 other provision of the Social Security Act.

4 (b) REFERENCES TO OBRA.—In this subtitle, the  
 5 terms “OBRA–1986”, “OBRA–1987”, “OBRA–1989”,  
 6 and “OBRA–1990” refer to the Omnibus Budget Rec-  
 7 onciliation Act of 1986 (Public Law 99–509), the Omni-  
 8 bus Budget Reconciliation Act of 1987 (Public Law 100–  
 9 203), the Omnibus Budget Reconciliation Act of 1989  
 10 (Public Law 101–239), and the Omnibus Budget Rec-  
 11 onciliation Act of 1990 (Public Law 101–508), respec-  
 12 tively.

13 (c) TABLE OF CONTENTS OF SUBTITLE.—The table  
 14 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. 5091. Standards for medicare supplemental insurance policies.

“(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—

1 “(I) 3 percentage points for sur-  
 2 gical services (as defined for purposes  
 3 of subsection (j)(1)), and

4 “(II) 2 percentage points for  
 5 other services.”.

6 **SEC. 5002. REDUCTION IN PERFORMANCE STANDARD RATE**  
 7 **OF INCREASE AND INCREASE IN MAXIMUM**  
 8 **REDUCTION PERMITTED IN DEFAULT UP-**  
 9 **DATE.**

10 (a) REDUCTION IN PERFORMANCE STANDARD FAC-  
 11 TOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w-  
 12 4(f)(2)(B)) is amended—

13 (1) by striking “and” at the end of clause (ii),  
 14 and

15 (2) by striking clause (iii) and inserting the fol-  
 16 lowing:

17 “(iii) for 1993 is 2 percentage points,

18 “(iv) for 1994 is 3½ percentage  
 19 points, and

20 “(v) for each succeeding year is 4 per-  
 21 centage points.”.

22 (b) INCREASE IN MAXIMUM REDUCTION PERMITTED  
 23 IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42  
 24 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—



1 (1) in subclause (II), by striking “or 1995”,  
2 and

3 (2) in subclause (III), by striking “3” and in-  
4 serting “5”.

5 **SEC. 5003. CLASSIFICATION OF PRIMARY CARE SERVICES**  
6 **AS A SEPARATE CATEGORY OF SERVICES.**

7 (a) IN GENERAL.—Section 1848(j)(1) (42 U.S.C.  
8 1395w-4(j)(1)) is amended by inserting “, primary care  
9 services (as defined in section 1842(i)(4)),” after “Sec-  
10 retary)”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) shall apply—

13 (1) to volume performance standard rates of  
14 increase established under section 1848(f) of the  
15 Social Security Act for fiscal years beginning with  
16 fiscal year 1994, and

17 (2) to updates in the conversion factors for phy-  
18 sicians’ services established under section 1848(d) of  
19 such Act for physicians’ services to be furnished in  
20 calendar years beginning with 1996.

1 **SEC. 5004. PHASED-IN REDUCTION IN PRACTICE EXPENSE**  
2 **RELATIVE VALUE UNITS FOR CERTAIN SERV-**  
3 **ICES.**

4 (a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C.  
5 1395w-4(c)(2)) is amended by adding at the end the fol-  
6 lowing new subparagraph:

7 “(E) REDUCTION IN PRACTICE EXPENSE  
8 RELATIVE VALUE UNITS FOR CERTAIN SERV-  
9 ICES.—

10 “(i) IN GENERAL.—Subject to clause  
11 (ii), the Secretary shall reduce the practice  
12 expense relative value units applied to serv-  
13 ices described in clause (iii) furnished in—

14 “(I) 1994, by 25 percent of the  
15 number by which the number of prac-  
16 tice expense relative value units (de-  
17 termined for 1994 without regard to  
18 this subparagraph) exceeds the num-  
19 ber of work relative value units deter-  
20 mined for 1994,

21 “(II) 1995, by an additional 25  
22 percent of such excess, and

23 “(III) 1996 and subsequent  
24 years, by an additional 25 percent of  
25 such excess.

1           “(ii) FLOOR ON REDUCTIONS.—The  
2           practice expense relative value units for a  
3           physicians’ service shall not be reduced  
4           under this subparagraph to a number less  
5           than 110 percent of the number of work  
6           relative value units.

7           “(iii) SERVICES COVERED.—For pur-  
8           poses of clause (i), the services described in  
9           this clause are physicians’ services that are  
10          not described in clause (iv) and for  
11          which—

12                   “(I) there are work relative value  
13                   units, and

14                   “(II) the number of practice ex-  
15                   pense relative value units (determined  
16                   for 1994) exceeds 110 percent of the  
17                   number of work relative value units  
18                   (determined for such year).

19          “(iv) EXCLUDED SERVICES.—For  
20          purposes of clause (iii), the services de-  
21          scribed in this clause are—

22                   “(I) anesthesia services,

23                   “(II) radiology services, and

24                   “(III) services which the Sec-  
25          retary determines at least 75 percent

1 of which are provided under this title  
2 in an office setting.”.

3 (b) DEVELOPMENT OF RESOURCE-BASED METH-  
4 ODOLOGY FOR PRACTICE EXPENSES.—

5 (1) The Secretary of Health and Human Serv-  
6 ices shall develop a methodology for implementing in  
7 1997 a resource-based system for determining prac-  
8 tice expense relative value units for each physician’s  
9 service.

10 (2) The Secretary shall transmit a report by  
11 June 30, 1996, on the methodology developed under  
12 paragraph (1) to the Committees on Ways and  
13 Means and Energy and Commerce of the House of  
14 Representatives and the Committee on Finance of  
15 the Senate. The report shall include a presentation  
16 of data utilized in developing the methodology and  
17 an explanation of the methodology.

18 **SEC. 5005. LIMITATION ON PAYMENT FOR THE ANESTHESIA**  
19 **CARE TEAM.**

20 (a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDI-  
21 CAL DIRECTION.—

22 (1) IN GENERAL.—Section 1848(a) (42 U.S.C.  
23 1395w-4(a)), as amended by section 5008(a)(1), is  
24 amended by adding at the end the following new  
25 paragraph:

1           “(4) SPECIAL RULE FOR MEDICAL DIREC-  
2           TION.—

3                   “(A) IN GENERAL.—With respect to physi-  
4           cians’ services furnished on or after January 1,  
5           1994, and consisting of medical direction of  
6           two, three, or four concurrent anesthesia cases,  
7           the fee schedule amount to be applied shall not  
8           exceed one-half of the amount described in sub-  
9           paragraph (B).

10                   “(B) AMOUNT.—The amount described in  
11           this subparagraph, for a physician’s medical di-  
12           rection of the performance of anesthesia serv-  
13           ices, is the following percentage of the fee  
14           schedule amount otherwise applicable under this  
15           section if the anesthesia services were person-  
16           ally performed by the physician alone:

17                           “(i) For services furnished during  
18                           1994, 120 percent.

19                           “(ii) For services furnished during  
20                           1995, 115 percent.

21                           “(iii) For services furnished during  
22                           1996, 110 percent.

23                           “(iv) For services furnished during  
24                           1997, 105 percent.

1                   “(v) For services furnished after  
2                   1997, 100 percent.”.

3                   (2) ELIMINATION OF REDUCTION FOR MEDICAL  
4                   DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—  
5                   Section 1842(b) (42 U.S.C. 1395u(b)) is amended  
6                   by striking paragraph (13).

7                   (b) PAYMENT TO A CERTIFIED REGISTERED NURSE  
8                   ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—  
9                   Subparagraph (B) of section 1833(l)(4) (42 U.S.C.  
10                  1395l(l)(4)) is amended—

11                  (1) in clause (i), by inserting “and before Janu-  
12                  ary 1, 1994,” after “1991,”;

13                  (2) in clause (ii)—

14                         (A) by adding “and” at the end of  
15                         subclause (II),

16                         (B) by striking the comma at the end of  
17                         subclause (III) and inserting a period, and

18                         (C) by striking subclauses (IV) through  
19                         (VII); and

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

22                  “(iii) In the case of services of a certified registered  
23                  nurse anesthetist who is medically directed by a physician  
24                  and that are furnished on or after January 1, 1994, the  
25                  fee schedule amount shall be one-half of the amount

1 described in section 1848(a)(4)(B) with respect to the  
2 physician.”.

3 **SEC. 5006. BASING PAYMENTS FOR ANESTHESIA SERVICES**  
4 **ON ACTUAL TIME.**

5 (a) PHYSICIANS’ SERVICES.—Section 1848(b)(2)(B)  
6 (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at  
7 the end the following: “For anesthesia services furnished  
8 on or after January 1, 1994, the Secretary may not mod-  
9 ify the methodology in effect as of January 1, 1993, for  
10 determining the amount of time that may be billed for  
11 such services under this section.”.

12 (b) SERVICES OF CERTIFIED REGISTERED NURSE  
13 ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C.  
14 1395l(l)(1)(B)) is amended by adding at the end the fol-  
15 lowing: “For anesthesia services furnished on or after  
16 January 1, 1994, the Secretary may not modify the meth-  
17 odology in effect as of January 1, 1993, for determining  
18 the amount of time that may be billed for such services  
19 under this section.”.

20 **SEC. 5007. SEPARATE PAYMENT FOR INTERPRETATION OF**  
21 **ELECTROCARDIOGRAMS.**

22 (a) IN GENERAL.—Paragraph (3) of section 1848(b)  
23 (42 U.S.C. 1395w-4(b)) is amended to read as follows:

24 “(3) TREATMENT OF INTERPRETATION OF  
25 ELECTROCARDIOGRAMS.—The Secretary—

1           “(A) shall make separate payment under  
2           this section for the interpretation of electro-  
3           cardiograms performed or ordered to be per-  
4           formed as part of or in conjunction with a visit  
5           to or a consultation with a physician, and

6           “(B) shall adjust the relative values estab-  
7           lished for visits and consultations under sub-  
8           section (c) so as not to include relative value  
9           units for interpretations of electrocardiograms  
10          in the relative value for visits and consulta-  
11          tions.”.

12          (b) ASSURING BUDGET NEUTRALITY.—Section  
13          1848(c)(2) (42 U.S.C. 1395w-4(c)(2)), as amended by  
14          section 5004(a); is amended by adding at the end the fol-  
15          lowing new subparagraph:

16                 “(F) BUDGET NEUTRALITY ADJUST-  
17                 MENTS.—The Secretary—

18                         “(i) shall reduce the relative values  
19                         for all services (other than anesthesia serv-  
20                         ices) established under this paragraph  
21                         (and, in the case of anesthesia services, the  
22                         conversion factor established by the Sec-  
23                         retary for such services) by such percent-  
24                         age as the Secretary determines to be nec-  
25                         essary so that, beginning in 1996, the



1 amendment made by section 5007(a) of  
2 the Omnibus Budget Reconciliation Act of  
3 1993 would not result in expenditures  
4 under this section that exceed the amount  
5 of such expenditures that would have been  
6 made if such amendment had not been  
7 made, and

8 “(ii) shall reduce the amounts deter-  
9 mined under subsection (a)(2)(B)(ii)(I) by  
10 such percentage as the Secretary deter-  
11 mines to be required to assure that, taking  
12 into account the reductions made under  
13 clause (i), the amendment made by section  
14 5007(a) of the Omnibus Budget Reconcili-  
15 ation Act of 1993 would not result in ex-  
16 penditures under this section in 1994 that  
17 exceed the amount of such expenditures  
18 that would have been made if such amend-  
19 ment had not been made.”.

20 (c) CONFORMING AMENDMENTS.—Section 1848 (42

21 U.S.C. 1395w-4) is amended—

22 (1) in subsection (a)(2)(B)(ii)(I), by inserting

23 “and as adjusted under subsection (c)(2)(F)(ii)”

24 after “for 1994”;

1           (2) in subsection (c)(2)(A)(i), by adding at the  
2           end the following: “Such relative values are subject  
3           to adjustment under subparagraph (F)(i).”; and

4           (3) in subsection (i)(1)(B), by adding at the  
5           end “including adjustments under subsection  
6           (c)(2)(F),”.

7           (d) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to services furnished on or after  
9           January 1, 1994.

10   **SEC. 5008. PAYMENTS FOR NEW PHYSICIANS AND PRACTI-**  
11                           **TIONERS.**

12           (a) EQUAL TREATMENT OF NEW PHYSICIANS AND  
13   PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C.  
14   1395w-4(a)) is amended by striking paragraph (4).

15           (2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is  
16   amended by striking subparagraph (F).

17           (b) BUDGET NEUTRALITY ADJUSTMENT.—Notwith-  
18   standing any other provision of law, the Secretary of  
19   Health and Human Services shall reduce the following val-  
20   ues and amounts for 1994 (to be applied for that year  
21   and subsequent years) by such uniform percentage as the  
22   Secretary determines to be required to assure that the  
23   amendments made by subsection (a) will not result in ex-  
24   penditures under part B of title XVIII of the Social Secu-  
25   rity Act in 1994 that exceed the amount of such expendi-

1 tures that would have been made if such amendments had  
2 not been made:

3 (1) The relative values established under section  
4 1848(c) of such Act for services (other than anesthe-  
5 sia services) and, in the case of anesthesia services,  
6 the conversion factor established under section 1848  
7 of such Act for such services.

8 (2) The amounts determined under section  
9 1848(a)(2)(B)(ii)(I) of such Act.

10 (3) The prevailing charges or fee schedule  
11 amounts to be applied under such part for services  
12 of a health care practitioner (as defined in section  
13 1842(b)(4)(F)(ii)(I) of such Act, as in effect before  
14 the date of the enactment of this Act).

15 (c) CONFORMING AMENDMENTS.—Section 1848 (42  
16 U.S.C. 1395w-4), as amended by section 5007(c), is  
17 amended—

18 (1) in subsection (a)(2)(B)(ii)(I), by inserting  
19 “and section 5008(b) of the Omnibus Budget Rec-  
20 onciliation Act of 1993” after “(c)(2)(F)(ii)”;

21 (2) in subsection (c)(2)(A)(i), by inserting “and  
22 section 5008(b) of the Omnibus Budget Reconcili-  
23 ation Act of 1993” after “under subparagraph  
24 (F)(i)”;

1           (3) in subsection (i)(1)(B), by inserting “and  
2       section 5008(b) of the Omnibus Budget Reconcili-  
3       ation Act of 1993” after “under subsection  
4       (c)(2)(F)”.

5       (d) EFFECTIVE DATE.—The amendments made by  
6       subsection (a) shall apply to services furnished on or after  
7       January 1, 1994.

8       **SEC. 5009. GEOGRAPHIC ADJUSTMENT FACTORS FOR MEDI-**  
9                                   **CARE PHYSICIANS’ SERVICES.**

10       (a) REQUIRING CONSULTATION WITH REPRESENTA-  
11       TIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC AD-  
12       JUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C.  
13       1395w–4(e)(1)(C)) is amended by striking “shall review”  
14       and inserting “shall, in consultation with appropriate rep-  
15       resentatives of physicians, review”.

16       (b) USE OF MOST RECENT DATA IN GEOGRAPHIC  
17       ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–  
18       4(e)(1)) is amended by adding at the end the following  
19       new subparagraph:

20                               “(D) USE OF RECENT DATA.—In estab-  
21                               lishing indices and index values under this  
22                               paragraph, the Secretary shall use the most re-  
23                               cent data available relating to practice ex-  
24                               penses, malpractice expenses, and physician  
25                               work effort in different fee schedule areas.”.

1 (c) DEADLINE FOR INITIAL REVIEW AND REVI-  
2 SION.—The Secretary of Health and Human Services  
3 shall first review and revise geographic adjustment factors  
4 under section 1848(e)(1)(C) of the Social Security Act by  
5 not later than January 1, 1995.

6 (d) REPORT ON REVIEW PROCESS.—Not later than  
7 1 year after the date of the enactment of this Act, the  
8 Secretary of Health and Human Services shall study and  
9 report to the Committee on Finance of the Senate and  
10 the Committee on Ways and Means and the Committee  
11 on Energy and Commerce of the House of Representatives  
12 on—

13 (1) the data necessary to review and revise the  
14 indices established under section 1848(e)(1)(A) of  
15 the Social Security Act, including—

16 (A) the shares allocated to physicians'  
17 work effort, practice expenses (other than mal-  
18 practice expenses), and malpractice expenses;

19 (B) the weights assigned to the input com-  
20 ponents of such shares; and

21 (C) the index values assigned to such com-  
22 ponents;

23 (2) any limitations on the availability of data  
24 necessary to review and revise such indices at least  
25 every three years;

1           (3) ways of addressing such limitations, with  
2           particular attention to the development of alternative  
3           data sources for input components for which current  
4           index values are based on data collected less fre-  
5           quently than every three years; and

6           (4) the costs of developing more accurate and  
7           timely data.

8   **SEC. 5010. EXTRA-BILLING LIMITS.**

9           (a) ENFORCEMENT AND UNIFORM APPLICATION.—

10           (1) ENFORCEMENT.—Paragraph (1) of section  
11           1848(g) (42 U.S.C. 1395w-4(g)) is amended to read  
12           as follows:

13           “(1) LIMITATION ON ACTUAL CHARGES.—

14           “(A) IN GENERAL.—In the case of a  
15           nonparticipating physician or nonparticipating  
16           supplier or other person (as defined in section  
17           1842(i)(2)) who does not accept payment on an  
18           assignment-related basis for a physician’s serv-  
19           ice furnished with respect to an individual en-  
20           rolled under this part, the following rules apply:

21           “(i) APPLICATION OF LIMITING  
22           CHARGE.—No person may bill or collect an  
23           actual charge for the service in excess of  
24           the limiting charge described in paragraph  
25           (2) for such service.

1           “(ii) NO LIABILITY FOR EXCESS  
2 CHARGES.—No person is liable for pay-  
3 ment of any amounts billed for the service  
4 in excess of such limiting charge.

5           “(iii) CORRECTION OF EXCESS  
6 CHARGES.—If such a physician, supplier,  
7 or other person bills, but does not collect,  
8 an actual charge for a service in violation  
9 of clause (i), the physician, supplier, or  
10 other person shall reduce on a timely basis  
11 the actual charge billed for the service to  
12 an amount not to exceed the limiting  
13 charge for the service.

14           “(iv) REFUND OF EXCESS COLLEC-  
15 TIONS.—If such a physician, supplier, or  
16 other person collects an actual charge for  
17 a service in violation of clause (i), the phy-  
18 sician, supplier, or other person shall pro-  
19 vide on a timely basis a refund to the indi-  
20 vidual charged in the amount by which the  
21 amount collected exceeded the limiting  
22 charge for the service. The amount of such  
23 a refund shall be reduced to the extent the  
24 individual has an outstanding balance owed  
25 by the individual to the physician.

1           “(B) SANCTIONS.—If a physician, supplier,  
2           or other person—

3                   “(i) knowingly and willfully bills or  
4                   collects for services in violation of subpara-  
5                   graph (A)(i) on a repeated basis, or

6                   “(ii) fails to comply with clause (iii)  
7                   or (iv) of subparagraph (A) on a timely  
8                   basis,

9           the Secretary may apply sanctions against the  
10          physician, supplier, or other person in accord-  
11          ance with paragraph (2) of section 1842(j). In  
12          applying this subparagraph, paragraph (4) of  
13          such section applies in the same manner as  
14          such paragraph applies to such section and any  
15          reference in such section to a physician is  
16          deemed also to include a reference to a supplier  
17          or other person under this subparagraph.

18          “(C) TIMELY BASIS.—For purposes of this  
19          paragraph, a correction of a bill for an excess  
20          charge or refund of an amount with respect to  
21          a violation of subparagraph (A)(i) in the case of  
22          a service is considered to be provided ‘on a  
23          timely basis’, if the reduction or refund is made  
24          not later than 30 days after the date the physi-  
25          cian, supplier, or other person is notified by the



1 carrier under this part of such violation and of  
2 the requirements of subparagraph (A).”.

3 (2) UNIFORM APPLICATION OF EXTRA-BILLING  
4 LIMITS TO PHYSICIANS’ SERVICES.—

5 (A) IN GENERAL.—Section 1848(g)(2)(C)  
6 (42 U.S.C. 1395w-4(g)(2)(C)) is amended by  
7 inserting “or for nonparticipating suppliers or  
8 other persons” after “nonparticipating physi-  
9 cians”.

10 (B) CONFORMING DEFINITION.—Section  
11 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amend-  
12 ed—

13 (i) by striking “, and the term” and  
14 inserting “; the term”, and

15 (ii) by inserting before the period at  
16 the end the following: “; and the term  
17 ‘nonparticipating supplier or other person’  
18 means a supplier or other person (exclud-  
19 ing a provider of services) that is not a  
20 participating physician or supplier (as de-  
21 fined in subsection (h)(1))”.

22 (3) ADDITIONAL CONFORMING AMENDMENTS.—  
23 Section 1848 (42 U.S.C. 1395w-4) is amended—

24 (A) in subsection (a)(3)—

1 (i) by inserting “AND SUPPLIERS”  
2 after “PHYSICIANS”,

3 (ii) by inserting “or a  
4 nonparticipating supplier or other person”  
5 after “nonparticipating physician”, and

6 (iii) by adding at the end the follow-  
7 ing: “In the case of physicians’ services  
8 (including services which the Secretary ex-  
9 cludes pursuant to subsection (j)(3)) of a  
10 nonparticipating physician, supplier, or  
11 other person for which payment is made  
12 under this part on a basis other than the  
13 fee schedule amount, the payment shall be  
14 based on 95 percent of the payment basis  
15 for such services furnished by a participat-  
16 ing physician, supplier, or other person.”;

17 (B) in subsection (g)(1)(A), as amended by  
18 subsection (a), in the matter before clause (i),  
19 by inserting “(including services which the Sec-  
20 retary excludes pursuant to subsection (j)(3))”  
21 after “a physician’s service”;

22 (C) in subsection (g)(2)(D), by inserting  
23 “(or, if payment under this part is made on a  
24 basis other than the fee schedule under this sec-

tion, 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 pay-  
ment of any amounts billed for such a  
service in violation of the previous sen-  
tence.”, 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 physi-  
cians’ 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 sec-  
ond place it appears; and

1 (F) in subsection (j)(3), by inserting “, ex-  
2 cept for purposes of subsections (a)(3), (g), and  
3 (h)” after “tests and”.

4 (b) CLARIFICATION OF MANDATORY ASSIGNMENT  
5 RULES FOR CERTAIN PRACTITIONERS.—

6 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.  
7 1395u(b)), as amended by section 5014(e), is  
8 amended by adding at the end the following new  
9 paragraph:

10 “(18)(A) Payment for any service furnished by a  
11 practitioner described in subparagraph (C) and for which  
12 payment may be made under this part on a reasonable  
13 charge or fee schedule basis may only be made under this  
14 part on an assignment-related basis.

15 “(B) A practitioner described in subparagraph (C) or  
16 other person may not bill (or collect any amount from)  
17 the individual or another person for any service described  
18 in subparagraph (A), except for deductible and coinsur-  
19 ance amounts applicable under this part. No person is lia-  
20 ble for payment of any amounts billed for such a service  
21 in violation of the previous sentence. If a practitioner or  
22 other person knowingly and willfully bills (or collects an  
23 amount) for such a service in violation of such sentence,  
24 the Secretary may apply sanctions against the practitioner  
25 or other person in the same manner as the Secretary may

1 apply sanctions against a physician in accordance with  
2 section 1842(j)(2) in the same manner as such section ap-  
3 plies with respect to a physician. Paragraph (4) of section  
4 1842(j) shall apply in this subparagraph in the same man-  
5 ner as such paragraph applies to such section.

6 “(C) A practitioner described in this subparagraph  
7 is any of the following:

8 “(i) A physician assistant, nurse practitioner, or  
9 clinical nurse specialist (as defined in section  
10 1861(aa)(5)).

11 “(ii) A certified registered nurse anesthetist (as  
12 defined in section 1861(bb)(2)).

13 “(iii) A certified nurse-midwife (as defined in  
14 section 1861(gg)(2)).

15 “(iv) A clinical social worker (as defined in sec-  
16 tion 1861(hh)(1)).

17 “(v) A clinical psychologist (as defined by the  
18 Secretary for purposes of section 1861(ii)).

19 “(D) For purposes of this paragraph, a service fur-  
20 nished by a practitioner described in subparagraph (C) in-  
21 cludes any services and supplies furnished as incident to  
22 the service as would otherwise be covered under this part  
23 if furnished by a physician or as incident to a physician’s  
24 service.”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 1833 (42 U.S.C. 1395l) is  
2 amended—

3 (i) in subsection (l)(5), by striking  
4 subparagraph (B) and redesignating sub-  
5 paragraph (C) as subparagraph (B);

6 (ii) by striking subsection (p); and

7 (iii) in subsection (r), by striking  
8 paragraph (3) and redesignating para-  
9 graph (4) as paragraph (3).

10 (B) Section 1842(b)(12) (42 U.S.C.  
11 1395u(b)(12)) is amended by striking subpara-  
12 graph (C).

13 (c) INFORMATION ON EXTRA-BILLING LIMITS.—

14 (1) PART OF EXPLANATION OF MEDICARE BEN-  
15 EFITS.—Section 1842(h)(7) (42 U.S.C.  
16 1395u(h)(7)) is amended—

17 (A) by striking “and” at the end of sub-  
18 paragraph (B),

19 (B) in subparagraph (C), by striking “shall  
20 include”,

21 (C) in subparagraph (C), by striking the  
22 period at the end and inserting “, and”, and

23 (D) by adding at the end the following new  
24 subparagraph:

1           “(D) in the case of services for which the billed  
2           amount exceeds the limiting charge imposed under  
3           section 1848(g), information regarding such applica-  
4           ble limiting charge (including information concern-  
5           ing the right to a refund under section  
6           1848(g)(1)(A)(iv)).”.

7           (2) DETERMINATIONS BY CARRIERS.—Subpara-  
8           graph (G) of section 1842(b)(3) (42 U.S.C.  
9           1395u(b)(3)) is amended to read as follows:

10           “(G) will, for a service that is furnished with  
11           respect to an individual enrolled under this part,  
12           that is not paid on an assignment-related basis, and  
13           that is subject to a limiting charge under section  
14           1848(g)—

15           “(i) determine, prior to making payment,  
16           whether the amount billed for such service ex-  
17           ceeds the limiting charge applicable under sec-  
18           tion 1848(g)(2);

19           “(ii) notify the physician, supplier, or other  
20           person periodically (but not less often than once  
21           every 30 days) of determinations that amounts  
22           billed exceeded such applicable limiting charges;  
23           and

24           “(iii) provide for prompt response to in-  
25           quiries of physicians, suppliers, and other per-

1           sons concerning the accuracy of such limiting  
2           charges for their services;”.

3           (d) REPORT ON CHARGES IN EXCESS OF LIMITING  
4 CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w–  
5 4(g)(6)(B)) is amended by inserting “the extent to which  
6 actual charges exceed limiting charges, the number and  
7 types of services involved, and the average amount of ex-  
8 cess charges and” after “report to the Congress”.

9           (e) MISCELLANEOUS AND TECHNICAL AMEND-  
10 MENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

11           (1) in subsection (a)(1), as amended by section  
12           5070(e)(2)—

13                   (A) by striking “and” before “(O)”, and

14                   (B) by inserting before the semicolon at  
15           the end the following: “, and (P) with respect  
16           to services described in clauses (i), (ii) and (iv)  
17           of section 1861(s)(2)(K), the amounts paid are  
18           subject to the provisions of section  
19           1842(b)(12)”;

20           (2) in subsection (h)(5)(D)—

21                   (A) by striking “paragraphs (2) and (3)”  
22           and by inserting “paragraph (2)”, and

23                   (B) by adding at the end the following:  
24           “Paragraph (4) of such section shall apply in



1           this subparagraph in the same manner as such  
2           paragraph applies to such section.”.

3       (f) EFFECTIVE DATES.—

4           (1) ENFORCEMENT AND UNIFORM APPLICA-  
5       TION; MISCELLANEOUS AND TECHNICAL AMEND-  
6       MENTS.—The amendments made by subsections (a)  
7       and (e) shall apply to services furnished on or after  
8       the date of the enactment of this Act; except that  
9       the amendments made by subsection (a) shall not  
10      apply to services of a nonparticipating supplier or  
11      other person furnished before January 1, 1994.

12          (2) PRACTITIONERS.—The amendments made  
13      by subsection (b) shall apply to services furnished on  
14      or after January 1, 1994.

15          (3) EOMBs.—The amendments made by sub-  
16      section (c)(1) shall apply to explanations of benefits  
17      provided on or after January 1, 1994.

18          (4) CARRIER DETERMINATIONS.—The amend-  
19      ments made by subsection (c)(2) shall apply to con-  
20      tracts as of January 1, 1994.

21          (5) REPORT.—The amendment made by sub-  
22      section (d) shall apply to reports for years beginning  
23      with 1994.

1 **SEC. 5011. RELATIVE VALUES FOR PEDIATRIC SERVICES.**

2 (a) IN GENERAL.—The Secretary of Health and  
3 Human Services shall fully develop, by not later than July  
4 1, 1994, relative values for the full range of pediatric phy-  
5 sicians' services which are consistent with the relative val-  
6 ues developed for other physicians' services under section  
7 1848(c) of the Social Security Act. In developing such val-  
8 ues, the Secretary shall conduct such refinements as may  
9 be necessary to produce appropriate estimates for such rel-  
10 ative values.

11 (b) STUDY.—

12 (1) IN GENERAL.—The Secretary shall conduct  
13 a study of the relative values for pediatric and other  
14 services to determine whether there are significant  
15 variations in the resources used in providing similar  
16 services to different populations. In conducting such  
17 study, the Secretary shall consult with appropriate  
18 organizations representing pediatricians and other  
19 physicians and physical and occupational therapists.

20 (2) REPORT.—Not later than July 1, 1994, the  
21 Secretary shall submit to Congress a report on the  
22 study conducted under paragraph (1). Such report  
23 shall include any appropriate recommendations re-  
24 garding needed changes in coding or other payment  
25 policies to ensure that payments for pediatric serv-

1        ices appropriately reflect the resources required to  
2        provide these services.

3        **SEC. 5012. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.**

4        (a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C.  
5        1395w-4(j)(3)) is amended by inserting “(2)(G),” after  
6        “(2)(D),”.

7        (b) EFFECTIVE DATE.—The amendment made by  
8        subsection (a) shall apply to services furnished on or after  
9        January 1, 1994.

10       **SEC. 5013. ADMINISTRATION OF CLAIMS RELATING TO PHY-**  
11       **SICIANS’ SERVICES.**

12       (a) LIMITATION ON CARRIER USER FEES.—Section  
13       1842(c) (42 U.S.C. 1395u(c)) is amended by adding at  
14       the end the following new paragraph:

15       “(4) Neither a carrier nor the Secretary may impose  
16       a fee under this title—

17                “(A) for the filing of claims related to physi-  
18       cians’ services,

19                “(B) for an error in filing a claim relating to  
20       physicians’ services or for such a claim which is de-  
21       nied,

22                “(C) for any appeal under this title with respect  
23       to physicians’ services,

24                “(D) for applying for (or obtaining) a unique  
25       identifier under subsection (r), or

1           “(E) for responding to inquiries respecting phy-  
2           sicians’ services or for providing information with re-  
3           spect to medical review of such services.”.

4           (b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE  
5 BILLING ARRANGEMENTS.—

6           (1) IN GENERAL.—Clause (D) of section  
7           1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to  
8           read as follows: “(D) payment may be made to a  
9           physician for physicians’ services (and services fur-  
10          nished incident to such services) furnished by a sec-  
11          ond physician to patients of the first physician if (i)  
12          the first physician is unavailable to provide the serv-  
13          ices; (ii) the services are furnished pursuant to an  
14          arrangement between the two physicians that (I) is  
15          informal and reciprocal, or (II) involves per diem or  
16          other fee-for-time compensation for such services;  
17          (iii) the services are not provided by the second phy-  
18          sician over a continuous period of more than 60  
19          days; and (iv) the claim form submitted to the car-  
20          rier for such services includes the second physician’s  
21          unique identifier (provided under the system estab-  
22          lished under subsection (r)) and indicates that the  
23          claim meets the requirements of this clause for pay-  
24          ment to the first physician”.

8 (a) OVERVALUED PROCEDURES (SECTION 4101 OF  
9 OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) (42  
10 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(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

1 (B) in subparagraph (B)—

2 (i) by striking “, simple and subcutane-  
3 ous”,

4 (ii) by striking “(HCPCS codes 19160 and  
5 19162)” and inserting “(HCPCS code 19160)”,  
6 and

7 (iii) by striking all that follows “(HCPCS  
8 codes 92250” and inserting “and 92260).”.

9 (b) RADIOLOGY SERVICES (SECTION 4102 OF  
10 OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C.  
11 1395m(b)(4)) is amended by redesignating subparagraphs  
12 (E) and (F) as subparagraphs (F) and (G), respectively.

13 (2) Section 1834(b)(4)(D) (42 U.S.C.  
14 1395m(b)(4)(D)) is amended—

15 (A) in the matter before clause (i), by striking  
16 “shall be determined as follows:” and inserting  
17 “shall, subject to clause (vii), be reduced to the ad-  
18 justed conversion factor for the locality determined  
19 as follows:”,

20 (B) in clause (iv), by striking “LOCAL ADJUST-  
21 MENT.—Subject to clause (vii), the conversion factor  
22 to be applied to” and inserting “ADJUSTED CONVER-  
23 SION FACTOR.—The adjusted conversion factor for”,

24 (C) in clause (vii), by striking “under this sub-  
25 paragraph”, and

1 (D) in clause (vii), by inserting “reduced under  
2 this subparagraph by” after “shall not be”.

3 (3) Section 4102(c)(2) of OBRA-1990 is amended  
4 by striking “radiology services” and all that follows and  
5 inserting “nuclear medicine services.”.

6 (4) Section 4102(d) of OBRA-1990 is amended by  
7 striking “new paragraph” and inserting “new subpara-  
8 graph”.

9 (5) Section 1834(b)(4)(E) (42 U.S.C.  
10 1395m(b)(4)(E)) is amended by inserting “RULE FOR  
11 CERTAIN SCANNING SERVICES.—” after “(E)”.

12 (6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-  
13 4(a)(2)(D)(iii)) is amended by striking “that are subject  
14 to section 6105(b) of the Omnibus Budget Reconciliation  
15 Act of 1989” and by striking “provided under such sec-  
16 tion” and inserting “provided under section 6105(b) of the  
17 Omnibus Budget Reconciliation Act of 1989”.

18 (c) ANESTHESIA SERVICES (SECTION 4103 OF  
19 OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is  
20 amended by striking “REDUCTION IN FEE SCHEDULE”  
21 and inserting “REDUCTION IN PREVAILING CHARGES”.

22 (2) Section 1842(q)(1)(B) (42 U.S.C.  
23 1395u(q)(1)(B)) is amended—

24 (A) in the matter before clause (i), by striking  
25 “shall be determined as follows:” and inserting

1 “shall, subject to clause (iv), be reduced to the ad-  
2 justed prevailing charge conversion factor for the lo-  
3 cality determined as follows:”, and

4 (B) in clause (iii), by striking “Subject to  
5 clause (iv), the prevailing charge conversion factor to  
6 be applied in” and inserting “The adjusted prevail-  
7 ing charge conversion factor for”.

8 (d) ASSISTANTS AT SURGERY (SECTION 4107 OF  
9 OBRA-1990).—(1) Section 4107(c) of OBRA-1990 is  
10 amended by inserting “(a)(1)” after “subsection”.

11 (2) Section 4107(a)(2) of OBRA-1990 is amended  
12 by adding at the end the following: “In applying section  
13 1848(g)(2)(D) of the Social Security Act for services of  
14 an assistant-at-surgery furnished during 1991, the recog-  
15 nized payment amount shall not exceed the maximum  
16 amount specified under section 1848(i)(2)(A) of such Act  
17 (as applied under this paragraph in such year).”.

18 (e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERV-  
19 ICES (SECTION 4108 OF OBRA-1990).—Section 1842(b)  
20 (42 U.S.C. 1395u(b)) is amended by redesignating para-  
21 graph (18), as added by section 4108(a) of OBRA-1990,  
22 as paragraph (17) and, in such paragraph, by inserting  
23 “, tests specified in paragraph (14)(C)(i),” after “diag-  
24 nostic laboratory tests”.



1 (f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF  
 2 OBRA-1990).—Section 4117 of OBRA-1990 is amend-  
 3 ed—

4 (1) in subsection (a)—

5 (A) by striking “(a) IN GENERAL.—”, and

6 (B) by striking “, if the” and all that fol-  
 7 lows through “1991, ”; and

8 (2) by striking subsections (b), (c), and (d).

9 (g) STUDY OF AGGREGATION RULE FOR CLAIMS OF  
 10 SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF  
 11 OBRA-1990).—Section 4113 of OBRA-1990 is amend-  
 12 ed—

13 (1) by inserting “of the Social Security Act”  
 14 after “1869(b)(2)”;

15 (2) by striking “December 31, 1992” and in-  
 16 serting “December 31, 1993”.

17 (h) OTHER MISCELLANEOUS AND TECHNICAL  
 18 AMENDMENTS.—(1) The heading of section 1834(f) (42  
 19 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

20 (2)(A) Section 4105(b) of OBRA-1990 is amended—

21 (i) in paragraph (2), by striking “amendments”  
 22 and inserting “amendment”, and

23 (ii) in paragraph (3), by striking “amendments  
 24 made by paragraphs (1) and (2)” and inserting  
 25 “amendment made by paragraph (1)”.

1 (B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-  
2 4(f)(2)(C)) is amended by inserting “PERFORMANCE  
3 STANDARD RATES OF INCREASE FOR FISCAL YEAR  
4 1991.—” after “(C)”.

5 (C) Section 4105(d) of OBRA-1990 is amended by  
6 inserting “PUBLICATION OF PERFORMANCE STANDARD  
7 RATES.—” after “(d)”.

8 (3) Section 1842(b)(4)(F) (42 U.S.C.  
9 1395u(b)(4)(F)) is amended—

10 (A) in clause (i), by striking “prevailing  
11 charge” the first place it appears and inserting  
12 “customary charge”; and

13 (B) in clause (ii)(III), by striking “second,  
14 third, and fourth” and inserting “first, second, and  
15 third”.

16 (4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C.  
17 1395u(b)(4)(F)(ii)(I)) is amended by striking “respiratory  
18 therapist,”.

19 (5) Section 4106(c) of OBRA-1990 is amended by  
20 inserting “of the Social Security Act” after  
21 “1848(d)(1)(B)”.

22 (6) Section 4114 of OBRA-1990 is amended by  
23 striking “patients” the second place it appears.

1       (7) Section 1848(e)(1)(C) (42 U.S.C. 1395w-  
2 4(e)(1)(C)) is amended by inserting “date of the” after  
3 “since the”.

4       (8) Section 4118(f)(1)(D) of OBRA-1990 is amend-  
5 ed by striking “is amended”.

6       (9) Section 4118(f)(1)(N)(ii) of OBRA-1990 is  
7 amended by striking “subsection (f)(5)(A)” and inserting  
8 “subsection (f)(5)(A))”.

9       (10) Section 1845(e) (42 U.S.C. 1395w-1(e)) is  
10 amended—

11           (A) by striking paragraph (2); and

12           (B) by redesignating paragraphs (3), (4), and  
13 (5) as paragraphs (2), (3), and (4).

14       (11) Section 4118(j)(2) of OBRA-1990 is amended  
15 by striking “In section” and inserting “Section”.

16       (12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-  
17 4(i)(3)) is amended by striking the space before the period  
18 at the end.

19       (B) Section 1834(a)(10)(B) (42 U.S.C.  
20 1395m(a)(10)(B)) is amended by striking “as such provi-  
21 sions apply to physicians’ services and physicians and a  
22 reasonable charge under section 1842(b)”.

23       (i) OTHER CORRECTIONS.—(1) Effective on the date  
24 of the enactment of this Act, section 6102(d)(4) of

1 OBRA-1989 is amended by striking all that follows the  
2 first sentence.

3 (2) Effective for payments for fiscal years beginning  
4 with fiscal year 1994, section 1842(c)(1) (42 U.S.C.  
5 1395u(c)(1)) is amended—

6 (A) in subparagraph (A), by striking “(A) Any  
7 contract” and inserting “Any contract”; and

8 (B) by striking subparagraph (B).

9 (j) EFFECTIVE DATE.—Except as provided in sub-  
10 section (i), the amendments made by this section and the  
11 provisions of this section shall take effect as if included  
12 in the enactment of OBRA-1990.

13 **Subchapter B—Outpatient Hospital Services**  
14 **and Ambulatory Surgical Services**

15 **SEC. 5021. EXTENSION OF 10 PERCENT REDUCTION IN PAY-**  
16 **MENTS FOR CAPITAL-RELATED COSTS OF**  
17 **OUTPATIENT HOSPITAL SERVICES.**

18 Section 1861(v)(1)(S)(ii)(I) (42 U.S.C.  
19 1395x(v)(1)(S)(ii)(I)) is amended by striking “fiscal year  
20 1992, 1993, 1994, or 1995” and inserting “fiscal years  
21 1992 through 1998”.

1 **SEC. 5022. EXTENSION OF CURRENT REDUCTION IN PAY-**  
 2 **MENTS FOR OTHER COSTS OF OUTPATIENT**  
 3 **HOSPITAL SERVICES.**

4 Section 1861(v)(1)(S)(ii)(II) (42 U.S.C.  
 5 1395x(v)(1)(S)(ii)(II)) is amended by striking “1991” and  
 6 all that follows and inserting “1991 through 1998.”.

7 **SEC. 5023. 1-YEAR FREEZE IN AMBULATORY SURGERY**  
 8 **RATES.**

9 The Secretary of Health and Human Services shall  
 10 not provide for any update in the amounts of payment  
 11 described in paragraphs (2)(A) and (2)(B) of section  
 12 1833(i)(2) of the Social Security Act that otherwise would  
 13 occur in fiscal year 1994.

14 **SEC. 5024. EYE OR EYE AND EAR HOSPITALS.**

15 (a) IN GENERAL.—Section 1833(i) (42 U.S.C.  
 16 1395l(i)) is amended—

17 (1) in paragraph (3)(B)(ii)—

18 (A) by striking “the last sentence of this  
 19 clause” and inserting “paragraph (4)”, and

20 (B) by striking the last sentence; and

21 (2) by inserting after paragraph (3) the follow-  
 22 ing new paragraph:

23 “(4)(A) In the case of a hospital that—

24 “(i) makes application to the Secretary and  
 25 demonstrates that it specializes in eye services or eye  
 26 and ear services (as determined by the Secretary),

1           “(ii) receives more than 30 percent of its total  
2 revenues from outpatient services, and

3           “(iii) on October 1, 1987—

4                 “(I) was an eye specialty hospital or an eye  
5 and ear specialty hospital, or

6                 “(II) was operated as an eye or eye and  
7 ear unit (as defined in subparagraph (B)) of a  
8 general acute care hospital which, on the date  
9 of the application described in clause (i), oper-  
10 ates less than 20 percent of the beds that the  
11 hospital operated on October 1, 1987, and has  
12 sold or otherwise disposed of a substantial por-  
13 tion of the hospital’s other acute care oper-  
14 ations,

15 the cost proportion and ASC proportion in effect under  
16 subclauses (I) and (II) of paragraph (3)(B)(ii) for cost  
17 reporting periods beginning in fiscal year 1988 shall re-  
18 main in effect for cost reporting periods beginning on or  
19 after October 1, 1988, and before January 1, 1995.

20           “(B) For purposes of this subparagraph (A)(iii)(II),  
21 the term ‘eye or eye and ear unit’ means a physically sepa-  
22 rate or distinct unit containing separate surgical suites de-  
23 voted solely to eye or eye and ear services.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to portions of cost reporting pe-  
3 riods beginning on or after January 1, 1994.

4 **SEC. 5025. EXTENSION OF CAP ON PAYMENTS FOR INTRA-**  
5 **OCULAR LENSES.**

6 (a) IN GENERAL.—Section 4151(c)(3) of OBRA-  
7 1990 is amended by striking “December 31, 1992” and  
8 inserting “December 31, 1994”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall be effective as if included in the enact-  
11 ment of OBRA-1990.

12 **SEC. 5026. MISCELLANEOUS AND TECHNICAL CORREC-**  
13 **TIONS.**

14 (a) PAYMENT AMOUNTS FOR SERVICES FURNISHED  
15 IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section  
16 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended  
17 by striking the comma at the end and inserting the follow-  
18 ing: “, as determined in accordance with a survey (based  
19 upon a representative sample of procedures and facilities)  
20 taken not later than January 1, 1995, and every 5 years  
21 thereafter, of the actual audited costs incurred by such  
22 centers in providing such services,”.

23 (B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is  
24 amended—

1 (i) in the second sentence of subparagraph (A)  
2 and the second sentence of subparagraph (B), by  
3 striking “and may be adjusted by the Secretary,  
4 when appropriate,”; and

5 (ii) by adding at the end the following new sub-  
6 paragraph:

7 “(C) Notwithstanding the second sentence of sub-  
8 paragraph (A) or the second sentence of subparagraph  
9 (B), if the Secretary has not updated amounts established  
10 under such subparagraphs with respect to facility services  
11 furnished during a fiscal year (beginning with fiscal year  
12 1996), such amounts shall be increased by the percentage  
13 increase in the consumer price index for all urban consum-  
14 ers (U.S. city average) as estimated by the Secretary for  
15 the 12-month period ending with the midpoint of the fiscal  
16 year involved.”.

17 (C) The second sentence of section 1833(i)(1) (42  
18 U.S.C. 1395l(i)(1)) is amended by striking the period and  
19 inserting the following: “, in consultation with appropriate  
20 trade and professional organizations.”.

21 (2) Section 4151(c)(3) of OBRA-1990 is amended  
22 by striking “for the insertion of an intraocular lens” and  
23 inserting “for an intraocular lens inserted”.

24 (b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW  
25 TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later



1 than 1 year after the date of the enactment of this Act,  
2 the Secretary of Health and Human Services (in this sub-  
3 section referred to as the “Secretary”) shall develop and  
4 implement a process under which interested parties may  
5 request review by the Secretary of the appropriateness of  
6 the reimbursement amount provided under section  
7 1833(i)(2)(A)(iii) of the Social Security Act with respect  
8 to a class of new technology intraocular lenses. For pur-  
9 poses of the preceding sentence, an intraocular lens may  
10 not be treated as a new technology lens unless it has been  
11 approved by the Food and Drug Administration.

12 (2) In determining whether to provide an adjustment  
13 of payment with respect to a particular lens under para-  
14 graph (1), the Secretary shall take into account whether  
15 use of the lens is likely to result in reduced risk of  
16 intraoperative or postoperative complication or trauma,  
17 accelerated postoperative recovery, reduced induced astig-  
18 matism, improved postoperative visual acuity, more stable  
19 postoperative vision, or other comparable clinical advan-  
20 tages.

21 (3) The Secretary shall publish notice in the Federal  
22 Register from time to time (but no less often than once  
23 each year) of a list of the requests that the Secretary has  
24 received for review under this subsection, and shall provide  
25 for a 30-day comment period on the lenses that are the

1 subjects of the requests contained in such notice. The Sec-  
 2 retary shall publish a notice of his determinations with  
 3 respect to intraocular lenses listed in the notice within 90  
 4 days after the close of the comment period.

5 (4) Any adjustment of a payment amount (or pay-  
 6 ment limit) made under this subsection shall become effec-  
 7 tive not later than 30 days after the date on which the  
 8 notice with respect to the adjustment is published under  
 9 paragraph (3).

## 10 **Subchapter C—Durable Medical Equipment**

### 11 **SEC. 5031. REVISIONS TO PAYMENT RULES FOR DURABLE** 12 **MEDICAL EQUIPMENT.**

13 (a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN  
 14 OF LOCAL PAYMENT AMOUNTS.—

15 (1) INEXPENSIVE AND ROUTINELY PURCHASED  
 16 ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTAN-  
 17 TIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and  
 18 (3)(C)(i)(II) of section 1834(a) (42 U.S.C.  
 19 1395m(a)) are each amended—

20 (i) by striking “1992” the first place it ap-  
 21 pears and inserting “1992, 1993, and 1994”;  
 22 and

23 (ii) by striking “1992” the second place it  
 24 appears and inserting “the year”.

1 (B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of sec-  
2 tion 1834(a) (42 U.S.C. 1395m(a)) are each amend-  
3 ed—

4 (i) by striking “and” at the end of  
5 subclause (I);

6 (ii) by redesignating subclause (II) as (IV);  
7 and

8 (iii) by inserting after subclause (I) the fol-  
9 lowing new subclauses:

10 “(II) for 1992 and 1993, the  
11 amount determined under this clause  
12 for the preceding year increased by  
13 the covered item update for such sub-  
14 sequent year,

15 “(III) for 1994, the local pay-  
16 ment amount determined under clause  
17 (i) for such item or device for that  
18 year, except that the national limited  
19 payment amount may not exceed 100  
20 percent of the median of all local pay-  
21 ment amounts determined under such  
22 clause for such item for that year and  
23 may not be less than 85 percent of  
24 the median of all local payment  
25 amounts determined under such

1 clause for such item or device for that  
2 year, and”.

3 (2) MISCELLANEOUS DEVICES AND ITEMS.—  
4 Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is  
5 amended—

6 (A) in subparagraph (A)(ii)(III), by strik-  
7 ing “1992” and inserting “1992, 1993, and  
8 1994”; and

9 (B) in subparagraph (B)—

10 (i) by striking “and” at the end of  
11 clause (i),

12 (ii) by redesignating clause (ii) as (iv),  
13 and

14 (iii) by inserting after clause (i) the  
15 following new clauses:

16 “(ii) for 1992 and 1993, the amount  
17 determined under this subparagraph for  
18 the preceding year increased by the cov-  
19 ered item update for such subsequent year;

20 “(iii) for 1994, the local purchase  
21 price computed under subparagraph (A)(ii)  
22 for the item for the year, except that such  
23 national limited purchase price may not ex-  
24 ceed 100 percent of the median of all local  
25 purchase prices computed for the item

1 under such subparagraph for the year and  
2 may not be less than 85 percent of the me-  
3 dian of all local purchase prices computed  
4 under such subparagraph for the item for  
5 the year; and”.

6 (3) OXYGEN AND OXYGEN EQUIPMENT.—Sec-  
7 tion 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amend-  
8 ed—

9 (A) in subparagraph (A)(ii)(II), by striking  
10 “1991 and 1992” and inserting “1991, 1992,  
11 1993, and 1994”; and

12 (B) in subparagraph (B)—

13 (i) by striking “and” at the end of  
14 clause (i),

15 (ii) by redesignating clause (ii) as (iv),  
16 and

17 (iii) by inserting after clause (i) the  
18 following new clauses:

19 “(ii) for 1992 and 1993, the amount  
20 determined under this subparagraph for  
21 the preceding year increased by the cov-  
22 ered item update for such subsequent year;

23 “(iii) for 1994, the local monthly pay-  
24 ment rate computed under subparagraph  
25 (A)(ii) for the item for the year, except

1           that such national limited monthly pay-  
2           ment rate may not exceed 100 percent of  
3           the median of all local monthly payment  
4           rates computed for the item under such  
5           subparagraph for the year and may not be  
6           less than 85 percent of the median of all  
7           local monthly payment rates computed for  
8           the item under such subparagraph for the  
9           year; and”.

10       (b) PAYMENT FOR PROSTHETIC DEVICES AND  
11 ORTHOTICS AND PROSTHETICS.—

12           (1) IN GENERAL.—Section 1834(h)(2) (42  
13 U.S.C. 1395m(h)(2)) is amended—

14           (A) in subparagraph (A)(ii)(II), by striking  
15           “1992 or 1993” and inserting “1992, 1993, or  
16           1994”;

17           (B) in subparagraph (B)(ii), by striking  
18           “each subsequent year” and inserting “1993”;

19           (C) in subparagraph (C)(iv), by striking  
20           “regional purchase price computed under sub-  
21           paragraph (B)” and inserting “national limited  
22           purchase price computed under subparagraph  
23           (E)”;

24           (D) in subparagraph (D)(ii), by striking “a  
25           subsequent year” and inserting “1993”; and

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

3 “(E) COMPUTATION OF NATIONAL LIM-  
4 ITED PURCHASE PRICE.—With respect to the  
5 furnishing of a particular item in a year, the  
6 Secretary shall compute a national limited  
7 purchase price—

8 “(i) for 1994, equal to the local pur-  
9 chase price computed under subparagraph  
10 (A)(ii)(II) for the item for the year, except  
11 that such national limited purchase price  
12 may not exceed 100 percent of the median  
13 of all local purchase prices for the item  
14 computed under such subparagraph for the  
15 year, and may not be less than 85 percent  
16 of the median of all local purchase prices  
17 for the item computed under such subpara-  
18 graph for the year; and

19 “(ii) for each subsequent year, equal  
20 to the amount determined under this sub-  
21 paragraph for the preceding year increased  
22 by the applicable percentage increase for  
23 such subsequent year.”.

1           (2) EXCEPTION FOR CERTAIN ITEMS.—Section  
 2       1834(h) (42 U.S.C. 1395m(h)), as amended by  
 3       paragraph (1), is further amended—

4           (A) in paragraph (1)(B), by striking “sub-  
 5       paragraph (C),” and inserting “subparagraphs  
 6       (C) and (F),”; and

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

9           “(F) EXCEPTION FOR CERTAIN ITEMS.—  
 10       Payment for ostomy supplies, tracheostomy  
 11       supplies, and urologicals shall be made in ac-  
 12       cordance with subparagraphs (B) and (C) of  
 13       section 1834(a)(2).”.

14       (c) EFFECTIVE DATE.—The amendments made by  
 15       this section shall apply to items furnished on or after Jan-  
 16       uary 1, 1994.

17       **SEC. 5032. PAYMENT FOR PARENTERAL AND ENTERAL NU-**  
 18                               **TRIENTS, SUPPLIES, AND EQUIPMENT DUR-**  
 19                               **ING 1994.**

20       In determining the amount of payment under part  
 21       B of title XVIII of the Social Security Act during 1994,  
 22       the charges determined to be reasonable with respect to  
 23       parenteral and enteral nutrients, supplies, and equipment  
 24       may not exceed the charges determined to be reasonable



1 with respect to such nutrients, supplies, and equipment  
2 during 1993.

3 **SEC. 5033. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

4 (a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C.  
5 1395m(a)(3)(A)) is amended by striking “ventilators, as-  
6 pirators, IPPB machines, and nebulizers” and inserting  
7 “ventilators and IPPB machines”.

8 (b) PAYMENT FOR ACCESSORIES RELATING TO  
9 NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A)  
10 (42 U.S.C. 1395m(a)) is amended—

11 (1) by striking “or” at the end of clause (i),  
12 (2) by adding “or” at the end of clause (ii), and  
13 (3) by inserting after clause (ii) the following  
14 new clause:

15 “(iii) which is an accessory used in  
16 conjunction with a nebulizer or aspirator,”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to items furnished on or after Jan-  
19 uary 1, 1994.

20 **SEC. 5034. CERTIFICATION OF SUPPLIERS.**

21 (a) REQUIREMENTS.—

22 (1) IN GENERAL.—Section 1834 (42 U.S.C.  
23 1395m) is amended by adding at the end the follow-  
24 ing new subsection:

1       “(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL  
2 EQUIPMENT AND SUPPLIES.—

3               “(1) ISSUANCE AND RENEWAL OF SUPPLIER  
4 NUMBER.—

5               “(A) PAYMENT.—Except as provided in  
6 subparagraph (C), no payment may be made  
7 under this part after October 1, 1994, for items  
8 furnished by a supplier of medical equipment  
9 and supplies unless such supplier obtains (and  
10 renews at such intervals as the Secretary may  
11 require) a supplier number.

12               “(B) STANDARDS FOR POSSESSING A SUP-  
13 PLIER NUMBER.—A supplier may not obtain a  
14 supplier number unless—

15               “(i) for medical equipment and sup-  
16 plies furnished on or after October 1,  
17 1994, and before January 1, 1996, the  
18 supplier meets standards prescribed by the  
19 Secretary; and

20               “(ii) for medical equipment and sup-  
21 plies furnished on or after January 1,  
22 1996, the supplier meets revised standards  
23 prescribed by the Secretary (in consulta-  
24 tion with representatives of suppliers of  
25 medical equipment and supplies, carriers,

1 and consumers) that shall include require-  
2 ments that the supplier—

3 “(I) comply with all applicable  
4 State and Federal licensure and regu-  
5 latory requirements;

6 “(II) maintain a physical facility  
7 on an appropriate site;

8 “(III) have proof of appropriate  
9 liability insurance; and

10 “(IV) meet such other require-  
11 ments as the Secretary may specify.

12 “(C) EXCEPTION FOR ITEMS FURNISHED  
13 AS INCIDENT TO A PHYSICIAN’S SERVICE.—  
14 Subparagraph (A) shall not apply with respect  
15 to medical equipment and supplies furnished as  
16 an incident to a physician’s service.

17 “(D) PROHIBITION AGAINST MULTIPLE  
18 SUPPLIER NUMBERS.—The Secretary may not  
19 issue more than one supplier number to any  
20 supplier of medical equipment and supplies un-  
21 less the issuance of more than one number is  
22 appropriate to identify subsidiary or regional  
23 entities under the supplier’s ownership or con-  
24 trol.

1           “(E) PROHIBITION AGAINST DELEGATION  
2           OF SUPPLIER DETERMINATIONS.—The Sec-  
3           retary may not delegate (other than by contract  
4           under section 1842) the responsibility to deter-  
5           mine whether suppliers meet the standards nec-  
6           essary to obtain a supplier number.

7           “(2) CERTIFICATES OF MEDICAL NECESSITY.—

8           “(A) STANDARDIZED CERTIFICATES.—Not  
9           later than October 1, 1994, the Secretary shall,  
10          in consultation with carriers under this part,  
11          develop one or more standardized certificates of  
12          medical necessity (as defined in subparagraph  
13          (C)) for medical equipment and supplies for  
14          which the Secretary determines that such a cer-  
15          tificate is necessary.

16          “(B) PROHIBITION AGAINST DISTRIBUTION  
17          BY SUPPLIERS OF CERTIFICATES OF MEDICAL  
18          NECESSITY.—

19                 “(i) IN GENERAL.—Except as pro-  
20                 vided in clause (ii), a supplier of medical  
21                 equipment and supplies may not distribute  
22                 to physicians or to individuals entitled to  
23                 benefits under this part for commercial  
24                 purposes any completed or partially com-

1           pleted certificates of medical necessity on  
2           or after October 1, 1994.

3           “(ii) EXCEPTION FOR CERTAIN BILL-  
4           ING INFORMATION.—Clause (i) shall not  
5           apply with respect to a certificate of medi-  
6           cal necessity for any item that is not con-  
7           tained on the list of potentially overused  
8           items developed by the Secretary under  
9           subsection (a)(15)(A) to the extent that  
10          such certificate contains only information  
11          completed by the supplier of medical equip-  
12          ment and supplies identifying such supplier  
13          and the beneficiary to whom such medical  
14          equipment and supplies are furnished, a  
15          description of such medical equipment and  
16          supplies, any product code identifying such  
17          medical equipment and supplies, and any  
18          other administrative information (other  
19          than information relating to the bene-  
20          ficiary’s medical condition) identified by  
21          the Secretary. In the event a supplier pro-  
22          vides a certificate of medical necessity con-  
23          taining information permitted under this  
24          clause, such certificate shall also contain  
25          the fee schedule amount and the supplier’s

1 charge for the medical equipment or sup-  
2 plies being furnished prior to distribution  
3 of such certificate to the physician.

4 “(iii) PENALTY.—Any supplier of  
5 medical equipment and supplies who know-  
6 ingly and willfully distributes a certificate  
7 of medical necessity in violation of clause  
8 (i) is subject to a civil money penalty in an  
9 amount not to exceed \$1,000 for each such  
10 certificate of medical necessity so distrib-  
11 uted. The provisions of section 1128A  
12 (other than subsections (a) and (b)) shall  
13 apply to civil money penalties under this  
14 subparagraph in the same manner as they  
15 apply to a penalty or proceeding under sec-  
16 tion 1128A(a).

17 “(C) DEFINITION.—For purposes of this  
18 paragraph, the term ‘certificate of medical ne-  
19 cessity’ means a form or other document con-  
20 taining information required by the Secretary to  
21 be submitted to show that a covered item is  
22 reasonable and necessary for the diagnosis or  
23 treatment of illness or injury or to improve the  
24 functioning of a malformed body member.

25 “(3) COVERAGE AND REVIEW CRITERIA.—

1           “(A) DEVELOPMENT AND ESTABLISH-  
2           MENT.—Not later than January 1, 1996, the  
3           Secretary, in consultation with representatives  
4           of suppliers of medical equipment and supplies,  
5           individuals enrolled under this part, and appro-  
6           priate medical specialty societies, shall develop  
7           and establish uniform national coverage and  
8           utilization review criteria for 200 items of medi-  
9           cal equipment and supplies selected in accord-  
10          ance with the standards described in subpara-  
11          graph (B). The Secretary shall publish the cri-  
12          teria as part of the instructions provided to fis-  
13          cal intermediaries and carriers under this part  
14          and no further publication, including publica-  
15          tion in the Federal Register, shall be required.

16          “(B) STANDARDS FOR SELECTING ITEMS  
17          SUBJECT TO CRITERIA.—The Secretary may se-  
18          lect an item for coverage under the criteria de-  
19          veloped and established under subparagraph  
20          (A) if the Secretary finds that—

21                  “(i) the item is frequently purchased  
22                  or rented by beneficiaries;

23                  “(ii) the item is frequently subject to  
24                  a determination that such item is not  
25                  medically necessary; or

1           “(iii) the coverage or utilization cri-  
2           teria applied to the item (as of the date of  
3           the enactment of this subsection) is not  
4           consistent among carriers.

5           “(C) ANNUAL REVIEW AND EXPANSION OF  
6           ITEMS SUBJECT TO CRITERIA.—The Secretary  
7           shall annually review the coverage and utiliza-  
8           tion of items of medical equipment and supplies  
9           to determine whether items not included among  
10          the items selected under subparagraph (A)  
11          should be made subject to uniform national cov-  
12          erage and utilization review criteria, and, if ap-  
13          propriate, shall develop and apply such criteria  
14          to such additional items.

15          “(4) DEFINITION.—The term ‘medical equip-  
16          ment and supplies’ means—

17               “(A) durable medical equipment (as de-  
18               fined in section 1861(n));

19               “(B) prosthetic devices (as described in  
20               section 1861(s)(8));

21               “(C) orthotics and prosthetics (as de-  
22               scribed in section 1861(s)(9));

23               “(D) surgical dressings (as described in  
24               section 1861(s)(5));



1           “(E) such other items as the Secretary  
2           may determine; and

3           “(F) for purposes of paragraphs (1) and  
4           (3)—

5                   “(i) home dialysis supplies and equip-  
6                   ment (as described in section  
7                   1861(s)(2)(F)), and

8                   “(ii) immunosuppressive drugs (as de-  
9                   scribed in section 1861(s)(2)(J)).”.

10           (2) CONFORMING AMENDMENT.—Effective Oc-  
11           tober 1, 1994, paragraph (16) of section 1834(a)  
12           (42 U.S.C. 1395m(a)) is repealed.

13           (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON  
14           UTILIZATION OF ITEMS.—Not later than July 1, 1996,  
15           the Secretary shall submit a report to the Committee on  
16           Ways and Means and the Committee on Energy and Com-  
17           merce of the House of Representatives and the Committee  
18           on Finance of the Senate analyzing the impact of the uni-  
19           form criteria established under section 1834(i)(3)(A) of  
20           the Social Security Act (as added by subsection (a)) on  
21           the utilization of items of medical equipment and supplies  
22           by individuals enrolled under part B of the medicare pro-  
23           gram.

24           (c) USE OF COVERED ITEMS BY DISABLED BENE-  
25           FICIARIES.—

1           (1) IN GENERAL.—The Secretary of Health and  
2       Human Services, in consultation with representa-  
3       tives of suppliers of durable medical equipment  
4       under part B of the medicare program and individ-  
5       uals entitled to benefits under such program on the  
6       basis of disability, shall conduct a study of the ef-  
7       fects of the methodology for determining payments  
8       for items of such equipment under such part on the  
9       ability of such individuals to obtain items of such  
10      equipment, including customized items.

11          (2) REPORT.—Not later than one year after the  
12      date of the enactment of this Act, the Secretary  
13      shall submit a report to Congress on the study con-  
14      ducted under paragraph (1), and shall include in the  
15      report such recommendations as the Secretary con-  
16      siders appropriate to assure that disabled medicare  
17      beneficiaries have access to items of durable medical  
18      equipment.

19          (d) CRITERIA FOR TREATMENT OF ITEMS AS PROS-  
20      THETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—  
21      Not later than one year after the date of the enactment  
22      of this Act, the Secretary of Health and Human Services  
23      shall submit a report to the Committees on Ways and  
24      Means and Energy and Commerce of the House of Rep-  
25      resentatives and the Committee on Finance of the Senate

1 describing prosthetic devices or orthotics and prosthetics  
2 covered under part B of the medicare program that do  
3 not require individualized or custom fitting and adjust-  
4 ment to be used by a patient. Such report shall include  
5 recommendations for an appropriate methodology for de-  
6 termining the amount of payment for such items under  
7 such program.

8 **SEC. 5035. PROHIBITION AGAINST CARRIER FORUM SHOP-**  
9 **PING.**

10 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.  
11 1395m(a)(12)) is amended to read as follows:

12 “(12) USE OF CARRIERS TO PROCESS  
13 CLAIMS.—

14 “(A) DESIGNATION OF REGIONAL CAR-  
15 RRIERS.—The Secretary may designate, by regu-  
16 lation under section 1842, one carrier for one  
17 or more entire regions to process all claims  
18 within the region for covered items under this  
19 section.

20 “(B) PROHIBITION AGAINST CARRIER  
21 SHOPPING.—(i) No supplier of a covered item  
22 may present or cause to be presented a claim  
23 for payment under this part unless such claim  
24 is presented to the appropriate regional carrier  
25 (as designated by the Secretary).

(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.

(a) PROHIBITING UNSOLICITED TELEPHONE CON-  
TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-  
MENT TO MEDICARE BENEFICIARIES.—

1           (1) IN GENERAL.—Section 1834(a) (42 U.S.C.  
2       1395m(a)) is amended by adding at the end the fol-  
3       lowing new paragraph:

4           “(17) PROHIBITION AGAINST UNSOLICITED  
5       TELEPHONE CONTACTS BY SUPPLIERS.—

6           “(A) IN GENERAL.—A supplier of a cov-  
7       ered item under this subsection may not contact  
8       an individual enrolled under this part by tele-  
9       phone regarding the furnishing of a covered  
10      item to the individual (other than a covered  
11      item the supplier has already furnished to the  
12      individual) unless—

13           “(i) the individual gives permission to  
14      the supplier to make contact by telephone  
15      for such purpose; or

16           “(ii) the supplier has furnished a cov-  
17      ered item under this subsection to the indi-  
18      vidual during the 15-month period preced-  
19      ing the date on which the supplier contacts  
20      the individual for such purpose.

21           “(B) PROHIBITING PAYMENT FOR ITEMS  
22      FURNISHED SUBSEQUENT TO UNSOLICITED  
23      CONTACTS.—If a supplier knowingly contacts  
24      an individual in violation of subparagraph (A),  
25      no payment may be made under this part for

1 any item subsequently furnished to the individ-  
2 ual by the supplier.

3 “(C) EXCLUSION FROM PROGRAM FOR  
4 SUPPLIERS ENGAGING IN PATTERN OF UNSO-  
5 LICITED CONTACTS.—If a supplier knowingly  
6 contacts individuals in violation of subpara-  
7 graph (A) to such an extent that the supplier’s  
8 conduct establishes a pattern of contacts in vio-  
9 lation of such subparagraph, the Secretary shall  
10 exclude the supplier from participation in the  
11 programs under this Act, in accordance with  
12 the procedures set forth in subsections (c), (f),  
13 and (g) of section 1128.”.

14 (2) REQUIRING REFUND OF AMOUNTS COL-  
15 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)  
16 (42 U.S.C. 1395m(a)), as amended by paragraph  
17 (1), is amended by adding at the end the following  
18 new paragraph:

19 “(18) REFUND OF AMOUNTS COLLECTED FOR  
20 CERTAIN DISALLOWED ITEMS.—

21 “(A) IN GENERAL.—If a nonparticipating  
22 supplier furnishes to an individual enrolled  
23 under this part a covered item for which no  
24 payment may be made under this part by rea-  
25 son of paragraph (17)(B), the supplier shall re-

1 fund on a timely basis to the patient (and shall  
2 be liable to the patient for) any amounts col-  
3 lected from the patient for the item, unless—

4 “(i) the supplier establishes that the  
5 supplier did not know and could not rea-  
6 sonably have been expected to know that  
7 payment may not be made for the item by  
8 reason of paragraph (17)(B), or

9 “(ii) before the item was furnished,  
10 the patient was informed that payment  
11 under this part may not be made for that  
12 item and the patient has agreed to pay for  
13 that item.

14 “(B) SANCTIONS.—If a supplier knowingly  
15 and willfully fails to make refunds in violation  
16 of subparagraph (A), the Secretary may apply  
17 sanctions against the supplier in accordance  
18 with section 1842(j)(2).

19 “(C) NOTICE.—Each carrier with a con-  
20 tract in effect under this part with respect to  
21 suppliers of covered items shall send any notice  
22 of denial of payment for covered items by rea-  
23 son of paragraph (17)(B) and for which pay-  
24 ment is not requested on an assignment-related  
25 basis to the supplier and the patient involved.

1           “(D) TIMELY BASIS DEFINED.—A refund  
2           under subparagraph (A) is considered to be on  
3           a timely basis only if—

4                   “(i) in the case of a supplier who does  
5                   not request reconsideration or seek appeal  
6                   on a timely basis, the refund is made with-  
7                   in 30 days after the date the supplier re-  
8                   ceives a denial notice under subparagraph  
9                   (C), or

10                   “(ii) in the case in which such a re-  
11                   consideration or appeal is taken, the re-  
12                   fund is made within 15 days after the date  
13                   the supplier receives notice of an adverse  
14                   determination on reconsideration or ap-  
15                   peal.”.

16           (b) CONFORMING AMENDMENT.—Section 1834(h)(3)  
17           (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-  
18           graph (12)” and inserting “Paragraphs (12) and (17)”.

19           (c) EFFECTIVE DATE.—The amendments made by  
20           subsections (a) and (b) shall apply to items furnished after  
21           the expiration of the 60-day period that begins on the date  
22           of the enactment of this Act.

23   **SEC. 5037. KICKBACK CLARIFICATION.**

24           (a) IN GENERAL.—Section 1128B(b)(3)(B) (42  
25           U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting be-



1 fore the semicolon the following: “(except that in the case  
2 of a contract supply arrangement between any entity and  
3 a supplier of medical supplies and equipment (as defined  
4 in section 1834(i)(4), but not including items described  
5 in subparagraph (F) of such section), such employment  
6 shall not be considered bona fide to the extent that it in-  
7 cludes tasks of a clerical and cataloging nature in trans-  
8 mitting to suppliers assignment rights of individuals eligi-  
9 ble for benefits under part B of title XVIII, or perform-  
10 ance of warehousing or stock inventory functions)”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) shall apply with respect to services fur-  
13 nished on or after the first day of the first month that  
14 begins after the expiration of the 60-day period beginning  
15 on the date of the enactment of this Act.

16 **SEC. 5038. BENEFICIARY LIABILITY FOR NONCOVERED**  
17 **SERVICES.**

18 (a) UNASSIGNED CLAIMS.—

19 (1) IN GENERAL.—Section 1834(i) (42 U.S.C.  
20 1395m(i)), as added by section 5034(a)(1), is  
21 amended—

22 (A) by redesignating paragraph (4) as  
23 paragraph (5), and

24 (B) by inserting after paragraph (3) the  
25 following new paragraph:

1           “(4) LIMITATION ON PATIENT LIABILITY.—If a  
2           supplier of medical equipment and supplies (as de-  
3           fined in paragraph (5))—

4                   “(A) furnishes an item or service to a ben-  
5                   eficiary for which no payment may be made by  
6                   reason of paragraph (1);

7                   “(B) furnishes an item or service to a ben-  
8                   eficiary for which payment is denied in advance  
9                   under subsection (a)(15); or

10                   “(C) furnishes an item or service to a ben-  
11                   eficiary for which payment is denied under  
12                   section 1862(a)(1);

13           any expenses incurred for items and services fur-  
14           nished to an individual by such a supplier not on an  
15           assigned basis shall be the responsibility of such  
16           supplier. The individual shall have no financial re-  
17           sponsibility for such expenses and the supplier shall  
18           refund on a timely basis to the individual (and shall  
19           be liable to the individual for) any amounts collected  
20           from the individual for such items or services. The  
21           provisions of subsection (a)(18) shall apply to re-  
22           funds required under the previous sentence in the  
23           same manner as such provisions apply to refunds  
24           under such subsection.”.

1           (2) CONFORMING AMENDMENT.—Section  
2       1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)), as  
3       amended by section 5037(a), is amended by striking  
4       “1834(i)(4)” and inserting “1834(i)(5)”.

5       (b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C.  
6       1395pp) is amended by adding at the end the following  
7       new subsection:

8       “(h) If a supplier of medical equipment and supplies  
9       (as defined in section 1834(i)(4))—

10           “(1) furnishes an item or service to a bene-  
11       ficiary for which no payment may be made by reason  
12       of section 1834(i)(1); or

13           “(2) furnishes an item or service to a bene-  
14       ficiary for which payment is denied in advance under  
15       section 1834(a)(15);

16       any expenses incurred for items and services furnished to  
17       an individual by such a supplier on an assignment-related  
18       basis shall be the responsibility of such supplier. The indi-  
19       vidual shall have no financial responsibility for such ex-  
20       penses and the supplier shall refund on a timely basis to  
21       the individual (and shall be liable to the individual for)  
22       any amounts collected from the individual for such items  
23       or services. The provisions of section 1834(a)(18) shall  
24       apply to refunds required under the previous sentence in

1 the same manner as such provisions apply to refunds  
2 under such section.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to items or services furnished on  
5 or after October 1, 1994.

6 **SEC. 5039. ADJUSTMENTS FOR INHERENT REASONABLE-**  
7 **NESS.**

8 (a) ADJUSTMENTS MADE TO FINAL PAYMENT  
9 AMOUNTS.—

10 (1) IN GENERAL.—Section 1834(a)(10)(B) (42  
11 U.S.C. 1395m(a)(10)(B)) is amended by adding at  
12 the end the following: “In applying such provisions  
13 to payments for an item under this subsection, the  
14 Secretary shall make adjustments to the payment  
15 basis for the item described in paragraph (1)(B) if  
16 the Secretary determines (in accordance with such  
17 provisions and on the basis of prices and costs appli-  
18 cable at the time the item is furnished) that such  
19 payment basis is not inherently reasonable.”.

20 (2) EFFECTIVE DATE.—The amendment made  
21 by paragraph (1) shall take effect on the date of the  
22 enactment of this Act.

23 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

24 (1) IN GENERAL.—In accordance with section  
25 1834(a)(10)(B) of the Social Security Act (as

1 amended by subsection (a)), the Secretary of Health  
2 and Human Services shall determine whether the  
3 payment amounts for the items described in para-  
4 graph (2) are not inherently reasonable, and shall  
5 adjust such amounts in accordance with such section  
6 if the amounts are not inherently reasonable.

7 (2) ITEMS DESCRIBED.—The items referred to  
8 in paragraph (1) are decubitus care equipment,  
9 transcutaneous electrical nerve stimulators, and any  
10 other items considered appropriate by the Secretary.

11 **SEC. 5040. PAYMENT FOR SURGICAL DRESSINGS.**

12 (a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m),  
13 as amended by section 5034(a)(1), is amended by adding  
14 at the end the following new subsection:

15 “(j) PAYMENT FOR SURGICAL DRESSINGS.—

16 “(1) IN GENERAL.—Payment under this sub-  
17 section for surgical dressings (described in section  
18 1861(s)(5)) shall be made in a lump sum amount  
19 for the purchase of the item in an amount equal to  
20 80 percent of the lesser of—

21 “(A) the actual charge for the item; or

22 “(B) a payment amount determined in ac-  
23 cordance with the methodology described in  
24 subparagraphs (B) and (C) of subsection (a)(2)  
25 (except that in applying such methodology, the

1           national limited payment amount referred to in  
2           such subparagraphs shall be initially computed  
3           based on local payment amounts using average  
4           reasonable charges for the 12-month period  
5           ending December 31, 1992, increased by the  
6           covered item updates described in such sub-  
7           section for 1993 and 1994).

8           “(2) EXCEPTIONS.—Paragraph (1) shall not  
9           apply to surgical dressings that are—

10                   “(A) furnished as an incident to a physi-  
11                   cian’s professional service; or

12                   “(B) furnished by a home health agency.”.

13           (b) CONFORMING AMENDMENT.—Section 1833(a)(1)  
14           (42 U.S.C. 1395l(a)(1)), as amended by sections  
15           5070(e)(2) and 5010(e)(1), is amended—

16                   (1) by striking “and” before “(P)”, and

17                   (2) by inserting before the semicolon at the end  
18           the following: “, and (Q) with respect to surgical  
19           dressings, the amounts paid shall be the amounts  
20           determined under section 1834(j)”.

21           (c) EFFECTIVE DATE.—The amendments made by  
22           this section shall apply to items furnished on or after Jan-  
23           uary 1, 1994.

1 **SEC. 5041. PAYMENTS FOR TENS DEVICES.**

2 (a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C.  
3 1395m(a)(1)(D)) is amended by striking “15 percent” the  
4 second place it appears and inserting “45 percent”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall apply to items furnished on or after  
7 January 1, 1994.

8 **SEC. 5042. MISCELLANEOUS AND TECHNICAL CORREC-**  
9 **TIONS.**

10 (a) UPDATES TO PAYMENT AMOUNTS.—Subpara-  
11 graph (A) of section 1834(a)(14) (42 U.S.C.  
12 1395m(a)(14)) is amended to read as follows:

13 “(A) for 1991 and 1992, the percentage  
14 increase in the consumer price index for all  
15 urban consumers (U.S. city average) for the 12-  
16 month period ending with June of the previous  
17 year reduced by 1 percentage point; and”.

18 (b) TREATMENT OF POTENTIALLY OVERUSED ITEMS  
19 AND ADVANCED DETERMINATIONS OF COVERAGE.—(1)  
20 Effective on the date of the enactment of this Act, section  
21 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to  
22 read as follows:

23 “(15) SPECIAL TREATMENT FOR POTENTIALLY  
24 OVERUSED ITEMS.—

25 “(A) DEVELOPMENT OF LIST OF ITEMS BY  
26 SECRETARY.—The Secretary shall develop and

1           periodically update a list of items for which  
2           payment may be made under this subsection  
3           that are potentially overused, and shall include  
4           in such list seat-lift mechanisms, transcutane-  
5           ous electrical nerve stimulators, motorized  
6           scooters, decubitus care mattresses, and any  
7           such other item determined by the Secretary to  
8           be potentially overused on the basis of any of  
9           the following criteria—

10                   “(i) the item is marketed directly to  
11                   potential patients;

12                   “(ii) the item is marketed with an  
13                   offer to potential patients to waive the  
14                   costs of coinsurance associated with the  
15                   item or is marketed as being available at  
16                   no cost to policyholders of a medicare sup-  
17                   plemental policy (as defined in section  
18                   1882(g)(1));

19                   “(iii) the item has been subject to a  
20                   consistent pattern of overutilization; or

21                   “(iv) a high proportion of claims for  
22                   payment for such item under this part may  
23                   not be made because of the application of  
24                   section 1862(a)(1).



1           “(B) ITEMS SUBJECT TO SPECIAL CARRIER  
2           SCRUTINY.—Payment may not be made under  
3           this part for any item contained in the list de-  
4           veloped by the Secretary under subparagraph  
5           (A) unless the carrier has subjected the claim  
6           for payment for the item to special scrutiny or  
7           has followed the procedures described in para-  
8           graph (11)(C) with respect to the item.”.

9           (2) Effective January 1, 1994, section 1834(a)(11)  
10          (42 U.S.C. 1395m(a)) is amended by adding at the end  
11          the following new subparagraph:

12                 “(C) CARRIER DETERMINATIONS FOR CER-  
13                 TAIN ITEMS IN ADVANCE.—A carrier shall de-  
14                 termine in advance whether payment for an  
15                 item may not be made under this subsection be-  
16                 cause of the application of section 1862(a)(1)  
17                 if—

18                         “(i) the item is a customized item  
19                         (other than inexpensive items specified by  
20                         the Secretary); or

21                         “(ii) the item is a specified covered  
22                         item under subparagraph (B).”.

23          (3) Effective for standards applied for contract years  
24          beginning after the date of the enactment of this Act, sec-  
25          tion 1842(c) (42 U.S.C. 1395u(c)), as amended by section

1 5013(a), is amended by adding at the end the following  
2 new paragraph:

3 “(5) Each contract under this section which provides  
4 for the disbursement of funds, as described in subsection  
5 (a)(1)(B), shall require the carrier to meet criteria devel-  
6 oped by the Secretary to measure the timeliness of carrier  
7 responses to requests for payment of items described in  
8 section 1834(a)(11)(C).”.

9 (4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is  
10 amended by striking “paragraph (10) and paragraph  
11 (11)” and inserting “paragraphs (10) and (11)”.

12 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL  
13 EQUIPMENT SUPPLIER COSTS.—

14 (1) COLLECTION AND ANALYSIS OF SUPPLIER  
15 COST DATA.—The Administrator of the Health Care  
16 Financing Administration shall, in consultation with  
17 appropriate organizations, collect data on supplier  
18 costs of durable medical equipment for which pay-  
19 ment may be made under part B of the medicare  
20 program, and shall analyze such data to determine  
21 the proportions of such costs attributable to the  
22 service and product components of furnishing such  
23 equipment and the extent to which such proportions  
24 vary by type of equipment and by the geographic  
25 region in which the supplier is located.

1           (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-  
2       MENT INDEX; REPORTS.—Not later than January 1,  
3       1995—

4           (A) the Administrator shall submit a re-  
5       port to the Committees on Energy and Com-  
6       merce and Ways and Means of the House of  
7       Representatives and the Committee on Finance  
8       of the Senate on the data collected and the  
9       analysis conducted under paragraph (1), and  
10      shall include in such report the Administrator’s  
11      recommendations for a geographic cost adjust-  
12      ment index for suppliers of durable medical  
13      equipment under the medicare program and an  
14      analysis of the impact of such proposed index  
15      on payments under the medicare program; and

16          (B) the Comptroller General shall submit a  
17      report to the Committees on Energy and Com-  
18      merce and Ways and Means of the House of  
19      Representatives and the Committee on Finance  
20      of the Senate analyzing on a geographic basis  
21      the supplier costs of durable medical equipment  
22      under the medicare program.

23      (d) OXYGEN RETESTING.—Section 1834(a)(5)(E)  
24      (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55”  
25      and inserting “56”.

1       (e) OTHER MISCELLANEOUS AND TECHNICAL  
2 AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990  
3 is amended by striking “amendment made by subsection  
4 (a)” and inserting “amendments made by this sub-  
5 section”.

6       (2) Section 4152(c)(2) of OBRA–1990 is amended  
7 by striking “1395m(a)(7)(A)” and inserting  
8 “1395m(a)(7)”.

9       (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.  
10 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause  
11 (v)” and inserting “clause (vi)”.

12       (4) Section 1834(a)(7)(C)(i) (42 U.S.C.  
13 1395m(a)(7)(C)(i)) is amended by striking “or paragraph  
14 (3)”.

15       (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is  
16 amended by striking subparagraph (D).

17       (6) Section 4153(c)(1) of OBRA–1990 is amended  
18 by striking “1834(a)” and inserting “1834(h)”.

19       (7) Section 4153(d)(2) of OBRA–1990 is amended  
20 by striking “Reconiliation” and inserting “Reconcili-  
21 ation”.

22       (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is  
23 amended by striking paragraph (6).

24       (B) Section 1834(a) (42 U.S.C. 1395m(a)) is amend-  
25 ed—

1 (i) in subparagraphs (A) and (B) of paragraph  
 2 (1), by striking “(2) through (7)” each place it ap-  
 3 pears and inserting “(2) through (5) and (7)”;

4 (ii) in paragraph (7), by striking “(2) through  
 5 (6)” and inserting “(2) through (5)”;

6 (iii) in paragraph (8), by striking “paragraphs  
 7 (6) and (7)” each place it appears in the matter pre-  
 8 ceding subparagraph (A) and in subparagraph (C)  
 9 and inserting “paragraph (7)”; and

10 (iv) in paragraph (8)(A)(i), by striking “de-  
 11 scribed—” and all that follows and inserting “de-  
 12 scribed in paragraph (7) equal to the average of the  
 13 purchase prices on the claims submitted on an as-  
 14 signment-related basis for the unused item supplied  
 15 during the 6-month period ending with December  
 16 1986.”.

17 (9) The amendments made by this subsection shall  
 18 take effect as if included in the enactment of OBRA-1990.

## 19 **Subchapter D—Part B Premium**

### 20 **SEC. 5051. PART B PREMIUM.**

21 Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

22 (1) in paragraph (1)(A), by inserting “and for  
 23 each month in 1996 and 1997” after “January  
 24 1991”, and

1           (2) in paragraph (2), by striking “1991” and  
2           inserting “1998”.

3           **Subchapter E—Other Provisions**

4   **SEC. 5061. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORA-**  
5           **TORY TESTS.**

6           (a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C.  
7   1395l(h)(4)(B)) is amended—

8           (1) by striking “and” at the end of clause (iii),

9           (2) in clause (iv), by inserting “and before Jan-  
10          uary 1, 1994,” after “1990,”,

11          (3) by striking the period at the end of clause  
12          (iv) and inserting “, and”, and

13          (4) by adding at the end the following:

14          “(v) after December 31, 1993, is equal to 76  
15          percent of the median of all the fee schedules estab-  
16          lished for that test for that laboratory setting under  
17          paragraph (1).”.

18          (b) TWO PERCENT UPDATE FOR 1994 THROUGH  
19   1998.—Section 1833(h)(2)(A)(ii)(III) (42 U.S.C.  
20   1395l(h)(2)(A)(ii)(III)) is amended by striking “1991,  
21   1992, and 1993” and inserting “1991 through 1998”.

1 **SEC. 5062. TREATMENT OF INPATIENTS AND PROVISION OF**  
2 **DIAGNOSTIC AND THERAPEUTIC X-RAY SERV-**  
3 **ICES BY RURAL HEALTH CLINICS AND FED-**  
4 **ERALLY QUALIFIED HEALTH CENTERS.**

5 (a) TREATMENT OF INPATIENTS.—Section 1861(aa)  
6 (42 U.S.C. 1395x(aa)) is amended—

7 (1) in paragraph (1), in the matter following  
8 subparagraph (C), by striking “as an outpatient”  
9 and inserting “as a patient”;

10 (2) in paragraph (2)(A), by striking “furnishing  
11 to outpatients” and inserting “furnishing to pa-  
12 tients”; and

13 (3) in paragraph (3), in the matter following  
14 subparagraph (B), by striking “as an outpatient”  
15 and inserting “as a patient”.

16 (b) TREATMENT OF DIAGNOSTIC AND THERAPEUTIC  
17 X-RAY SERVICES.—Section 1861(aa) (42 U.S.C.  
18 1395x(aa)) is further amended—

19 (1) in paragraph (1)(A), by inserting “(i)” after  
20 “(A)” and by adding at the end the following: “and  
21 (ii) diagnostic and therapeutic x-ray services,”; and

22 (2) in paragraph (2)(A), by striking “(A)” and  
23 inserting “(A)(i)”.

24 (c) CONFORMING AMENDMENT.—Section  
25 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by  
26 striking “and services of a certified registered nurse anes-

1 thetist” and inserting “services of a certified registered  
2 nurse anesthetist, rural health clinic services, and Feder-  
3 ally-qualified health center services”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on January 1, 1994, and shall  
6 apply to services furnished on or after such date.

7 **SEC. 5063. APPLICATION OF MAMMOGRAPHY CERTIFI-**  
8 **CATION REQUIREMENTS.**

9 (a) SCREENING MAMMOGRAPHY.—Section 1834(c)  
10 (42 U.S.C. 1395m(c)) is amended—

11 (1) in paragraph (1)(B), by striking “meets the  
12 quality standards established under paragraph (3)”  
13 and inserting “is conducted by a facility that has a  
14 certificate (or provisional certificate) issued under  
15 section 354 of the Public Health Service Act”;

16 (2) in paragraph (1)(C)(iii), by striking “para-  
17 graph (4)” and inserting “paragraph (3)”;

18 (3) by striking paragraph (3); and

19 (4) by redesignating paragraphs (4) and (5) as  
20 paragraphs (3) and (4).

21 (b) DIAGNOSTIC MAMMOGRAPHY.—Section  
22 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by insert-  
23 ing “and including diagnostic mammography if conducted  
24 by a facility that has a certificate (or provisional certifi-



1 cate) issued under section 354 of the Public Health Serv-  
2 ice Act” after “necessary”.

3 (c) CONFORMING AMENDMENTS.—(1) Section  
4 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by  
5 striking “or which does not meet the standards established  
6 under section 1834(c)(3)” and inserting “or which is not  
7 conducted by a facility described in section  
8 1834(c)(1)(B)”.

9 (2) Section 1863 (42 U.S.C. 1395z) is amended by  
10 striking “or whether screening mammography meets the  
11 standards established under section 1834(c)(3),”.

12 (3) The first sentence of section 1864(a) (42 U.S.C.  
13 1395aa(a)) is amended by striking “, or whether screening  
14 mammography meets the standards established under sec-  
15 tion 1834(c)(3)”.

16 (4) The third sentence of section 1865(a) (42 U.S.C.  
17 1395bb(a)) is amended by striking “1834(c)(3),”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to mammography furnished by a  
20 facility on and after the first date that the certificate re-  
21 quirements of section 354(b) of the Public Health Service  
22 Act apply to such mammography conducted by such facil-  
23 ity.

1 **SEC. 5064. EXTENSION OF ALZHEIMER'S DISEASE DEM-**  
2 **ONSTRATION.**

3 Section 9342 of OBRA-1986, as amended by section  
4 4164(a)(2) of OBRA-1990, is amended—

5 (1) in subsection (c)(1), by striking “4 years”  
6 and inserting “5 years”; and

7 (2) in subsection (f)—

8 (A) by striking “\$55,000,000” and insert-  
9 ing “\$60,000,000”, and

10 (B) by striking “\$3,000,000” and insert-  
11 ing “\$5,000,000”.

12 **SEC. 5065. ORAL CANCER DRUGS.**

13 (a) COVERAGE OF CERTAIN SELF-ADMINISTERED  
14 ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C.  
15 1395(s)(2)), as amended by section 5070(f)(7)(B), is  
16 amended—

17 (1) by striking “and” at the end of subpara-  
18 graph (N);

19 (2) by adding “and” at the end of subpara-  
20 graph (O); and

21 (3) by adding at the end the following new sub-  
22 paragraph:

23 “(P) an oral drug (which is approved by the  
24 Federal Food and Drug Administration) prescribed  
25 for use as an anticancer chemotherapeutic agent for  
26 a given indication, and containing an active ingredi-

1 ent (or ingredients), which is the same indication  
2 and active ingredient (or ingredients) as a drug  
3 which the carrier determines would be covered pur-  
4 suant to subparagraph (A) or (B) if the drug could  
5 not be self-administered;”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to items furnished on or after Jan-  
8 uary 1, 1994.

9 **SEC. 5066. EXTENSION OF MUNICIPAL HEALTH SERVICE**  
10 **DEMONSTRATION PROJECTS.**

11 Section 9215 of the Consolidated Omnibus Budget  
12 Reconciliation Act of 1985, as amended by section 6135  
13 of OBRA–1989, is amended—

14 (1) by striking “December 31, 1993” and in-  
15 serting “December 31, 1997”, and

16 (2) in the second sentence, by inserting after  
17 “beneficiary costs,” the following: “costs to the med-  
18 icaid program and other payors, access to care, out-  
19 comes, beneficiary satisfaction, utilization differences  
20 among the different populations served by the  
21 projects,”.

1 **SEC. 5067. TREATMENT OF CERTAIN INDIAN HEALTH PRO-**  
2 **GRAMS AND FACILITIES AS FEDERALLY-**  
3 **QUALIFIED HEALTH CENTERS.**

4 (a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C.  
5 1395x(aa)(4)) is amended—

6 (1) by striking “or” at the end of subparagraph  
7 (B);

8 (2) by striking the period at the end of sub-  
9 paragraph (C) and inserting “; or”; and

10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(D) is an outpatient health program or facility  
13 operated by a tribe or tribal organization under the  
14 Indian Self-Determination Act or by an urban In-  
15 dian organization receiving funds under title V of  
16 the Indian Health Care Improvement Act.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall take effect as if included in the enact-  
19 ment of section 4161(a)(2)(C) of OBRA–1990.

20 **SEC. 5068. INTEREST PAYMENTS.**

21 (a) IN GENERAL.—Section 1842(c)(2)(B)(ii)(IV) of  
22 the Social Security Act shall be applied with respect to  
23 paper claims received in the 9-month period beginning  
24 January 1, 1993, by substituting “27 calendar days” for  
25 “24 calendar days” and “17 calendar days”.

1 (b) PROHIBITING PAYMENT OF INTEREST DURING  
2 MANDATORY PAYMENT DELAY PERIOD.—Section  
3 1842(c)(2)(C) (42 U.S.C. 1395u(c)(2)(C)) is amended by  
4 adding at the end the following: “Notwithstanding any  
5 other provision of law, no interest may be paid with re-  
6 spect to a claim pursuant to the preceding sentence within  
7 any period following the submission of the claim during  
8 which no payment may be issued, mailed, or otherwise  
9 transmitted with respect to the claim.”.

10 **SEC. 5069. CLARIFICATION OF COVERAGE OF CERTIFIED**  
11 **NURSE-MIDWIFE SERVICES PERFORMED**  
12 **OUTSIDE THE MATERNITY CYCLE.**

13 (a) IN GENERAL.—Section 1861(gg)(2) (42 U.S.C.  
14 1395x(gg)(2)) is amended by striking “, and performs  
15 services” and all that follows and inserting a period.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall apply to services furnished on or after  
18 January 1, 1994.

19 **SEC. 5069A. INCREASE IN, AND STUDY OF, ANNUAL CAP ON**  
20 **AMOUNT OF MEDICARE PAYMENT FOR OUT-**  
21 **PATIENT PHYSICAL THERAPY AND OCCUPA-**  
22 **TIONAL THERAPY SERVICES.**

23 (a) INCREASE IN ANNUAL LIMITATION.—Section  
24 1833(g) (42 U.S.C. 1395l(g)) is amended by striking  
25 “\$750” and inserting “\$900” each place it appears.

1       (b) STUDY.—(1) The Physician Payment Review  
2 Commission shall conduct a study of the appropriateness  
3 of continuing an annual limitation on the amount of pay-  
4 ment for outpatient services of independently practicing  
5 physical and occupational therapists under the medicare  
6 program.

7       (2) By not later than January 1, 1995, the Commis-  
8 sion shall submit to the Committees on Energy and Com-  
9 merce and Ways and Means of the House of Representa-  
10 tives and the Committee on Finance of the Senate a report  
11 on the study conducted under paragraph (1). Such report  
12 shall include such recommendations for changes in such  
13 annual limitation as the Commission finds appropriate.

14       (c) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) shall apply to services furnished on or after  
16 January 1, 1994.

17 **SEC. 5070. MISCELLANEOUS AND TECHNICAL CORREC-**  
18 **TIONS.**

19       (a) REVISION OF INFORMATION ON PART B CLAIMS  
20 FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is  
21 amended—

22               (1) by striking “provider number” and inserting  
23       “unique physician identification number”; and

1           (2) by striking “and indicate whether or not the  
2       referring physician is an interested investor (within  
3       the meaning of section 1877(h)(5))”.

4       (b) CONSULTATION FOR SOCIAL WORKERS.—Effec-  
5       tive with respect to services furnished on or after January  
6       1, 1991, section 6113(c) of OBRA-1989 is amended—

7           (1) by inserting “and clinical social worker  
8       services” after “psychologist services”; and

9           (2) by striking “psychologist” the second and  
10       third place it appears and inserting “psychologist or  
11       clinical social worker”.

12       (c) REPORTS ON HOSPITAL OUTPATIENT PAY-  
13       MENT.—(1) OBRA-1989 is amended by striking section  
14       6137.

15       (2) Section 1135(d) (42 U.S.C. 1320b-5(d)) is  
16       amended—

17           (A) by striking paragraph (6); and

18           (B) in paragraph (7)—

19               (i) by striking “systems” each place it ap-  
20       pears and inserting “system”; and

21               (ii) by striking “paragraphs (1) and (6)”  
22       and inserting “paragraph (1)”.

23       (d) RADIOLOGY AND DIAGNOSTIC SERVICES PRO-  
24       VIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

25       (1) Effective as if included in the enactment of

1 OBRA-1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.  
2 1395l(n)(1)(B)(i)(II)) is amended—

3 (A) by inserting “and for services described in  
4 subsection (a)(2)(E)(ii) furnished on or after Janu-  
5 ary 1, 1992” after “1989”; and

6 (B) by striking “1842(b)” and inserting  
7 “1842(b) (or, in the case of services furnished on or  
8 after January 1, 1992, under section 1848)”.

9 (2) Effective as if included in the enactment of  
10 OBRA-1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.  
11 1395l(n)(1)(B)(i)(II)) is amended by striking “January  
12 1,” and inserting “April 1,”.

13 (e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL  
14 AREAS (SECTION 4155 OF OBRA-1990).—(1) Section  
15 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is  
16 amended—

17 (A) by striking “subsection (aa)(3)” and insert-  
18 ing “subsection (aa)(5)”; and

19 (B) by striking “subsection (aa)(4)” and insert-  
20 ing “subsection (aa)(6)”.

21 (2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is  
22 amended—

23 (A) by striking “and” before “(N)”; and

24 (B) with respect to the matter inserted by sec-  
25 tion 4155(b)(2)(B) of OBRA-1990—



1 (i) by striking “(M)” and inserting “, and  
2 (O)”, and

3 (ii) by transferring and inserting it (as  
4 amended) immediately before the semicolon at  
5 the end.

6 (3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is  
7 amended—

8 (A) by striking “ambulatory” each place it ap-  
9 pears and inserting “or ambulatory”; and

10 (B) by striking “center,” and inserting “cen-  
11 ter”.

12 (4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A))  
13 is amended by striking “subsection (a)(1)(M)” and insert-  
14 ing “subsection (a)(1)(O)”.

15 (5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is  
16 amended by striking “subsection (s)(2)(K)(i)” and insert-  
17 ing “clauses (i) or (iii) of subsection (s)(2)(K)”.

18 (6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is  
19 amended by striking “this Act” and inserting “this title”.

20 (7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is  
21 amended by striking “1861(s)(2)(K)(i)” and inserting  
22 “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

23 (8) Section 1866(a)(1)(H) (42 U.S.C.  
24 1395cc(a)(1)(H)) is amended by striking

1 “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or  
2 1861(s)(2)(K)(iii)”.

3 (f) OTHER MISCELLANEOUS AND TECHNICAL  
4 AMENDMENTS.—

5 (1) IMMEDIATE ENROLLMENT IN PART B BY IN-  
6 DIVIDUALS COVERED BY AN EMPLOYMENT-BASED  
7 PLAN.—(A) Subparagraphs (A) and (B) of section  
8 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amend-  
9 ed—

10 (i) by striking “beginning with the first  
11 day of the first month in which the individual  
12 is no longer enrolled” and inserting “including  
13 each month during any part of which the indi-  
14 vidual is enrolled”; and

15 (ii) by striking “and ending seven months  
16 later” and inserting “ending with the last day  
17 of the eighth consecutive month in which the in-  
18 dividual is at no time so enrolled”.

19 (B) Paragraphs (1) and (2) of section 1838(e)  
20 (42 U.S.C. 1395q(e)) are amended to read as fol-  
21 lows:

22 “(1) in any month of the special enrollment pe-  
23 riod in which the individual is at any time enrolled  
24 in a plan (specified in subparagraph (A) or (B), as  
25 applicable, of section 1837(i)(3)) or in the first

1 month following such a month, the coverage period  
 2 shall begin on the first day of the month in which  
 3 the individual so enrolls (or, at the option of the in-  
 4 dividual, on the first day of any of the following  
 5 three months), or

6 “(2) in any other month of the special enroll-  
 7 ment period, the coverage period shall begin on the  
 8 first day of the month following the month in which  
 9 the individual so enrolls.”.

10 (C) The amendments made by subparagraphs  
 11 (A) and (B) shall take effect on the first day of the  
 12 first month that begins after the expiration of the  
 13 120-day period that begins on the date of the enact-  
 14 ment of this Act.

15 (2) BLEND AMOUNTS FOR AMBULATORY SUR-  
 16 GICAL CENTER PAYMENTS.—Subclauses (I) and (II)  
 17 of section 1833(i)(3)(B)(ii) (42 U.S.C.  
 18 1395l(i)(3)(B)(ii)) are each amended—

19 (A) by striking “for reporting” and insert-  
 20 ing “for portions of cost reporting”; and

21 (B) by striking “and on or before” and in-  
 22 serting “and ending on or before”.

23 (3) CLINICAL DIAGNOSTIC LABORATORY TESTS  
 24 (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5)

1 of OBRA-1990 is amended by striking “(1)(A)” and  
2 inserting “(1)(A),”.

3 (4) SEPARATE PAYMENT UNDER PART B FOR  
4 CERTAIN SERVICES (SECTION 4157 OF OBRA-1990).—  
5 Section 4157(a) of OBRA-1990 is amended by  
6 striking “(a) SERVICES OF” and all that follows  
7 through “Section” and inserting “(a) TREATMENT  
8 OF SERVICES OF CERTAIN HEALTH PRACTITION-  
9 ERS.—Section”.

10 (5) COMMUNITY HEALTH CENTERS AND RURAL  
11 HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—  
12 (A) The fourth sentence of section 1861(aa)(2) (42  
13 U.S.C. 1395x(aa)(2)) is amended—

14 (i) by striking “certification” the first  
15 place it appears and inserting “approval”; and

16 (ii) by striking “the Secretary’s approval  
17 or disapproval of the certification” and insert-  
18 ing “Secretary’s approval or disapproval”.

19 (B) Section 4161(a)(7)(B) of OBRA-1990 is  
20 amended by inserting “and to the Committee on Fi-  
21 nance of the Senate” after “Representatives”.

22 (6) SCREENING MAMMOGRAPHY (SECTION 4163  
23 OF OBRA-1990).—Section 4163 of OBRA-1990 is  
24 amended—

1 (A) by adding at the end of subsection (d)  
2 the following new paragraph:

3 “(3) The amendment made by paragraph  
4 (2)(A)(iv) shall apply to screening pap smears per-  
5 formed on or after July 1, 1990.”; and

6 (B) in subsection (e), by striking “The  
7 amendments” and inserting “Except as pro-  
8 vided in subsection (d)(3), the amendments”.

9 (7) INJECTABLE DRUGS FOR TREATMENT OF  
10 OSTEOPOROSIS.—

11 (A) CLARIFICATION OF DRUGS COV-  
12 ERED.—The section 1861(jj) (42 U.S.C.  
13 1395x(jj)) inserted by section 4156(a)(2) of  
14 OBRA–1990 is amended—

15 (i) in the matter preceding paragraph  
16 (1), by striking “a bone fracture related  
17 to”; and

18 (ii) in paragraph (1), by striking “pa-  
19 tient” and inserting “individual has suf-  
20 fered a bone fracture related to post-meno-  
21 pausal osteoporosis and that the individ-  
22 ual”.

23 (B) LIMITING COVERAGE TO DRUGS PRO-  
24 VIDED BY HOME HEALTH AGENCIES.—(i) The  
25 section 1861(jj) (42 U.S.C. 1395x(jj)) inserted

1 by section 4156(a)(2) of OBRA-1990 is  
2 amended by striking “if” and inserting “by a  
3 home health agency if”.

4 (ii) Section 1861(m)(5) (42 U.S.C.  
5 1395x(m)(5)) is amended by striking “but ex-  
6 cluding” and inserting “and a covered  
7 osteoporosis drug (as defined in subsection  
8 (kk), but excluding other”.

9 (iii) Section 1861(s)(2) (42 U.S.C.  
10 1395x(s)(2)) is amended—

11 (I) by adding “and” at the end of  
12 subparagraph (N), and

13 (II) by striking subparagraph (O) and  
14 redesignating subparagraph (P) as sub-  
15 paragraph (O).

16 (C) PAYMENT BASED ON REASONABLE  
17 COST.—Section 1833(a)(2) (42 U.S.C.  
18 1395l(a)(2)) is amended—

19 (i) in subparagraph (A), by striking  
20 “health services” and inserting “health  
21 services (other than covered osteoporosis  
22 drug (as defined in section 1861(kk)))”;

23 (ii) by striking “and” at the end of  
24 subparagraph (D);

1 (iii) by striking the semicolon at the  
2 end and inserting “; and”; and

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

5 “(F) with respect to covered osteoporosis  
6 drug (as defined in section 1861(kk)) furnished  
7 by a home health agency, 80 percent of the rea-  
8 sonable cost of such service, as determined  
9 under section 1861(v);”.

10 (D) APPLICATION OF PART B DEDUCT-  
11 IBLE.—Section 1833(b)(2) (42 U.S.C.  
12 1395l(b)(2)) is amended by striking “services”  
13 and inserting “services (other than covered  
14 osteoporosis drug (as defined in section  
15 1861(kk)))”.

16 (E) COVERED OSTEOPOROSIS DRUG (SEC-  
17 TION 4156 OF OBRA–1990).—Section 1861 (42  
18 U.S.C. 1395x) is amended, in the subsection  
19 (jj) inserted by section 4156(a)(2) of OBRA–  
20 1990, by striking “(jj) The term” and inserting  
21 “(kk) The term”.

22 (8) OTHER MISCELLANEOUS AND TECHNICAL  
23 CORRECTIONS (SECTION 4164 OF OBRA–1990).—

24 (A) OWNERSHIP DISCLOSURE REQUIRE-  
25 MENTS.—(i) Section 1124A(a)(2)(A) (42

1 U.S.C. 1320a–3a(a)(2)(A)) is amended by  
 2 striking “of the Social Security Act”.

3 (ii) Section 4164(b)(4) of OBRA–1990 is  
 4 amended by striking “paragraph” and inserting  
 5 “paragraphs”.

6 (B) DIRECTORY OF UNIQUE PHYSICIAN  
 7 IDENTIFIER NUMBERS.—Section 4164(c) of  
 8 OBRA–1990 is amended by striking “publish”  
 9 and inserting “publish, and shall periodically  
 10 update,”.

11 (g) EFFECTIVE DATE.—Except as otherwise provided  
 12 in this section, the amendments made by this section shall  
 13 take effect as if included in the enactment of OBRA–1990.

14 **CHAPTER 2—PROVISIONS RELATING TO**  
 15 **PARTS A AND B**

16 **SEC. 5071. ELIMINATION OF ADD-ON FOR OVERHEAD OF**  
 17 **HOSPITAL-BASED HOME HEALTH AGENCIES.**

18 (a) GENERAL RULE.—The first sentence of section  
 19 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is  
 20 amended by striking “, with appropriate adjustment for  
 21 administrative and general costs of hospital-based agen-  
 22 cies”.

23 (b) EFFECTIVE DATE.—The amendment made by  
 24 subsection (a) applies to cost reporting periods beginning  
 25 after fiscal year 1993.



1 **SEC. 5072. STUDY AND REPORT ON MEDICARE GME PAY-**  
2 **MENTS.**

3 (a) STUDY.—The Secretary of Health and Human  
4 Services shall conduct a study of the methodology used  
5 to determine payments to hospitals under the medicare  
6 program for the costs of medical residency training pro-  
7 grams and shall include in the study an analysis of the  
8 causes of variation among such programs in the per resi-  
9 dent costs of direct graduate medical education, including  
10 the extent of support for such programs from non-hospital  
11 sources.

12 (b) REPORT.—Not later than 1 year after the date  
13 of the enactment of this Act, the Secretary shall submit  
14 a report to Congress on the study conducted under sub-  
15 section (a), and shall include in the report any rec-  
16 ommendations considered appropriate by the Secretary for  
17 modifications to the methodology used to determine pay-  
18 ments to hospitals under the medicare program for the  
19 costs of medical residency training programs that will en-  
20 courage greater uniformity among medical residency train-  
21 ing programs in the per resident costs of direct graduate  
22 medical education.

23 **SEC. 5073. MEDICARE AS SECONDARY PAYER.**

24 (a) EXTENSION OF DATA MATCH PROGRAM.—Sec-  
25 tion 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is  
26 amended by striking “1995” and inserting “1998”.

1 (b) PERMANENT APPLICATION TO DISABLED INDI-  
2 VIDUALS.—Section 1862(b)(1)(B) (42 U.S.C.  
3 1395y(b)(1)(B)) is amended by striking clause (iii).

4 (c) APPLICATION OF ESRD RULES TO CERTAIN  
5 AGED AND DISABLED BENEFICIARIES AND EXTENSION  
6 OF APPLICATION OF 18-MONTH RULE.—

7 (1) Subparagraphs (A)(iv) and (B)(ii) of section  
8 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each  
9 amended—

10 (A) by striking “Clause (i) shall not apply”  
11 and inserting “Subparagraph (C) shall apply  
12 instead of clause (i)”, and

13 (B) by inserting “(without regard to enti-  
14 tlement under section 226)” after “or” the sec-  
15 ond place it appears.

16 (2) The second sentence of section  
17 1862(b)(1)(C) is amended by striking “on or before  
18 January 1, 1996” and inserting “before October 1,  
19 1998”.

20 (d) UNIFORM RULES FOR SIZE OF EMPLOYER.—

21 (1) IN GENERAL.—Section 1862(b)(1) (42  
22 U.S.C. 1395y(b)(1)) is amended by adding at the  
23 end the following:

24 “(E) GENERAL PROVISIONS.—

1           “(i) EXCLUSION OF GROUP HEALTH  
2           PLAN OF A SMALL EMPLOYER.—Subpara-  
3           graphs (A) through (C) do not apply to a  
4           group health plan unless the plan is a plan  
5           of, or contributed to by, an employer or  
6           employee organization that has 20 or more  
7           individuals in current employment status  
8           for each working day in each of 20 or more  
9           calendar weeks in the current calendar  
10          year or the preceding calendar year.

11          “(ii) EXCEPTION FOR SMALL EMPLOY-  
12          ERS IN MULTIEMPLOYER OR MULTIPLE  
13          EMPLOYER GROUP HEALTH PLANS.—Sub-  
14          paragraphs (A) through (C) also do not  
15          apply with respect to individuals enrolled  
16          in a multiemployer or multiple employer  
17          group health plan if the coverage of the in-  
18          dividuals under the plan is by virtue of  
19          current employment status with an em-  
20          ployer that does not have 20 or more indi-  
21          viduals in current employment status for  
22          each working day in each of 20 or more  
23          calendar weeks in the current calendar  
24          year and the preceding calendar year; but  
25          the exception provided in this clause ap-

1           plies only if the plan elects treatment  
2           under this clause.

3           “(iii) APPLICATION OF CONTROLLED  
4           GROUP RULES.—For purposes of clauses  
5           (i) and (ii)—

6                   “(I) all employees of corporations  
7                   which are members of a controlled  
8                   group of corporations (within the  
9                   meaning of section 1563(a) of the In-  
10                  ternal Revenue Code of 1986, deter-  
11                  mined without regard to subsection  
12                  (a)(4) or (e)(3)(C)), shall be treated  
13                  as employed by a single employer,

14                  “(II) all employees of trades or  
15                  businesses (whether or not incor-  
16                  porated) which are under common  
17                  control (under regulations prescribed  
18                  by the Secretary of the Treasury  
19                  under section 414(c) of that Code)  
20                  shall be treated as employed by a sin-  
21                  gle employer,

22                  “(III) all employees of the mem-  
23                  bers of an affiliated service group (as  
24                  defined in section 414(m) of that

1 Code) shall be treated as employed by  
2 a single employer, and

3 “(IV) leased employees (as de-  
4 fined in section 414(n)(2) of that  
5 Code) shall be treated as employees of  
6 the person for whom they perform  
7 services to the extent they are so  
8 treated under section 414(n) of that  
9 Code.

10 In applying sections of the Internal Reve-  
11 nue Code of 1986 under this clause, the  
12 Secretary shall rely upon the regulations  
13 and decisions of the Secretary of the  
14 Treasury respecting such sections.

15 “(iv) GROUP HEALTH PLAN DE-  
16 FINED.—For purposes of this subsection,  
17 the term ‘group health plan’ has the mean-  
18 ing given such term in section 5000(b) of  
19 the Internal Revenue Code of 1986, with-  
20 out regard to section 5000(d) of such  
21 Code.

22 “(v) CURRENT EMPLOYMENT STATUS  
23 DEFINED.—For purposes of this sub-  
24 section, an individual has ‘current employ-  
25 ment status’ with an employer if the indi-

vidual is an employee, is the employer, or is associated with the employer in a business relationship.

“(vi) TREATMENT OF SELF-EMPLOYED PERSONS AS EMPLOYERS.—For purposes of this subsection, the term ‘employer’ 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 enti-

1 tled to the same benefits under the  
 2 plan under the same conditions as any  
 3 such individual (or spouse) under age  
 4 65.”;

5 (B) by striking clauses (ii), (iii), and (v),  
 6 and

7 (C) by redesignating clause (iv) as clause  
 8 (ii).

9 (3) AMENDMENTS FOR DISABLED INDIVID-  
 10 UALS.—Section 1862(b) (42 U.S.C. 1395y(b)) is  
 11 amended—

12 (A) by amending the heading and clause  
 13 (i) of paragraph (1)(B) to read as follows:

14 “(B) DISABLED INDIVIDUALS UNDER  
 15 GROUP HEALTH PLANS.—

16 “(i) IN GENERAL.—A group health  
 17 plan may not take into account that an in-  
 18 dividual (or a member of the individual’s  
 19 family) who is covered under the plan by  
 20 virtue of the individual’s current employ-  
 21 ment status with an employer is entitled to  
 22 benefits under this title under section  
 23 226(b).”;

24 (B) by striking clause (iv) of paragraph  
 25 (1)(B); and

1 (C) in the second sentence of paragraph  
2 (2)(A), by striking “or large group health  
3 plan”.

4 (4) AMENDMENTS FOR INDIVIDUALS WITH  
5 ESRD.—Section 1862(b)(1)(C) (42 U.S.C.  
6 1395y(b)(1)(C)) is amended—

7 (A) in the matter preceding clause (i), by  
8 striking “(as defined in subparagraph (A)(v))”,

9 (B) by striking “solely” each place it ap-  
10 pears,

11 (C) by striking “by reason of” and insert-  
12 ing “under” each place it appears, and

13 (D) by inserting “or eligible for” after “en-  
14 titled to” each place it appears.

15 (e) SECONDARY PAYER EXEMPTION FOR MEMBERS  
16 OF RELIGIOUS ORDERS.—Effective as if included in the  
17 enactment of OBRA–1989, section 6202(e)(2) of such Act  
18 is amended by adding at the end the following: “Such  
19 amendment also shall apply to items and services fur-  
20 nished before such date with respect to secondary payer  
21 cases which the Secretary of Health and Human Services  
22 had not identified as of such date.”.

23 (f) IMPROVING IDENTIFICATION OF MEDICARE SEC-  
24 ONDARY PAYER SITUATIONS.—

25 (1) SURVEY OF BENEFICIARIES.—



1 (A) IN GENERAL.—Section 1862(b)(5) (42  
2 U.S.C. 1395y(b)(5)) is amended by adding at  
3 the end the following new subparagraph:

4 “(D) OBTAINING INFORMATION FROM  
5 BENEFICIARIES.—Before an individual applies  
6 for benefits under part A or enrolls under part  
7 B, the Administrator shall mail the individual a  
8 questionnaire to obtain information on whether  
9 the individual is covered under a primary plan  
10 and the nature of the coverage provided under  
11 the plan, including the name, address, and iden-  
12 tifying number of the plan.”.

13 (B) DISTRIBUTION OF QUESTIONNAIRE BY  
14 CONTRACTOR.—The Secretary of Health and  
15 Human Services shall enter into an agreement  
16 with an entity not later than April 1, 1994, to  
17 distribute the questionnaire described in section  
18 1862(b)(5)(D) of the Social Security Act (as  
19 added by subparagraph (A)).

20 (C) NO MEDICARE SECONDARY PAYER DE-  
21 NIAL BASED ON FAILURE TO COMPLETE QUES-  
22 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.  
23 1395y(b)(2)) is amended by adding at the end  
24 the following new subparagraph:

1 “(C) TREATMENT OF QUESTIONNAIRES.—

2 The Secretary may not fail to make payment  
3 under subparagraph (A) solely on the ground  
4 that an individual failed to complete a question-  
5 naire concerning the existence of a primary  
6 plan.”.

7 (2) MANDATORY SCREENING BY PROVIDERS  
8 AND SUPPLIERS UNDER PART B.—

9 (A) IN GENERAL.—Section 1862(b) (42  
10 U.S.C. 1395y(b)) is amended by adding at the  
11 end the following new paragraph:

12 “(6) SCREENING REQUIREMENTS FOR PROVID-  
13 ERS AND SUPPLIERS.—

14 “(A) IN GENERAL.—Notwithstanding any  
15 other provision of this title, no payment may be  
16 made for any item or service furnished under  
17 part B unless the entity furnishing such item or  
18 service completes (to the best of its knowledge  
19 and on the basis of information obtained from  
20 the individual to whom the item or service is  
21 furnished) the portion of the claim form relat-  
22 ing to the availability of other health benefit  
23 plans.

24 “(B) PENALTIES.—An entity that know-  
25 ingly, willfully, and repeatedly fails to complete

1 a claim form in accordance with subparagraph  
2 (A) or provides inaccurate information relating  
3 to the availability of other health benefit plans  
4 on a claim form under such subparagraph shall  
5 be subject to a civil money penalty of not to ex-  
6 ceed \$2,000 for each such incident. The provi-  
7 sions of section 1128A (other than subsections  
8 (a) and (b)) shall apply to a civil money penalty  
9 under the previous sentence in the same man-  
10 ner as such provisions apply to a penalty or  
11 proceeding under section 1128A(a).”.

12 (B) EFFECTIVE DATE.—The amendment  
13 made by subparagraph (A) shall apply with re-  
14 spect to items and services furnished on or  
15 after January 1, 1994.

16 (g) IMPROVEMENTS IN RECOVERY OF PAYMENTS  
17 FROM PRIMARY PAYERS.—

18 (1) SUBMISSION OF REPORTS ON EFFORTS TO  
19 RECOVER ERRONEOUS PAYMENTS.—Section  
20 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

21 (A) by striking “and” at the end of sub-  
22 paragraph (H); and

23 (B) by inserting after subparagraph (H)  
24 the following new subparagraph:

1           “(I) will submit annual reports to the Secretary  
2       describing the steps taken to recover payments made  
3       under this part for items or services for which pay-  
4       ment has been or could be made under a primary  
5       plan (as defined in section 1862(b)(2)(A)).”.

6           (2) REQUIREMENTS UNDER CARRIER PERFORM-  
7       ANCE EVALUATION PROGRAM.—Section 1842(b)(2)  
8       (42 U.S.C. 1395u(b)(2)) is amended by adding at  
9       the end the following new subparagraph:

10       “(D) In addition to any other standards and criteria  
11       established by the Secretary for evaluating carrier per-  
12       formance under this paragraph relating to avoiding erro-  
13       neous payments, the Secretary shall establish standards  
14       and criteria relating to the carrier’s success in recovering  
15       payments made under this part for items or services for  
16       which payment has been or could be made under a pri-  
17       mary plan (as defined in section 1862(b)(2)(A)).”.

18           (3) DEADLINE FOR REIMBURSEMENT BY PRI-  
19       MARY PLANS.—

20           (A)           IN           GENERAL.—Section  
21       1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i))  
22       is amended by adding at the end the following  
23       sentence: “If reimbursement is not made to the  
24       appropriate Trust Fund before the expiration of  
25       the 60-day period that begins on the date such

1 notice or other information is received, the Sec-  
2 retary may charge interest (beginning with the  
3 date on which the notice or other information  
4 is received) on the amount of the reimburse-  
5 ment until reimbursement is made (at a rate  
6 determined by the Secretary in accordance with  
7 regulations of the Secretary of the Treasury ap-  
8 plicable to charges for late payments).”.

9 (B) CONFORMING AMENDMENT.—The  
10 heading of clause (i) of section 1862(b)(2)(B) is  
11 amended to read as follows: “REPAYMENT RE-  
12 QUIRED.—”.

13 (C) EFFECTIVE DATE.—The amendments  
14 made by this paragraph shall apply to payments  
15 for items and services furnished on or after the  
16 date of the enactment of this Act.

17 (4) EFFECTIVE DATE.—The amendments made  
18 by paragraphs (1) and (2) shall apply to contracts  
19 with fiscal intermediaries and carriers under title  
20 XVIII of the Social Security Act for years beginning  
21 with 1994.

22 (h) MISCELLANEOUS AND TECHNICAL CORREC-  
23 TIONS.—

24 (1) The sentence in section 1862(b)(1)(C)  
25 added by section 4203(c)(1)(B) of OBRA-1990 is

1 amended by striking “clauses (i) and (ii)” and in-  
2 serting “this subparagraph”.

3 (2) Effective as if included in the enactment of  
4 OBRA–1989, section 1862(b)(1) is amended—

5 (A) in subparagraphs (A)(v) and  
6 (B)(iv)(II), by inserting “, without regard to  
7 section 5000(d) of such Code” before the period  
8 at the end of each subparagraph;

9 (B) in subparagraph (A)(iii), by striking  
10 “current calendar year or the preceding cal-  
11 endar year” and inserting “current calendar  
12 year and the preceding calendar year”; and

13 (C) in the matter in subparagraph (C)  
14 after clause (ii), by striking “taking into ac-  
15 count that” and inserting “paying benefits sec-  
16 ondary to this title when”.

17 (3) Section 1862(b)(5)(C)(i) (42 U.S.C.  
18 1395y(b)(5)(C)(i)) is amended by striking  
19 “6103(l)(12)(D)(iii)” and inserting  
20 “6103(l)(12)(E)(iii)”.

21 (4) Section 4203(c)(2) of OBRA–1990 is  
22 amended—

23 (A) by striking “the application of clause  
24 (iii)” and inserting “the second sentence”;

1 (B) by striking “on individuals” and all  
2 that follows through “section 226A of such  
3 Act”;

4 (C) in clause (ii), by striking “clause” and  
5 inserting “sentence”;

6 (D) in clause (v), by adding “and” at the  
7 end; and

8 (E) in clause (vi)—

9 (i) by inserting “of such Act” after  
10 “1862(b)(1)(C)”, and

11 (ii) by striking the period at the end  
12 and inserting the following: “, without re-  
13 gard to the number of employees covered  
14 by such plans.”.

15 (5) Section 4203(d) of OBRA–1990 is amended  
16 by striking “this subsection” and inserting “this sec-  
17 tion”.

18 (6) Except as provided in paragraph (2), the  
19 amendments made by this subsection shall be effec-  
20 tive as if included in the enactment of OBRA–1990  
21 and shall be executed before the amendments made  
22 by subsections (a) through (d) of this section.

23 (i) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as otherwise pro-  
25 vided in this section, the amendments made by this

1 section shall take effect on the date of the enactment  
2 of this Act.

3 (2) ESRD AND UNIFORM SIZE RULES.—The  
4 amendments made by subsections (c) and (d) apply  
5 to items and services furnished on or after January  
6 1, 1994.

7 **SEC. 5074. EXTENSION OF SELF-REFERRAL BAN TO ADDI-**  
8 **TIONAL SPECIFIED SERVICES.**

9 (a) EXTENSION TO DESIGNATED HEALTH SERV-  
10 ICES.—

11 (1) IN GENERAL.—Section 1877 (42 U.S.C.  
12 1395nn) is amended—

13 (A) by striking “clinical laboratory serv-  
14 ices” and “CLINICAL LABORATORY SERVICES”  
15 and inserting “designated health services” and  
16 “DESIGNATED HEALTH SERVICES”, respectively,  
17 each place either appears in subsections (a)(1),  
18 (b)(2)(A)(ii), (b)(4), (d)(1), and (d)(3); and

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

21 “(i) DESIGNATED HEALTH SERVICES DEFINED.—In  
22 this section, the term ‘designated health services’ means—

23 “(1) clinical laboratory services;

24 “(2) physical or occupational therapy services;

25 “(3) radiology or other diagnostic services;



1 “(4) radiation therapy services;

2 “(5) the furnishing of durable medical equip-  
3 ment;

4 “(6) the furnishing of parenteral and enteral  
5 nutrition nutrients, supplies, and equipment;

6 “(7) home health services; and

7 “(8) home infusion therapy services.”.

8 (2) CONFORMING AMENDMENTS.—Section 1877  
9 is further amended—

10 (A) in subsection (g)(1), by striking “clini-  
11 cal laboratory service” and inserting “des-  
12 ignated health service”, and

13 (B) in subsection (h)(7)(B), by striking  
14 “clinical laboratory service” and inserting “des-  
15 ignated health service”.

16 (b) MULTIPLE LOCATIONS FOR GROUP PRAC-  
17 TICES.—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C.  
18 1395nn(b)(2)(A)(ii)(II)) is amended by striking “central-  
19 ized provision” and inserting “provision of some or all”.

20 (c) TREATMENT OF COMPENSATION ARRANGE-  
21 MENTS.—

22 (1) RENTAL OF OFFICE SPACE AND EQUIP-  
23 MENT.—Paragraph (1) of section 1877(e) (42  
24 U.S.C. 1395nn(e)) is amended to read as follows:

1           “(1) RENTAL OF OFFICE SPACE; RENTAL OF  
2       EQUIPMENT.—

3           “(A) OFFICE SPACE.—Payments made by  
4       a lessee to a lessor for the use of premises if—

5           “(i) the lease is set out in writing,  
6           signed by the parties, and specifies the  
7           premises covered by the lease,

8           “(ii) the aggregate space rented or  
9           leased is reasonable and necessary for the  
10          legitimate business purposes of the lease or  
11          rental and is used exclusively by the lessee  
12          when being used by the lessee,

13          “(iii) the lease provides for a term of  
14          rental or lease for at least one year,

15          “(iv) the rental charges over the term  
16          of the lease are set in advance, are consist-  
17          ent with fair market value, and are not de-  
18          termined in a manner that takes into ac-  
19          count the volume or value of any referrals  
20          or other business generated between the  
21          parties,

22          “(v) the lease would be commercially  
23          reasonable even if no referrals were made  
24          between the parties,

1           “(vi) the lease covers all of the prem-  
2           ises leased between the parties for the pe-  
3           riod of the lease, and

4           “(vii) the compensation arrangement  
5           meets such other requirements as the Sec-  
6           retary may impose by regulation as needed  
7           to protect against program or patient  
8           abuse.

9           “(B) EQUIPMENT.—Payments made by a  
10          lessee of equipment to the lessor of the equip-  
11          ment for the use of the equipment if—

12           “(i) the lease is set out in writing,  
13           signed by the parties, and specifies the  
14           equipment covered by the lease,

15           “(ii) the equipment rented or leased is  
16           reasonable and necessary for the legitimate  
17           business purposes of the lease or rental  
18           and is used exclusively by the lessee when  
19           being used by the lessee,

20           “(iii) the lease provides for a term of  
21           rental or lease of at least one year,

22           “(iv) the rental charges over the term  
23           of the lease are set in advance, are consist-  
24           ent with fair market value, and are not de-  
25           termined in a manner that takes into ac-

1 count the volume or value of any referrals  
2 or other business generated between the  
3 parties,

4 “(v) the lease would be commercially  
5 reasonable even if no referrals were made  
6 between the parties,

7 “(vi) the lease covers all of the equip-  
8 ment leased between the parties for the pe-  
9 riod of the lease, and

10 “(vii) the compensation arrangement  
11 meets such other requirements as the Sec-  
12 retary may impose by regulation as needed  
13 to protect against program or patient  
14 abuse.”.

15 (2) BONA FIDE EMPLOYMENT RELATION-  
16 SHIPS.—Section 1877(e)(2) (42 U.S.C.  
17 1395nn(e)(2)) is amended—

18 (A) by striking “AND SERVICE” and “WITH  
19 HOSPITALS”;

20 (B) by striking “An arrangement” and all  
21 that follows through “if” and inserting “Any  
22 amount paid by an employer to a physician (or  
23 immediate family member) who has a bona fide  
24 employment relationship with the employer for  
25 the provision of services if”;

1 (C) in subparagraphs (A), (B), and (D), by  
2 striking “arrangement” and inserting “employ-  
3 ment”;

4 (D) in subparagraph (C), by striking “to  
5 the hospital”; and

6 (E) by adding at the end the following:

7 “Subparagraph (B)(ii) shall not be construed as pro-  
8 hibiting the payment of remuneration in the form of  
9 shares of overall profits or in the form of a produc-  
10 tivity bonus based on services performed personally  
11 by the physician or member, if the amount of the re-  
12 muneration is not determined in a manner that  
13 takes into account directly the volume or value of  
14 any referrals by the referring physician.”.

15 (3) PERSONAL SERVICE ARRANGEMENTS.—Sec-  
16 tion 1877(e) is further amended by adding at the  
17 end the following new paragraph:

18 “(7) PERSONAL SERVICE ARRANGEMENTS.—Re-  
19 muneration from an entity under an arrangement  
20 if—

21 “(A) the arrangement is set out in writing,  
22 signed by the parties, and specifies the services  
23 covered by the arrangement,

24 “(B) the arrangement covers all of the  
25 services to be provided,

1           “(C) the aggregate services contracted for  
2           do not exceed those that are reasonable and  
3           necessary for the legitimate business purposes  
4           of the arrangement,

5           “(D) the term of the arrangement is for at  
6           least one year,

7           “(E) the compensation to be paid over the  
8           term of the arrangement is set in advance, does  
9           not exceed fair market value, and is not deter-  
10          mined in a manner that takes into account the  
11          volume or value of any referrals or other busi-  
12          ness generated between the parties,

13          “(F) the services to be performed under  
14          the arrangement do not involve the counseling  
15          or promotion of a business arrangement of  
16          other activity that violates any State or Federal  
17          law, and

18          “(G) the arrangement meets such other re-  
19          quirements as the Secretary may impose by reg-  
20          ulation as needed to protect against program or  
21          patient abuse.”.

22          (4)       ADDITIONAL       EXCEPTIONS.—Section  
23          1877(e) is further amended by adding at the end the  
24          following new paragraphs:

1           “(8) PAYMENTS BY A PHYSICIAN FOR ITEMS  
2           AND SERVICES.—Payments made by a physician—

3                   “(A) to a laboratory in exchange for the  
4                   provision of clinical laboratory services, or

5                   “(B) to an entity as compensation for  
6                   other items or services if the items or services  
7                   are furnished at a price that is consistent with  
8                   fair market value.

9           “(9) PAYMENTS FOR PATHOLOGY SERVICES OF  
10          A GROUP PRACTICE.—Payments made to a group  
11          practice for pathology services under an agreement  
12          if—

13                   “(A) the agreement is set out in writing  
14                   and specifies the services to be provided by the  
15                   parties and the compensation for services pro-  
16                   vided under the agreement,

17                   “(B) the compensation paid over the term  
18                   of the agreement is consistent with fair market  
19                   value and is not determined in a manner that  
20                   takes into account the volume or value of any  
21                   referrals or other business generated between  
22                   the parties,

23                   “(C) the compensation is provided pursu-  
24                   ant to an agreement which would be commer-

1 cially reasonable even if no referrals were made  
2 to the entity, and

3 “(D) the compensation arrangement be-  
4 tween the parties meets such other require-  
5 ments as the Secretary may impose by regula-  
6 tion as needed to protect against program or  
7 patient abuse.”.

8 (4) REFERRING PHYSICIANS.—Section  
9 1877(h)(7)(C) (42 U.S.C. 1395nn(h)(7)(C)) is  
10 amended—

11 (A) by inserting “a request by a radiologist  
12 for diagnostic radiology services, and a request  
13 by a radiation oncologist for radiation therapy,”  
14 after “examination services,” and

15 (B) by inserting “, radiologist, or radiation  
16 oncologist” after “pathologist” the second place  
17 it appears.

18 (d) TREATMENT OF GROUP PRACTICES.—

19 (1) USE OF BILLING NUMBERS, ETC.—Section  
20 1877 is amended—

21 (A) in subsection (b)(2)(B), by inserting  
22 “under a billing number assigned to the group  
23 practice” after “member”,



1 (B) in subsection (h)(4)(B), by inserting  
2 “and under a billing number assigned to the  
3 group” after “in the name of the group”, and  
4 (C) in subsection (h)(4)(C), by striking  
5 “by members of the group”.

6 (2) TREATMENT OF SERVICES UNDER AR-  
7 RANGEMENTS BETWEEN HOSPITALS AND GROUP  
8 PRACTICES.—

9 (A) IN GENERAL.—Section 1877(h)(4) (42  
10 U.S.C. 1395nn(h)(4)) is amended—

11 (i) in subparagraph (B) (as amended  
12 by paragraph (1)(B)), by inserting “(or  
13 are billed in the name of a hospital for  
14 which the group provides designated health  
15 services pursuant to an arrangement that  
16 meets the requirements of subparagraph  
17 (B))” after “assigned to the group”;

18 (ii) by redesignating subparagraphs  
19 (A) through (D) as clauses (i) through  
20 (iv), respectively;

21 (iii) by inserting “(A)” after “.—”;  
22 and

23 (iv) by adding at the end the following  
24 new subparagraph:

1           “(B) The requirements of this subparagraph,  
2       with respect to an arrangement for designated  
3       health services provided by the group and billed in  
4       the name of a hospital, are that—

5           “(i) with respect to services provided to an  
6       inpatient of the hospital, the arrangement is  
7       pursuant to the provision of inpatient hospital  
8       services under section 1861(b)(3);

9           “(ii) the arrangement began before Decem-  
10      ber 19, 1989, and has continued in effect with-  
11      out interruption since such date;

12          “(iii) the group provides substantially all of  
13      the designated health services to the hospital’s  
14      patients;

15          “(iv) the arrangement is pursuant to an  
16      agreement that is set out in writing and that  
17      specifies the services to be provided by the par-  
18      ties and the compensation for services provided  
19      under the agreement;

20          “(v) the compensation paid over the term  
21      of the agreement is consistent with fair market  
22      value and the compensation per unit of services  
23      is fixed in advance and is not determined in a  
24      manner that takes into account the volume or

1 value of any referrals or other business gen-  
 2 erated between the parties;

3 “(vi) the compensation is provided pursu-  
 4 ant to an agreement which would be commer-  
 5 cially reasonable even if no referrals were made  
 6 to the entity; and

7 “(vii) the arrangement between the parties  
 8 meets such other requirements as the Secretary  
 9 may impose by regulation as needed to protect  
 10 against program or patient abuse.”.

11 (B) CONFORMING AMENDMENT.—Section  
 12 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is  
 13 amended by inserting “(or by a hospital for  
 14 which such a group practice provides designated  
 15 health services pursuant to an arrangement  
 16 that meets the requirements of subsection  
 17 (h)(4)(B))” before “, or by an entity”.

18 (3) TREATMENT OF CERTAIN FACULTY PRAC-  
 19 TICE PLANS.—The last sentence of section  
 20 1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as re-  
 21 designated by paragraph (2)(A), is amended by in-  
 22 serting “, institution of higher education, or medical  
 23 school” after “hospital”.

24 (e) EXPANDING RURAL PROVIDER EXCEPTION TO  
 25 COVER COMPENSATION ARRANGEMENTS.—

1 (1) IN GENERAL.—Section 1877(b) (42 U.S.C.  
2 1395nn(b)) is amended—

3 (A) by redesignating paragraph (5) as  
4 paragraph (7), and

5 (B) by inserting after paragraph (4) the  
6 following new paragraph:

7 “(5) RURAL PROVIDERS.—In the case of des-  
8 ignated services if—

9 “(A) the entity furnishing the services is in  
10 a rural area (as defined in section  
11 1886(d)(2)(D)), and

12 “(B) substantially all of the services fur-  
13 nished by the entity to individuals entitled to  
14 benefits under this title are furnished to such  
15 individuals who reside in such a rural area.”.

16 (2) CONFORMING AMENDMENTS.—Section  
17 1877(d) (42 U.S.C. 1395nn(d)) is amended—

18 (A) by striking paragraph (2), and

19 (B) by redesignating paragraph (3) as  
20 paragraph (2).

21 (f) EXCEPTION FOR SHARED FACILITY LABORATORY  
22 SERVICES.—

23 (1) IN GENERAL.—Section 1877 is amended—

1 (A) in subsection (b), as amended by sub-  
2 section (e)(1), by inserting after paragraph (5)  
3 the following new paragraph:

4 “(6) SHARED FACILITY LABORATORY SERV-  
5 ICES.—

6 “(A) IN GENERAL.—In the case of shared  
7 facility laboratory services of a shared facility—

8 “(i) that are furnished—

9 “(I) personally by the referring  
10 physician who is a shared facility phy-  
11 sician or personally by an individual  
12 supervised by such a physician or by  
13 another shared facility physician and  
14 employed under the shared facility ar-  
15 rangement,

16 “(II) by a shared facility in a  
17 building in which the referring physi-  
18 cian furnishes physician’s services un-  
19 related to the furnishing of shared fa-  
20 cility laboratory services, and

21 “(III) to a patient of a shared fa-  
22 cility physician; and

23 “(ii) that are billed by the referring  
24 physician or by an entity that is wholly  
25 owned by such physician.

1           “(B) LIMITATION.—The exception under  
2           this paragraph shall only apply to a shared fa-  
3           cility only if the facility and the shared facility  
4           arrangement were established as of June 26,  
5           1992.”; and

6           (B) in subsection (h), by adding at the end  
7           the following new paragraph:

8           “(8) SHARED FACILITY RELATED DEFINI-  
9           TIONS.—

10           “(A) SHARED FACILITY LABORATORY  
11           SERVICES.—The term ‘shared facility laboratory  
12           services’ means, with respect to a shared facil-  
13           ity, clinical laboratory services furnished by the  
14           facility to patients of shared facility physicians.

15           “(B) SHARED FACILITY.—The term  
16           ‘shared facility’ means an entity that furnishes  
17           shared facility laboratory services under a  
18           shared facility arrangement.

19           “(C) SHARED FACILITY PHYSICIAN.—The  
20           term ‘shared facility physician’ means, with re-  
21           spect to a shared facility, a physician who has  
22           a financial relationship under a shared facility  
23           arrangement with the facility.

24           “(D) SHARED FACILITY ARRANGEMENT.—  
25           The term ‘shared facility arrangement’ means,

1 with respect to the provision of shared facility  
2 laboratory services in a building, a financial ar-  
3 rangement—

4 “(i) which is only between physicians  
5 who are providing services (unrelated to  
6 shared facility laboratory services) in the  
7 same building,

8 “(ii) in which the overhead expenses  
9 of the facility are shared, in accordance  
10 with methods previously determined by the  
11 physicians in the arrangement, among the  
12 physicians in the arrangement, and

13 “(iii) which, in the case of a corpora-  
14 tion, is wholly owned and controlled by  
15 shared facility physicians.”.

16 (2) GAO STUDY OF SHARED FACILITY AR-  
17 RANGEMENTS.—

18 (A) IN GENERAL.—The Comptroller Gen-  
19 eral shall analyze the effect on the utilization of  
20 health services of shared facility arrangements  
21 for which an exception is provided under the  
22 amendments made by paragraph (1). The anal-  
23 ysis shall include a review of the effect of the  
24 limitation, described in section 1877(b)(6)(B) of  
25 the Social Security Act (as added by paragraph

1 (1)), with respect to such exception and on the  
2 availability of services (including hematology  
3 services).

4 (B) REPORT.—Not later than January 1,  
5 1995, the Comptroller General shall submit a  
6 report to Congress on the analysis conducted  
7 under subparagraph (A). The report shall in-  
8 clude recommendations with respect to chang-  
9 ing the limitation.

10 (g) EXEMPTION OF COMPENSATION ARRANGEMENTS  
11 INVOLVING CERTAIN TYPES OF REMUNERATION.—Sec-  
12 tion 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

13 (1) by striking subparagraph (B);

14 (2) in subparagraph (A), by inserting before the  
15 period the following: “(other than an arrangement  
16 involving only remuneration described in subpara-  
17 graph (B))”; and

18 (3) by adding at the end the following new sub-  
19 paragraph:

20 “(B) Remuneration described in this subpara-  
21 graph is any remuneration consisting of any of the  
22 following:

23 “(i) The forgiveness of amounts owed for  
24 inaccurate tests or procedures, mistakenly per-



1           formed tests or procedures, or the correction of  
2           minor billing errors.

3           “(ii) The provision of items, devices, or  
4           supplies that are used solely to—

5                   “(I) collect, transport, process, or  
6                   store specimens for the entity providing  
7                   the item, device, or supply, or

8                   “(II) communicate the results of tests  
9                   or procedures for such entity.”.

10       (h) EXCEPTION FOR PUBLICLY-TRADED SECURI-  
11 TIES.—Section 1877(c)(2) (42 U.S.C. 1395nn(d)(2)) is  
12 amended by striking “total assets exceeding  
13 \$100,000,000” and inserting “stockholder equity exceed-  
14 ing \$75,000,000”.

15       (i) MISCELLANEOUS AND TECHNICAL CORREC-  
16 TIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

17           (1) in subsection (b)(2)(A)(i), in subparagraph  
18           (A)(i), by striking “who are employed by such physi-  
19           cian or group practice and who are personally” and  
20           inserting “who are directly”;

21           (2) in the fourth sentence of subsection (f)—

22                   (A) by striking “provided” and inserting  
23                   “furnished”, and

24                   (B) by striking “provides” and inserting  
25                   “furnish”;

1 (3) in the fifth sentence of subsection (f)—

2 (A) by striking “providing” each place it  
3 appears and inserting “furnishing”,

4 (B) by striking “with respect to the provid-  
5 ers” and inserting “with respect to the enti-  
6 ties”, and

7 (C) by striking “diagnostic imaging serv-  
8 ices of any type” and inserting “magnetic reso-  
9 nance imaging, computerized axial tomography  
10 scans, and ultrasound services”; and

11 (4) in subsection (a)(2)(B), by striking “sub-  
12 section (h)(1)(A)” and inserting “subsection (h)(1)”.

13 (j) EFFECTIVE DATES.—

14 (1) The amendments made by subsection (a)  
15 apply with respect to a referral by a physician for  
16 designated health services (as described in section  
17 1877(i) of the Social Security Act) made after De-  
18 cember 31, 1994.

19 (2) The amendments made by this section  
20 (other than subsection (a)) shall apply to referrals  
21 made on or after January 1, 1992.

22 **SEC. 5075. REDUCTION IN PAYMENT FOR ERYTHRO-**  
23 **POIETIN.**

24 (a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42  
25 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

1 (1) by striking “1991” and inserting “1994”,  
2 and

3 (2) by striking “\$11” and inserting “\$10”.

4 (b) EFFECTIVE DATE.—The amendments made by  
5 subsection (a) apply to erythropoietin furnished after  
6 1993.

7 **SEC. 5076. MEDICARE HOSPITAL AGREEMENTS WITH**  
8 **ORGAN PROCUREMENT ORGANIZATIONS.**

9 (a) IN GENERAL.—Section 1138(a)(1) (42 U.S.C.  
10 1320b–8(a)(1)) is amended—

11 (1) by striking “and” at the end of subpara-  
12 graph (A),

13 (2) by striking the period at the end of sub-  
14 paragraph (B) and inserting “; and”, and

15 (3) by adding at the end the following new sub-  
16 paragraph:

17 “(C) in the case of a hospital or rural primary  
18 care hospital that has in effect an agreement (de-  
19 scribed in section 371(b)(3)(A) of the Public Health  
20 Service Act) with an organ procurement organiza-  
21 tion, the agreement is with such organization for the  
22 service area in which the hospital is located (as es-  
23 tablished under such section).”.

24 (b) EFFECTIVE DATE.—The amendments made by  
25 subsection (a) shall apply to hospitals participating in the

1 programs under titles XVIII and XIX of the Social Secu-  
2 rity Act as of January 1, 1994.

3 **SEC. 5077. EXTENSION OF WAIVER FOR WATTS HEALTH**  
4 **FOUNDATION.**

5 Section 9312(c)(3)(D) of OBRA–1986, as added by  
6 section 4018(d) of OBRA–1987 and as amended by sec-  
7 tion 6212(a)(1) of OBRA–1989, is amended by striking  
8 “1994” and inserting “1996”.

9 **SEC. 5078. IMPROVED OUTREACH FOR QUALIFIED MEDI-**  
10 **CARE BENEFICIARIES.**

11 The Secretary of Health and Human Services shall  
12 establish and implement a method for obtaining informa-  
13 tion from newly eligible medicare beneficiaries that may  
14 be used to determine whether such beneficiaries may be  
15 eligible for medical assistance for medicare cost-sharing  
16 under State medicaid plans as qualified medicare bene-  
17 ficiaries, and for transmitting such information to the  
18 State in which such a beneficiary resides.

19 **SEC. 5079. SOCIAL HEALTH MAINTENANCE ORGANIZA-**  
20 **TIONS.**

21 (a) EXTENSION OF CURRENT WAIVERS.—Section  
22 4018(b) of OBRA–1987, as amended by section  
23 4207(b)(4) of OBRA–1990, is amended—

24 (1) in paragraph (1) by striking “December 31,  
25 1995” and inserting “December 31, 1997”; and

1           (2) in paragraph (4) by striking “March 31,  
2           1996” and inserting “March 31, 1998”.

3           (b) EXPANSION OF DEMONSTRATIONS.—Section  
4           2355 of the Deficit Reduction Act of 1984, as amended  
5           by section 4207(b)(4)(B) of OBRA–1990, is amended—

6           (1) in the last sentence of subsection (a) by  
7           striking “12 months” and inserting “36 months”;  
8           and

9           (2) in subsection (b)(1)(B)—

10           (A) by striking “or” at the end of clause  
11           (iii), and

12           (B) by redesignating clause (iv) as clause  
13           (v) and inserting after clause (iii) the following  
14           new clause:

15           “(iv) integrating acute and chronic  
16           care management for patients with end-  
17           stage renal disease through expanded com-  
18           munity care case management services  
19           (and for purposes of a demonstration  
20           project conducted under this clause, any  
21           requirement under a waiver granted under  
22           this section that a project disenroll individ-  
23           uals who develop end-stage renal disease  
24           shall not apply); or”.

1       (c) EXPANSION OF NUMBER OF MEMBERS PER  
2 SITE.—The Secretary of Health and Human Services may  
3 not impose a limit of less than 12,000 on the number of  
4 individuals that may participate in a project conducted  
5 under section 2355 of the Deficit Reduction Act of 1984.

6       (d) MISCELLANEOUS AND TECHNICAL CORREC-  
7 TIONS.—

8           (1) The section following section 4206 of  
9 OBRA–1990 is amended by striking “SEC. 4027.”  
10 and inserting “SEC. 4207.”, and in this subtitle is  
11 referred to as section 4207 of OBRA–1990.

12           (2) Section 2355(b)(1)(B) of the Deficit Reduc-  
13 tion Act of 1984, as amended by section  
14 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

15               (A) by striking “12907(c)(4)(A)” and in-  
16 serting “4207(b)(4)(B)(i)”, and

17               (B) by striking “feasibilitly” and inserting  
18 “feasibility”.

19           (3) Section 4207(b)(4)(B)(iii)(III) of OBRA–  
20 1990 is amended by striking the period at the end  
21 and inserting a semicolon.

22           (4) Subsections (c)(3) and (e) of section 2355  
23 of the Deficit Reduction Act of 1984, as amended by  
24 section 4207(b)(4)(B) of OBRA–1990, are each

1 amended by striking “12907(c)(4)(A)” each place it  
2 appears and inserting “4207(b)(4)(B)”.

3 (5) Section 4207(c)(2) of OBRA–1990 is  
4 amended by striking “the Committee on Ways and  
5 Means” each place it appears and inserting “the  
6 Committees on Ways and Means and Energy and  
7 Commerce”.

8 (6) Section 4207(d) of OBRA–1990 is amended  
9 by redesignating the second paragraph (3) (relating  
10 to effective date) as paragraph (4).

11 (7) Section 4207(i)(2) of OBRA–1990 is  
12 amended—

13 (A) by striking the period at the end of  
14 clause (iii) and inserting a semicolon, and

15 (B) in clause (v), by striking “residents”  
16 and inserting “patients”.

17 (8) Section 4207(j) of OBRA–1990 is amended  
18 by striking “title” each place it appears and insert-  
19 ing “subtitle”.

20 (e) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect as if included in the enact-  
22 ment of OBRA–1990.

23 **SEC. 5080. PEER REVIEW ORGANIZATIONS.**

24 (a) REPEAL OF PRO PRECERTIFICATION REQUIRE-  
25 MENT FOR CERTAIN SURGICAL PROCEDURES.—

1           (1) IN GENERAL.—Section 1164 (42 U.S.C.  
2       1320c-13) is repealed.

3           (2) CONFORMING AMENDMENTS.—

4           (A) Section 1154 (42 U.S.C. 1320c-3) is  
5       amended—

6           (i) in subsection (a), by striking para-  
7       graph (12), and

8           (ii) in subsection (d), by striking  
9       “(and except as provided in section  
10      1164)”.

11          (B) Section 1833 (42 U.S.C. 1395l) is  
12      amended—

13           (i) in subsection (a)(1)(D)(i), by strik-  
14       ing “, or for tests furnished in connection  
15       with obtaining a second opinion required  
16       under section 1164(c)(2) (or a third opin-  
17       ion, if the second opinion was in disagree-  
18       ment with the first opinion)”;

19           (ii) in subsection (a)(1), by striking  
20       clause (G);

21           (iii) in subsection (a)(2)(A), by strik-  
22       ing “to items and services (other than clin-  
23       ical diagnostic laboratory tests) furnished  
24       in connection with obtaining a second opin-  
25       ion required under section 1164(c)(2) (or a



1 third opinion, if the second opinion was in  
2 disagreement with the first opinion),”;

3 (iv) in subsection (a)(2)(D)(i)—

4 (I) by striking “related basis,”  
5 and inserting “related basis or”, and

6 (II) by striking “, or for tests  
7 furnished in connection with obtaining  
8 a second opinion required under sec-  
9 tion 1164(c)(2) (or a third opinion, if  
10 the second opinion was in disagree-  
11 ment with the first opinion)”;

12 (v) in subsection (a)(3), by striking  
13 “and for items and services furnished in  
14 connection with obtaining a second opinion  
15 required under section 1164(c)(2), or a  
16 third opinion, if the second opinion was in  
17 disagreement with the first opinion”;

18 (vi) in the first sentence of subsection  
19 (b), by striking “(4)” and all that follows  
20 through “and (5)” and inserting “and  
21 (4)”.

22 (C) Section 1834(g)(1)(B) (42 U.S.C.  
23 1395m(g)(1)(B)) is amended by striking “and  
24 for items and services furnished in connection  
25 with obtaining a second opinion required under

1 section 1164(c)(2), or a third opinion, if the  
2 second opinion was in disagreement with the  
3 first opinion)’’.

4 (D) Section 1862(a) (42 U.S.C. 1395y(a))  
5 is amended—

6 (i) by adding “or” at the end of para-  
7 graph (14),

8 (ii) by striking “; or” at the end of  
9 paragraph (15) and inserting a period, and

10 (iii) by striking paragraph (16).

11 (E) The third sentence of section  
12 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is  
13 amended by striking “, with respect to items  
14 and services furnished in connection with ob-  
15 taining a second opinion required under section  
16 1164(c)(2) (or a third opinion, if the second  
17 opinion was in disagreement with the first opin-  
18 ion),’’.

19 (3) EFFECTIVE DATE.—The amendments made  
20 by this subsection shall apply to services provided on  
21 or after the date of the enactment of this Act.

22 (b) MISCELLANEOUS AND TECHNICAL CORREC-  
23 TIONS.—(1) The third sentence of section 1156(b)(1) (42  
24 U.S.C. 1320c-5(b)(1)) is amended by striking “whehter”  
25 and inserting “whether”.

1       (2)(A) Subparagraph (B) of section 1154(a)(9) (42  
2 U.S.C. 1320c-3(a)(9)) is amended to read as follows:

3           “(B) If the organization finds, after reasonable  
4 notice and opportunity for discussion with the physi-  
5 cian or practitioner concerned, that the physician or  
6 practitioner has furnished services in violation of  
7 section 1156(a), the organization shall notify the  
8 State board or boards responsible for the licensing  
9 or disciplining of the physician or practitioner of its  
10 finding and of any action taken as a result of the  
11 finding.”.

12       (B) Subparagraph (D) of section 1160(b)(1) (42  
13 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

14           “(D) to provide notice in accordance with  
15 section 1154(a)(9)(B);”.

16       (3) Section 4205(d)(2)(B) of OBRA-1990 is amend-  
17 ed by striking “amendments” and inserting “amend-  
18 ment”.

19       (4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is  
20 amended by striking “subpena” and inserting “subpoena”.

21       (5) Section 4205(e)(2) of OBRA-1990 is amended  
22 by striking “amendments” and inserting “amendment”  
23 and by striking “all”.

1       (6)(A) Except as provided in subparagraph (B), the  
2 amendments made by this subsection shall take effect as  
3 if included in the enactment of OBRA–1990.

4       (B) The amendments made by paragraph (2) (relat-  
5 ing to the requirement on reporting of information to  
6 State boards) shall take effect on the date of the enact-  
7 ment of this Act.

8   **SEC. 5081. HOSPICE INFORMATION TO HOME HEALTH**  
9                   **BENEFICIARIES.**

10       (a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C.  
11 1395bbb(a)(1)) is amended by adding at the end the fol-  
12 lowing new subparagraph:

13               “(H) The right, in the case of a resident  
14               who is entitled to benefits under this title, to be  
15               fully informed orally and in writing (at the time  
16               of coming under the care of the agency) of the  
17               entitlement of individuals to hospice care under  
18               section 1812(a)(4) (unless there is no hospice  
19               program providing hospice care for which pay-  
20               ment may be made under this title within the  
21               geographic area of the facility and it is not the  
22               common practice of the agency to refer patients  
23               to hospice programs located outside such geo-  
24               graphic area).”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall apply to services furnished on or after  
 3 the first day of the first month beginning more than one  
 4 year after the date of the enactment of this Act.

5 **SEC. 5082. HEALTH MAINTENANCE ORGANIZATIONS.**

6 (a) ADJUSTMENT IN MEDICARE CAPITATION PAY-  
 7 MENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN AP-  
 8 PPLICATION OF SECONDARY PAYER PROVISIONS.—

9 (1) IN GENERAL.—Section 1876(a)(4) (42  
 10 U.S.C. 1395mm(a)(4)) is amended by adding at the  
 11 end the following new sentence: “In establishing the  
 12 adjusted average per capita cost for a geographic  
 13 area, the Secretary shall take into account the dif-  
 14 ferences between the proportion of individuals in the  
 15 area with respect to whom there is a group health  
 16 plan that is a primary plan (within the meaning of  
 17 section 1862(b)(2)(A)) compared to the proportion  
 18 of all such individuals with respect to whom there is  
 19 such a group health plan.”.

20 (2) EFFECTIVE DATE.—The amendment made  
 21 by paragraph (1) shall apply to contracts entered  
 22 into for years beginning with 1994.

23 (b) REVISIONS IN THE PAYMENT METHODOLOGY  
 24 FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-  
 25 1990 is amended to read as follows:

1       “(b) REVISIONS IN THE PAYMENT METHODOLOGY  
2 FOR RISK CONTRACTORS.—(1)(A) Not later than January  
3 1, 1995, the Secretary of Health and Human Services (in  
4 this subsection referred to as the “Secretary”) shall sub-  
5 mit a proposal to the Congress that provides for revisions  
6 to the payment method to be applied in years beginning  
7 with 1996 for organizations with a risk-sharing contract  
8 under section 1876(g) of the Social Security Act.

9       “(B) In proposing the revisions required under sub-  
10 paragraph (A) the Secretary shall consider—

11           “(i) the difference in costs associated with med-  
12 icare beneficiaries with differing health status and  
13 demographic characteristics; and

14           “(ii) the effects of using alternative geographic  
15 classifications on the determinations of costs associ-  
16 ated with beneficiaries residing in different areas.

17       “(2) Not later than 3 months after the date of sub-  
18 mittal of the proposal made pursuant to paragraph (1),  
19 the Comptroller General shall review the proposal and  
20 shall report to Congress on the appropriateness of the pro-  
21 posed modifications.”.

22       (c) MISCELLANEOUS AND TECHNICAL CORREC-  
23 TIONS.—(1) Section 1876(a)(3) (42 U.S.C.  
24 1395mm(a)(3)) is amended by striking “subsection

1 (c)(7)” and inserting “subsections (c)(2)(B)(ii) and  
2 (c)(7)”.

3 (2) Section 4204(c)(3) of OBRA-1990 is amended  
4 by striking “for 1991” and inserting “for years beginning  
5 with 1991”.

6 (3) Section 4204(d)(2) of OBRA-1990 is amended  
7 by striking “amendment” and inserting “amendments”.

8 (4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C.  
9 1395mm(a)(1)(E)(ii)(I)) is amended by striking the  
10 comma after “contributed to”.

11 (5) Section 4204(e)(2) of OBRA-1990 is amended  
12 by striking “(which has a risk-sharing contract under sec-  
13 tion 1876 of the Social Security Act)”.

14 (6) Section 4204(f)(4) of OBRA-1990 is amended by  
15 striking “final”.

16 (7) Section 1862(b)(3)(C) (42 U.S.C.  
17 1395y(b)(3)(C)) is amended—

18 (A) in the heading, by striking “PLAN” and in-  
19 serting “PLAN OR A LARGE GROUP HEALTH PLAN”;

20 (B) by striking “group health plan” and insert-  
21 ing “group health plan or a large group health  
22 plan”;

23 (C) by striking “, unless such incentive is also  
24 offered to all individuals who are eligible for cov-  
25 erage under the plan”; and

1 (D) by striking “the first sentence of subsection  
2 (a) and other than subsection (b)” and inserting  
3 “subsections (a) and (b)”.

4 (8) The amendments made by this subsection shall  
5 take effect as if included in the enactment of OBRA–1990.

6 **SEC. 5083. MISCELLANEOUS AND TECHNICAL CORREC-**  
7 **TIONS.**

8 (a) SURVEY AND CERTIFICATION REQUIREMENTS.—

9 (1) Section 1864 (42 U.S.C. 1395aa) is amended—

10 (A) in subsection (e), by striking “title” and in-  
11 serting “title (other than any fee relating to section  
12 353 of the Public Health Service Act)”; and

13 (B) in the first sentence of subsection (a), by  
14 striking “1861(s) or” and all that follows through  
15 “Service Act,” and inserting “1861(s),”.

16 (2) An agreement made by the Secretary of Health  
17 and Human Services with a State under section 1864(a)  
18 of the Social Security Act may include an agreement that  
19 the services of the State health agency or other appro-  
20 priate State agency (or the appropriate local agencies) will  
21 be utilized by the Secretary for the purpose of determining  
22 whether a laboratory meets the requirements of section  
23 353 of the Public Health Service Act.

24 (b) OTHER MISCELLANEOUS AND TECHNICAL PRO-  
25 VISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended



1 by redesignating the subsection (r) added by section  
2 4206(b)(2) of OBRA-1990 as subsection (s).

3 (2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is  
4 amended by striking “1833(r)” and inserting “1833(s)”.

5 (3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is  
6 amended by moving subparagraph (O), as redesignated by  
7 section 5070(f)(7)(B)(iii)(II) of this subtitle, two ems to  
8 the left.

9 (4) Section 1881(b)(1)(C) (42 U.S.C.  
10 1395rr(b)(1)(C)) is amended by striking “1861(s)(2)(Q)”  
11 and inserting “1861(s)(2)(P)”.

12 (5) Section 4201(d)(2) of OBRA-1990 is amended  
13 by striking “(B) by striking”, “(C) by striking”, and “(3)  
14 by adding” and inserting “(i) by striking”, “(ii) by strik-  
15 ing”, and “(B) by adding”, respectively.

16 (6)(A) Section 4207(a)(1) of OBRA-1990 is amend-  
17 ed by adding closing quotation marks and a period after  
18 “such review.”.

19 (B) Section 4207(a)(4) of OBRA-1990 is amended  
20 by striking “this subsection” and inserting “paragraphs  
21 (2) and (3)”.

22 (C) Section 4207(b)(1) of OBRA-1990 is amended  
23 by striking “section 3(7)” and inserting “section  
24 601(a)(1)”.

25 (7) Section 4202 of OBRA-1990 is amended—

1 (A) in subsection (b)(1)(A), by striking “home  
 2 hemodialysis staff assistant” and inserting “quali-  
 3 fied home hemodialysis staff assistant (as described  
 4 in subsection (d))”;

5 (B) in subsection (b)(2)(B)(ii)(I), by striking  
 6 “(as adjusted to reflect differences in area wage lev-  
 7 els)”;

8 (C) in subsection (c)(1)(A), by striking  
 9 “skilled”; and

10 (D) in subsection (c)(1)(E), by striking  
 11 “(b)(4)” and inserting “(b)(2)”.

12 (c) EFFECTIVE DATE.—The amendments made by  
 13 this section shall take effect as if included in the enact-  
 14 ment of OBRA–1990.

15 **CHAPTER 3—PROVISIONS RELATING TO**  
 16 **MEDICARE SUPPLEMENTAL INSUR-**  
 17 **ANCE POLICIES**

18 **SEC. 5091. STANDARDS FOR MEDICARE SUPPLEMENTAL IN-**  
 19 **SURANCE POLICIES.**

20 (a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL  
 21 POLICIES.—

22 (1) Section 4351 of OBRA–1990 is amended by  
 23 striking “(a) IN GENERAL.—”.

24 (2) Section 1882(p) (42 U.S.C. 1395ss(p)) is  
 25 amended—

1 (A) in paragraph (1)(A)—

2 (i) by striking “promulgates” and in-  
3 serting “changes the revised NAIC Model  
4 Regulation (described in subsection (m)) to  
5 incorporate”,

6 (ii) by striking “(such limitations, lan-  
7 guage, definitions, format, and standards  
8 referred to collectively in this subsection as  
9 ‘NAIC standards’),”, and

10 (iii) by striking “included a reference  
11 to the NAIC standards” and inserting  
12 “were a reference to the revised NAIC  
13 Model Regulation as changed under this  
14 subparagraph (such changed regulation re-  
15 ferred to in this section as the ‘1991 NAIC  
16 Model Regulation’)”;

17 (B) in paragraph (1)(B)—

18 (i) by striking “promulgate NAIC  
19 standards” and inserting “make the  
20 changes in the revised NAIC Model Regu-  
21 lation”,

22 (ii) by striking “limitations, language,  
23 definitions, format, and standards de-  
24 scribed in clauses (i) through (iv) of such  
25 subparagraph (in this subsection referred

1 to collectively as ‘Federal standards’)” and  
2 inserting “a regulation”, and

3 (iii) by striking “included a reference  
4 to the Federal standards” and inserting  
5 “were a reference to the revised NAIC  
6 Model Regulation as changed by the Sec-  
7 retary under this subparagraph (such  
8 changed regulation referred to in this sec-  
9 tion as the ‘1991 Federal Regulation’)”;

10 (C) in paragraph (1)(C)(i), by striking  
11 “NAIC standards or the Federal standards”  
12 and inserting “1991 NAIC Model Regulation or  
13 1991 Federal Regulation”;

14 (D) in paragraphs (1)(C)(ii)(I), (1)(E),  
15 (2), and (9)(B), by striking “NAIC or Federal  
16 standards” and inserting “1991 NAIC Model  
17 Regulation or 1991 Federal Regulation”;

18 (E) in paragraph (2)(C), by striking  
19 “(5)(B)” and inserting “(4)(B)”;

20 (F) in paragraph (4)(A)(i), by inserting  
21 “or paragraph (6)” after “(B)”;

22 (G) in paragraph (4), by striking “applica-  
23 ble standards” each place it appears and insert-  
24 ing “applicable 1991 NAIC Model Regulation  
25 or 1991 Federal Regulation”;

1 (H) in paragraph (6), by striking “in re-  
2 gard to the limitation of benefits described in  
3 paragraph (4)” and inserting “described in  
4 clauses (i) through (iii) of paragraph (1)(A)”;

5 (I) in paragraph (7), by striking “policy-  
6 holder” and inserting “policyholders”;

7 (J) in paragraph (8), by striking “after the  
8 effective date of the NAIC or Federal standards  
9 with respect to the policy, in violation of the  
10 previous requirements of this subsection” and  
11 inserting “on and after the effective date speci-  
12 fied in paragraph (1)(C) (but subject to para-  
13 graph (10)), in violation of the applicable 1991  
14 NAIC Model Regulation or 1991 Federal Regu-  
15 lation insofar as such regulation relates to the  
16 requirements of subsection (o) or (q) or clause  
17 (i), (ii), or (iii) of paragraph (1)(A)”;

18 (K) in paragraph (9), by adding at the end  
19 the following new subparagraph:

20 “(D) Subject to paragraph (10), this paragraph shall  
21 apply to sales of policies occurring on or after the effective  
22 date specified in paragraph (1)(C).”; and

23 (L) in paragraph (10), by striking “this  
24 subsection” and inserting “paragraph  
25 (1)(A)(i)”.

1 (b) GUARANTEED RENEWABILITY.—Section 1882(q)  
2 (42 U.S.C. 1395ss(q)) is amended—

3 (1) in paragraph (2), by striking “paragraph  
4 (2)” and inserting “paragraph (4)”, and

5 (2) in paragraph (4), by striking “the succeed-  
6 ing issuer” and inserting “issuer of the replacement  
7 policy”.

8 (c) ENFORCEMENT OF STANDARDS.—

9 (1) Section 1882(a)(2) (42 U.S.C.  
10 1395ss(a)(2)) is amended—

11 (A) in subparagraph (A), by striking  
12 “NAIC standards or the Federal standards”  
13 and inserting “1991 NAIC Model Regulation or  
14 1991 Federal Regulation”, and

15 (B) by striking “after the effective date of  
16 the NAIC or Federal standards with respect to  
17 the policy” and inserting “on and after the ef-  
18 fective date specified in subsection (p)(1)(C)”.

19 (2) The sentence in section 1882(b)(1) added  
20 by section 4353(c)(5) of OBRA-1990 is amended—

21 (A) by striking “The report” and inserting  
22 “Each report”,

23 (B) by inserting “and requirements” after  
24 “standards”,

1 (C) by striking “and” after “compliance,”,  
2 and

3 (D) by striking the comma after “Commis-  
4 sioners”.

5 (3) Section 1882(g)(2)(B) (42 U.S.C.  
6 1395ss(g)(2)(B)) is amended by striking “Panel”  
7 and inserting “Secretary”.

8 (4) Section 1882(b)(1) (42 U.S.C.  
9 1395ss(b)(1)) is amended by striking “the the Sec-  
10 retary” and inserting “the Secretary”.

11 (d) PREVENTING DUPLICATION.—

12 (1) Section 1882(d)(3)(A) (42 U.S.C.  
13 1395ss(d)(3)(A)) is amended—

14 (A) by amending the first sentence to read  
15 as follows:

16 “(i) It is unlawful for a person to sell or issue to an  
17 individual entitled to benefits under part A or enrolled  
18 under part B of this title—

19 “(I) a health insurance policy with knowledge  
20 that the policy duplicates health benefits to which  
21 the individual is otherwise entitled under this title or  
22 title XIX,

23 “(II) a medicare supplemental policy with  
24 knowledge that the individual is entitled to benefits  
25 under another medicare supplemental policy, or

1           “(III) a health insurance policy (other than a  
2        medicare supplemental policy) with knowledge that  
3        the policy duplicates health benefits to which the in-  
4        dividual is otherwise entitled, other than benefits to  
5        which the individual is entitled under a requirement  
6        of State or Federal law.”;

7           (B) by designating the second sentence as  
8        clause (ii) and, in such clause, by striking “the  
9        previous sentence” and inserting “clause (i)”;

10          (C) by designating the third sentence as  
11        clause (iii) and, in such clause—

12           (i) by striking “the previous sentence”  
13        and inserting “clause (i) with respect to  
14        the sale of a medicare supplemental pol-  
15        icy”, and

16           (ii) by striking “and the statement”  
17        and all that follows up to the period at the  
18        end; and

19          (D) by striking the last sentence.

20          (2)    Section    1882(d)(3)(B)    (42    U.S.C.  
21        1395ss(d)(3)(B)) is amended—

22           (A) in clause (ii)(II), by striking “65 years  
23        of age or older”,

24           (B) in clause (iii)(I), by striking “another  
25        medicare” and inserting “a medicare”,



1 (C) in clause (iii)(I), by striking “such a  
2 policy” and inserting “a medicare supplemental  
3 policy”,

4 (D) in clause (iii)(II), by striking “another  
5 policy” and inserting “a medicare supplemental  
6 policy”, and

7 (E) by amending subclause (III) of clause  
8 (iii) to read as follows:

9 “(III) If the statement required by clause (i) is ob-  
10 tained and indicates that the individual is entitled to any  
11 medical assistance under title XIX, the sale of the policy  
12 is not in violation of clause (i) (insofar as such clause re-  
13 lates to such medical assistance), if a State medicaid plan  
14 under such title pays the premiums for the policy, or, in  
15 the case of a qualified medicare beneficiary described in  
16 section 1905(p)(1), if the State pays less than the full  
17 amount of medicare cost-sharing as described in subpara-  
18 graphs (B), (C), and (D) of section 1905(p)(3) for such  
19 individual.”.

20 (3)(A) Section 1882(d)(3)(C) (42 U.S.C.  
21 1395ss(d)(3)(C)) is amended—

22 (i) by striking “the selling” and inserting  
23 “(i) the sale or issuance”, and

24 (ii) by inserting before the period at the  
25 end the following: “, (ii) the sale or issuance of

1 a policy or plan described in subparagraph  
2 (A)(i)(I) (other than a medicare supplemental  
3 policy to an individual entitled to any medical  
4 assistance under title XIX) under which all the  
5 benefits are fully payable directly to or on be-  
6 half of the individual without regard to other  
7 health benefit coverage of the individual but  
8 only if (for policies sold or issued more than 60  
9 days after the date the statements are pub-  
10 lished or promulgated under subparagraph (D))  
11 there is disclosed in a prominent manner as  
12 part of (or together with) the application the  
13 applicable statement (specified under subpara-  
14 graph (D)) of the extent to which benefits pay-  
15 able under the policy or plan duplicate benefits  
16 under this title, or (iii) the sale or issuance of  
17 a policy or plan described in subparagraph  
18 (A)(i)(III) under which all the benefits are fully  
19 payable directly to or on behalf of the individual  
20 without regard to other health benefit coverage  
21 of the individual”.

22 (B) Section 1882(d)(3) (42 U.S.C.  
23 1395ss(d)(3)) is amended by adding at the end the  
24 following:

25 “(D)(i) If—

1           “(I) within the 90-day period beginning on the  
2           date of the enactment of this subparagraph, the Na-  
3           tional Association of Insurance Commissioners devel-  
4           ops (after consultation with consumer and insurance  
5           industry representatives) and submits to the Sec-  
6           retary a statement for each of the types of health in-  
7           surance policies (other than medicare supplemental  
8           policies and including, as separate types of policies,  
9           policies paying directly to the beneficiary fixed, cash  
10          benefits) which are sold to persons entitled to health  
11          benefits under this title, of the extent to which bene-  
12          fits payable under the policy or plan duplicate bene-  
13          fits under this title, and

14          “(II) the Secretary approves all the statements  
15          submitted as meeting the requirements of subclause  
16          (I),

17          each such statement shall be (for purposes of subpara-  
18          graph (C)) the statement specified under this subpara-  
19          graph for the type of policy involved. The Secretary shall  
20          review and approve (or disapprove) all the statements sub-  
21          mitted under subclause (I) within 30 days after the date  
22          of their submittal. Upon approval of such statements, the  
23          Secretary shall publish such statements.

24          “(ii) If the Secretary does not approve the statements  
25          under clause (i) or the statements are not submitted with-

1 in the 90-day period specified in such clause, the Secretary  
2 shall promulgate (after consultation with consumer and  
3 insurance industry representatives and not later than 90  
4 days after the date of disapproval or the end of such 90-  
5 day period (as the case may be)) a statement for each  
6 of the types of health insurance policies (other than medi-  
7 care supplemental policies and including, as separate types  
8 of policies, policies paying directly to the beneficiary fixed,  
9 cash benefits) which are sold to persons entitled to health  
10 benefits under this title, of the extent to which benefits  
11 payable under the policy or plan duplicate benefits under  
12 this title, and each such statement shall be (for purposes  
13 of subparagraph (C)) the statement specified under this  
14 subparagraph for the type of policy involved.”.

15 (C) The requirement of a disclosure under sec-  
16 tion 1882(d)(3)(C)(ii) of the Social Security Act  
17 shall not apply to an application made for a policy  
18 or plan before 60 days after the date of the Sec-  
19 retary of Health and Human Services publishes or  
20 promulgates all the statements under section  
21 1882(d)(3)(D) of such Act.

22 (4) Subparagraphs (A) and (B) of section  
23 1882(q)(5) (42 U.S.C. 1395ss(q)(5)(A)) are amend-  
24 ed by striking “of the Social Security Act”.

25 (e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

1           (1) Section 1882(r) (42 U.S.C. 1395ss(r)) is  
2 amended—

3           (A) in paragraph (1), by striking “or sold”  
4 and inserting “or renewed (or otherwise provide  
5 coverage after the date described in subsection  
6 (p)(1)(C))”;

7           (B) in paragraph (1)(A), by inserting “for  
8 periods after the effective date of these provi-  
9 sions” after “the policy can be expected”;

10          (C) in paragraph (1)(A), by striking  
11 “Commissioners,” and inserting “Commis-  
12 sioners)”;

13          (D) in paragraph (1)(B), by inserting be-  
14 fore the period at the end the following: “,  
15 treating policies of the same type as a single  
16 policy for each standard package”;

17          (E) by adding at the end of paragraph (1)  
18 the following: “For the purpose of calculating  
19 the refund or credit required under paragraph  
20 (1)(B) for a policy issued before the date speci-  
21 fied in subsection (p)(1)(C), the refund or cred-  
22 it calculation shall be based on the aggregate  
23 benefits provided and premiums collected under  
24 all such policies issued by an insurer in a State  
25 (separated as to individual and group policies)

1 and shall be based only on aggregate benefits  
2 provided and premiums collected under such  
3 policies after the date specified in section  
4 5091(m)(4) of the Omnibus Budget Reconcili-  
5 ation Act of 1993.”;

6 (F) in the first sentence of paragraph  
7 (2)(A), by striking “by policy number” and in-  
8 serting “by standard package”;

9 (G) by striking the second sentence of  
10 paragraph (2)(A) and inserting the following:  
11 “Paragraph (1)(B) shall not apply to a policy  
12 until 12 months following issue.”;

13 (H) in the last sentence of paragraph  
14 (2)(A), by striking “in order” and all that fol-  
15 lows through “are effective”;

16 (I) by adding at the end of paragraph  
17 (2)(A), the following new sentence: “In the case  
18 of a policy issued before the date specified in  
19 subsection (p)(1)(C), paragraph (1)(B) shall  
20 not apply until 1 year after the date specified  
21 in section 5091(m)(4) of the Omnibus Budget  
22 Reconciliation Act of 1993.”;

23 (J) in paragraph (2), by striking “policy  
24 year” each place it appears and inserting “cal-  
25 endar year”;

1 (K) in paragraph (4), by striking “Feb-  
2 ruary”, “disallowance”, “loss-ratios” each place  
3 it appears, and “loss-ratio” and inserting “Oc-  
4 tober”, “disallowance”, “loss ratios”, and “loss  
5 ratio”, respectively;

6 (L) in paragraph (6)(A), by striking “is-  
7 sues a policy in violation of the loss ratio re-  
8 quirements of this subsection” and “such viola-  
9 tion” and inserting “fails to provide refunds or  
10 credits as required in paragraph (1)(B)” and  
11 “policy issued for which such failure occurred”,  
12 respectively; and

13 (M) in paragraph (6)(B), by striking “to  
14 policyholders” and inserting “to the policy-  
15 holder or, in the case of a group policy, to the  
16 certificate holder”.

17 (2) Section 1882(b)(1) (42 U.S.C.  
18 1395ss(b)(1)) is amended, in the matter after sub-  
19 paragraph (H), by striking “subsection (F)” and in-  
20 serting “subparagraph (F)”.

21 (3) Section 4355(d) of OBRA-1990 is amended  
22 by striking “sold or issued” and all that follows and  
23 inserting “issued or renewed (or otherwise providing  
24 coverage after the date described in section  
25 1882(p)(1)(C) of the Social Security Act) on or after

1 the date specified in section 1882(p)(1)(C) of such  
2 Act.”.

3 (f) TREATMENT OF HMO’S.—

4 (1) Section 1882(g)(1) (42 U.S.C.  
5 1395ss(g)(1)) is amended by striking “a health  
6 maintenance organization or other direct service or-  
7 ganization” and all that follows through “1833” and  
8 inserting “an eligible organization (as defined in sec-  
9 tion 1876(b)) if the policy or plan provides benefits  
10 pursuant to a contract under section 1876 or an ap-  
11 proved demonstration project described in section  
12 603(c) of the Social Security Amendments of 1983,  
13 section 2355 of the Deficit Reduction Act of 1984,  
14 or section 9412(b) of the Omnibus Budget Reconcili-  
15 ation Act of 1986 or, during the period beginning on  
16 the date specified in subsection (p)(1)(C) and ending  
17 on December 31, 1994, a policy or plan of an orga-  
18 nization if the policy or plan provides benefits pursu-  
19 ant to an agreement under section 1833(a)(1)(A)”.

20 (2) Section 4356(b) of OBRA–1990 is amended  
21 by striking “on the date of the enactment of this  
22 Act” and inserting “on the date specified in section  
23 1882(p)(1)(C) of the Social Security Act”.

24 (g) PRE-EXISTING CONDITION LIMITATIONS.—Sec-  
25 tion 1882(s) (42 U.S.C. 1395ss(s)) is amended—



1           (1) in paragraph (2)(A), by striking “for which  
2           an application is submitted” and inserting “in the  
3           case of an individual for whom an application is sub-  
4           mitted prior to or”,

5           (2) in paragraph (2)(A), by striking “in which  
6           the individual (who is 65 years of age or older) first  
7           is enrolled for benefits under part B” and inserting  
8           “as of the first day on which the individual is 65  
9           years of age or older and is enrolled for benefits  
10          under part B”, and

11          (3) in paragraph (2)(B), by striking “before it”  
12          and inserting “before the policy”.

13          (h) MEDICARE SELECT POLICIES.—

14           (1) Section 1882(t) (42 U.S.C. 1395ss(t)) is  
15          amended—

16           (A) in paragraph (1), by inserting “medi-  
17          care supplemental” after “If a”,

18           (B) in paragraph (1), by striking “NAIC  
19          Model Standards” and inserting “1991 NAIC  
20          Model Regulation or 1991 Federal Regulation”,

21           (C) in paragraph (1)(A), by inserting “or  
22          agreements” after “contracts”,

23           (D) in subparagraphs (E)(i) and (F) of  
24          paragraph (1), by striking “NAIC standards”  
25          and inserting “standards in the 1991 NAIC

1 Model Regulation or 1991 Federal Regulation”,  
2 and

3 (E) in paragraph (2), by inserting “the is-  
4 suer” before “is subject to a civil money pen-  
5 alty”.

6 (2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-  
7 3(a)(4)(B)) is amended—

8 (A) by inserting “that is” after “(or”, and

9 (B) by striking “1882(t)” and inserting  
10 “1882(t)(3)”.

11 (i) HEALTH INSURANCE COUNSELING.—Section  
12 4360 of OBRA-1990 is amended—

13 (1) in subsection (b)(2)(A)(ii), by striking  
14 “Act” and inserting “Act”);

15 (2) in subsection (b)(2)(D), by striking “serv-  
16 ices” and inserting “counseling”;

17 (3) in subsection (b)(2)(I), by striking “assist-  
18 ance” and inserting “referrals”;

19 (4) in subsection (c)(1), by striking “and that  
20 such activities will continue to be maintained at such  
21 level”;

22 (5) in subsection (d)(3), by striking “to the  
23 rural areas” and inserting “eligible individuals resid-  
24 ing in rural areas”;

25 (6) in subsection (e)—

1 (A) by striking “subsection (c) or (d)” and  
2 inserting “this section”,

3 (B) by striking “and annually thereafter,  
4 issue an annual report” and inserting “and an-  
5 nually thereafter during the period of the grant,  
6 issue a report”, and

7 (C) in paragraph (1), by striking “State-  
8 wide;”,

9 (7) in subsection (f), by striking paragraph (2)  
10 and by redesignating paragraphs (3) through (5) as  
11 paragraphs (2) through (4), respectively; and

12 (8) by redesignating the second subsection (f)  
13 (relating to authorization of appropriations for  
14 grants) as subsection (g).

15 (j) TELEPHONE INFORMATION SYSTEM.—

16 (1) Section 1804 (42 U.S.C. 1395b-2) is  
17 amended—

18 (A) by adding at the end of the heading  
19 the following: “; MEDICARE AND MEDIGAP IN-  
20 FORMATION”,

21 (B) by inserting “(a)” after “1804.”, and

22 (C) by adding at the end the following new  
23 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).”.

1 (l) EFFECTIVE DATE.—The amendments made by  
2 this section shall be effective as if included in the enact-  
3 ment of OBRA–1990; except that—

4 (1) the amendments made by subsection (d)(1)  
5 shall take effect on the date of the enactment of this  
6 Act, but no penalty shall be imposed under section  
7 1882(d)(3)(A) of the Social Security Act (for an ac-  
8 tion occurring after the effective date of the amend-  
9 ments made by section 4354 of OBRA–1990 and be-  
10 fore the date of the enactment of this Act) with re-  
11 spect to the sale or issuance of a policy which is not  
12 unlawful under section 1882(d)(3)(A)(i)(II) of the  
13 Social Security Act (as amended by this section);

14 (2) the amendments made by subsection  
15 (d)(2)(A) and by subparagraphs (A), (B), and (E)  
16 of subsection (e)(1) shall be effective on the date  
17 specified in subsection (m)(4); and

18 (3) the amendment made by subsection (g)(2)  
19 shall take effect on January 1, 1994, and shall apply  
20 to individuals who attain 65 years of age or older on  
21 or after the effective date of section 1882(s)(2) of  
22 the Social Security Act (and, in the case of individ-  
23 uals who attained 65 years of age after such effec-  
24 tive date and before January 1, 1994, and who were  
25 not covered under such section before January 1,

1 1994, the 6-month period specified in that section  
2 shall begin January 1, 1994).

3 (m) TRANSITION PROVISIONS.—

4 (1) IN GENERAL.—If the Secretary of Health  
5 and Human Services identifies a State as requiring  
6 a change to its statutes or regulations to conform its  
7 regulatory program to the changes made by this sec-  
8 tion, the State regulatory program shall not be con-  
9 sidered to be out of compliance with the require-  
10 ments of section 1882 of the Social Security Act due  
11 solely to failure to make such change until the date  
12 specified in paragraph (4).

13 (2) NAIC STANDARDS.—If, within 6 months  
14 after the date of the enactment of this Act, the Na-  
15 tional Association of Insurance Commissioners (in  
16 this subsection referred to as the “NAIC”) modifies  
17 its 1991 NAIC Model Regulation (adopted in July  
18 1991) to conform to the amendments made by this  
19 section and to delete from section 15C the exception  
20 which begins with “unless”, such modifications shall  
21 be considered to be part of that Regulation for the  
22 purposes of section 1882 of the Social Security Act.

23 (3) SECRETARY STANDARDS.—If the NAIC  
24 does not make the modifications described in para-  
25 graph (2) within the period specified in such para-

1 graph, the Secretary of Health and Human Services  
2 shall make the modifications described in such para-  
3 graph and such modifications shall be considered to  
4 be part of that Regulation for the purposes of sec-  
5 tion 1882 of the Social Security Act.

6 (4) DATE SPECIFIED.—

7 (A) IN GENERAL.—Subject to subpara-  
8 graph (B), the date specified in this paragraph  
9 for a State is the earlier of—

10 (i) the date the State changes its stat-  
11 utes or regulations to conform its regu-  
12 latory program to the changes made by  
13 this section, or

14 (ii) 1 year after the date the NAIC or  
15 the Secretary first makes the modifications  
16 under paragraph (2) or (3), respectively.

17 (B) ADDITIONAL LEGISLATIVE ACTION RE-  
18 QUIRED.—In the case of a State which the Sec-  
19 retary identifies as—

20 (i) requiring State legislation (other  
21 than legislation appropriating funds) to  
22 conform its regulatory program to the  
23 changes made in this section, but

24 (ii) having a legislature which is not  
25 scheduled to meet in 1994 in a legislative

1 session in which such legislation may be  
2 considered,  
3 the date specified in this paragraph is the first  
4 day of the first calendar quarter beginning after  
5 the close of the first legislative session of the  
6 State legislature that begins on or after Janu-  
7 ary 1, 1994. For purposes of the previous sen-  
8 tence, in the case of a State that has a 2-year  
9 legislative session, each year of such session  
10 shall be deemed to be a separate regular session  
11 of the State legislature.

12 **Subtitle B—Medicaid Program and**  
13 **Other Health Care Provisions**

14 **SEC. 5100. REFERENCES IN SUBTITLE; TABLE OF CON-**  
15 **TENTS OF SUBTITLE.**

16 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
17 cept as otherwise specifically provided, whenever in this  
18 subtitle an amendment is expressed in terms of an amend-  
19 ment to or repeal of a section or other provision, the ref-  
20 erence shall be considered to be made to that section or  
21 other provision of the Social Security Act.

22 (b) REFERENCES TO OBRA.—In this subtitle, the  
23 terms “OBRA-1986”, “OBRA-1987”, “OBRA-1989”,  
24 and “OBRA-1990” refer to the Omnibus Budget Rec-  
25 onciliation 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 bene-  
 fit.

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 medic-  
 aid.

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.

**1           CHAPTER 1—MEDICAID PROGRAM**

**2           Subchapter A—Program Savings Provisions**

**3                   PART I—REPEAL OF MANDATE**

**4   SEC. 5101. PERSONAL CARE SERVICES FURNISHED OUT-**

**5                           SIDE THE HOME AS OPTIONAL BENEFIT.**

**6           (a) IN GENERAL.**—Section 1905(a) (42 U.S.C.  
**7   1396d(a)), as amended by section 5174(c)(1), is further**  
**8   amended—**

**9                   (1) in paragraph (7), by striking “including**  
**10       personal care services” and all that follows through**  
**11       “nursing facility”;**

1           (2) in paragraph (23), by striking “and” at the  
2       end;

3           (3) by redesignating paragraph (24) as para-  
4       graph (25); and

5           (4) by inserting after paragraph (23) the fol-  
6       lowing new paragraph:

7           “(24) personal care services furnished to an in-  
8       dividual who is not an inpatient or resident of a  
9       nursing facility that are (A) authorized by a physi-  
10      cian for the individual in accordance with a plan of  
11      treatment, (B) provided by an individual who is  
12      qualified to provide such services and who is not a  
13      member of the individual’s family, (C) supervised by  
14      a registered nurse, and (D) furnished in a home or  
15      other location; and”.

16       (b) CONFORMING AMENDMENTS.—(1) Section  
17   1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as  
18   amended by section 5174(c)(2)(A), is amended by striking  
19   “through (23)” and inserting “through (24)”.

20       (2) Section 1902(j) (42 U.S.C. 1396a(j)), as amend-  
21   ed by section 5174(c)(2)(B), is amended by striking  
22   “through (24)” and inserting “through (25)”.

23       (c) EFFECTIVE DATE.—The amendments made by  
24   subsections (a) and (b) shall take effect as if included in  
25   the enactment of section 4721(a) of OBRA–90.

1     **PART II—OUTPATIENT PRESCRIPTION DRUGS**

2     **SEC.   5106.    PERMITTING    PRESCRIPTION    DRUG**  
3                   **FORMULARIES UNDER STATE PLANS.**

4           (a) ELIMINATION OF PROHIBITION AGAINST USE OF  
5 FORMULARIES.—Paragraph (54) of section 1902(a)(54)  
6 (42 U.S.C. 1396a(a)(54)) is amended to read as follows:

7                   “(54) in the case of a State plan that provides  
8           medical assistance for covered outpatient drugs (as  
9           defined in section 1927(k)), comply with the applica-  
10          ble requirements of section 1927;”.

11          (b) STANDARDS FOR FORMULARIES.—Section  
12 1927(d) (42 U.S.C. 1396r–8(d)), as amended by sections  
13 5107(a) and 5108(b)(4)(A)(iii), is amended—

14                   (1) by adding at the end of paragraph (1) the  
15          following new subparagraph:

16                           “(C) In the case of a State that establishes a  
17          formulary in accordance with paragraph (5), the  
18          State may exclude coverage of a covered outpatient  
19          drug that is not included in the formulary.”; and

20                   (2) by inserting after paragraph (4) the follow-  
21          ing new paragraph:

22                           “(5) REQUIREMENTS FOR FORMULARIES.—A  
23          State may establish a formulary only if the following  
24          requirements are met:

25                                   “(A) The formulary is established by a  
26          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.

1           “(D) With respect to a decision to exclude  
2           a covered outpatient drug from the formulary  
3           or a prescribed use of such a drug, the commit-  
4           tee issues a written explanation of its decision  
5           that is available to the public, unless the deci-  
6           sion was made at a meeting of the committee  
7           which was open to the public.

8           “(E) The manufacturer of the drug, and  
9           any person affected by the decision, may obtain  
10          a reversal of the committee’s decision to exclude  
11          a covered outpatient drug from the formulary  
12          under subparagraph (C) on the ground that the  
13          decision was arbitrary and capricious, in ac-  
14          cordance with an appeals process that is estab-  
15          lished by the State and that provides an oppor-  
16          tunity for judicial review of such decision.

17          “(F) The State plan permits coverage of a  
18          drug excluded from the formulary pursuant to  
19          a prior authorization program that is consistent  
20          with paragraph (4).

21          “(G) The formulary meets such other re-  
22          quirements as the Secretary may impose.”.

23          (c) EFFECTIVE DATE.—The amendments made by  
24          this section shall apply to calendar quarters beginning on  
25          or after October 1, 1993, without regard to whether or



1 not regulations to carry out such amendments have been  
2 promulgated by such date.

3 **SEC. 5107. ELIMINATION OF SPECIAL EXEMPTION FROM**  
4 **PRIOR AUTHORIZATION FOR NEW DRUGS.**

5 (a) IN GENERAL.—Section 1927(d) (42 U.S.C.  
6 1396r–8(d)), as amended by section 5108(b)(4)(A)(iii), is  
7 amended by striking paragraph (5).

8 (b) CONFORMING AMENDMENT.—Section 1927(d)(3)  
9 (42 U.S.C. 1396r–8(d)(3)) is amended by striking “(ex-  
10 cept with respect” and all that follows through “of this  
11 paragraph)”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to calendar quarters beginning on  
14 or after October 1, 1993, without regard to whether or  
15 not regulations to carry out such amendments have been  
16 promulgated by such date.

17 **SEC. 5108. TECHNICAL CORRECTIONS RELATING TO SEC-**  
18 **TION 4401 OF OBRA–1990.**

19 (a) SECTION 1903, SSA.—Paragraph (10) of section  
20 1903(i), as inserted by section 4401(a)(1)(B) of OBRA–  
21 1990, is amended to read as follows:

22 “(10) with respect to covered outpatient drugs  
23 unless there is a rebate agreement in effect under  
24 section 1927 with respect to such drugs or unless  
25 section 1927(a)(3) applies;”.

1       (b) SECTION 1927, SSA.—(1) Section 1927(a) (42  
2 U.S.C. 1396r-8(a)) is amended—

3           (A) in paragraph (1)—

4               (i) by amending the second sentence to  
5               read as follows: “Any such agreement entered  
6               into prior to April 1, 1991, shall be deemed to  
7               have been entered into on January 1, 1991, and  
8               the amount of the rebate under such agreement  
9               shall be calculated as if the agreement had been  
10              entered into on January 1, 1991.”, and

11             (ii) in the third sentence, by striking  
12             “March” and inserting “April”;

13           (B) in paragraph (2)—

14               (i) by striking “first”, and

15               (ii) by striking the period at the end and  
16               inserting the following: “, except that such  
17               paragraph (and section 1903(i)(10)(A)) shall  
18               not apply to the dispensing of such a drug be-  
19               fore April 1, 1991, if the Secretary determines  
20               that there were extenuating circumstances with  
21               respect to the first calendar quarter of 1991.”;

22           (C) in paragraph (3), by striking “single  
23           source” and all that follows and inserting the follow-  
24           ing: “covered outpatient drugs if—

1 “(A) based on information provided by a  
2 beneficiary’s physician, the State has made a  
3 determination that the availability of the drug  
4 is essential to the health of the beneficiary  
5 under the State plan, and the Secretary has re-  
6 viewed and approved such determination; and

7 “(B) the drug has been given a rating of  
8 1–A by the Food and Drug Administration.”;

9 (D) in paragraph (4)—

10 (i) by striking “in compliance with”  
11 and inserting “in effect under”, and

12 (ii) by striking “coverage of the man-  
13 ufacturer’s drugs” and inserting “ingredi-  
14 ent costs of the manufacturer’s covered  
15 outpatient drugs covered”; and

16 (E) by adding at the end the following new  
17 paragraph:

18 “(5) APPLICATION IN CERTAIN STATES AND  
19 TERRITORIES.—

20 “(A) APPLICATION IN STATES OPERATING  
21 UNDER DEMONSTRATION PROJECTS.—In the  
22 case of any State which is providing medical as-  
23 sistance to its residents under a waiver granted  
24 under section 1115, the Secretary shall require  
25 the State to meet the requirements of section

1           1902(a)(54) and of this section in the same  
2           manner as the State would be required to meet  
3           such requirements if the State had in effect a  
4           plan approved under this title.

5           “(B) NO APPLICATION IN COMMON-  
6           WEALTHS AND TERRITORIES.—This section,  
7           and sections 1902(a)(54) and 1903(i)(10), shall  
8           only apply to a State that is one of the 50  
9           States or the District of Columbia.”.

10          (2) Section 1927(b) (42 U.S.C. 1396r-8(b)) is  
11 amended—

12           (A) in paragraph (1)(A)—

13               (i) by striking “(or periodically in accord-  
14               ance with a schedule specified by the Sec-  
15               retary)” and inserting “(or other period speci-  
16               fied by the Secretary)”, and

17               (ii) by inserting “after December 31, 1990,  
18               for which payment was made” after “dis-  
19               pensed”;

20           (B) in paragraph (2)(A)—

21               (i) by striking “calendar quarter” and “the  
22               quarter” and inserting “rebate period” and  
23               “the period”, respectively,

1           (ii) by striking “dosage units” and insert-  
2           ing “units of each dosage form and strength”,  
3           and

4           (iii) by inserting “after December 31,  
5           1990, for which payment was made” after  
6           “dispensed”;

7           (C) in paragraph (3)(A)—

8           (i) in clause (i), by striking “quarter” each  
9           place it appears and inserting “calendar quarter  
10          or other rebate period under the agreement”,

11          (ii) in clause (i), by striking the open pa-  
12          renthesis before “for” and the close parenthesis  
13          after “drugs”,

14          (iii) in clause (i), by striking “subsection  
15          (c)(2)(B)) for covered outpatient drugs” and in-  
16          serting “subsection (c)(1)(C) for each covered  
17          outpatient drug”, and

18          (iv) in clause (ii), by inserting a comma  
19          after “this section” and after “1990”;

20          (D) in paragraph (3)(B)—

21          (i) by striking “\$100,000” and inserting  
22          “\$10,000”,

23          (ii) by striking “if the wholesaler” and in-  
24          serting “for each instance in which the whole-  
25          saler”,

1 (iii) by inserting “in response to such a re-  
2 quest” after “false information”, and

3 (iv) by striking “(with respect to amounts  
4 of penalties or additional assessments)”;

5 (E) in paragraph (3)(C)—

6 (i) in clause (i), by striking “the penalty”  
7 and inserting “the rebate next required to be  
8 paid”,

9 (ii) in clause (i), by striking “and such  
10 amount shall be paid to the Treasury, and, if”  
11 and inserting “. If”,

12 (iii) in clause (ii), by inserting “under sub-  
13 paragraph (A)” after “provides false informa-  
14 tion”, and

15 (iv) in clause (ii), by striking “Such civil  
16 money penalties are” and inserting “Any such  
17 civil money penalty shall be”;

18 (F) in paragraph (3)(D), by striking “whole-  
19 saler,” the first place it appears and inserting  
20 “wholesaler or the”; and

21 (G) in paragraph (4)(B)(iii), by adding at the  
22 end the following: “In the case of such a termi-  
23 nation, a State may terminate coverage of the drugs  
24 affected by such termination as of the effective date

1 of such termination without providing any advance  
2 notice otherwise required by regulation.”.

3 (3) Section 1927(c) (42 U.S.C. 1396r-8(c)) is  
4 amended—

5 (A) in paragraph (1) in the matter preceding  
6 subparagraph (A)—

7 (i) by striking the first sentence,

8 (ii) in the second sentence, by striking  
9 “Except as otherwise provided” and all that fol-  
10 lows through “the Secretary)” and inserting the  
11 following: “For purposes of this section, the  
12 amount of the rebate under this subsection for  
13 a rebate period”, and

14 (iii) by inserting “(except as provided in  
15 subsection (b)(3)(C) and paragraph (2))” after  
16 “drugs shall”;

17 (B) in paragraph (1)(A), by striking “the quar-  
18 ter (or other period)” and inserting “the rebate pe-  
19 riod”;

20 (C) in subparagraph (C)—

21 (i) by striking “For purposes of this para-  
22 graph” and inserting “BEST PRICE DEFINED.—  
23 For purposes of this section”,

24 (ii) by inserting “provider,” after “re-  
25 tailer,”, and

1 (iii) by striking the semicolon at the end  
2 and inserting a period; and

3 (D) by striking subparagraph (D) and inserting  
4 the following:

5 “(D) USE OF ESTIMATED BEST PRICES  
6 DURING INITIAL YEAR OF AVAILABILITY OF  
7 DRUG.—If the Secretary determines that a  
8 manufacturer cannot determine the best price  
9 for rebate periods during the first year in which  
10 an agreement is in effect until after the end of  
11 the year, as part of the agreement the Sec-  
12 retary may require the manufacturer to esti-  
13 mate the best price for rebate periods during  
14 the year and provide an adjustment to the re-  
15 bate paid to the State to take into account the  
16 difference (if any) between the best price and  
17 the estimated best price.”.

18 (4)(A) Section 1927(d) (42 U.S.C. 1396r-8(d)) is  
19 amended—

20 (i) in paragraph (2)—

21 (I) in subparagraph (A), by inserting “or  
22 loss” after “gain”,

23 (II) by striking subparagraph (I), and

24 (III) by redesignating subparagraphs (J)  
25 and (K) as subparagraphs (I) and (J);



1 (ii) in paragraph (3)—

2 (I) by striking “described in paragraph  
3 (2)”, and

4 (II) by inserting “described in paragraph  
5 (2)” after “classes of drugs,”;

6 (iii) by striking paragraph (4) and by redesignig-  
7 nating paragraphs (5) through (7) as paragraphs  
8 (4) through (6);

9 (iv) in paragraph (6), as so redesignated, by  
10 striking “provided” and inserting “if”; and

11 (v) by striking the second sentence of para-  
12 graph (6), as so redesignated, and paragraph (8)  
13 and inserting the following:

14 “(7) CONSTRUCTION WITH RESPECT TO FRAUD  
15 AND ABUSE.—Nothing in this section shall be con-  
16 strued to restrict the authority of a State to apply  
17 sanctions under this Act against any person for  
18 fraud or abuse.”.

19 (B) Section 1927(d)(4), as redesignated by subpara-  
20 graph (A)(iii), shall first apply to drugs dispensed on or  
21 after July 1, 1991.

22 (5)(A) Section 1927(f) (42 U.S.C. 1396r–8(f)) is  
23 amended to read as follows:

24 “(f) NO REDUCTIONS IN PHARMACY REIMBURSE-  
25 MENT LIMITS.—

1           “(1) IN GENERAL.—During the period begin-  
2           ning on November 5, 1990, and ending on December  
3           31, 1994—

4                   “(A) a State may not reduce the amount  
5           paid by the State under this title with respect  
6           to the ingredient cost of a covered outpatient  
7           drug or the dispensing fee for such a drug  
8           below the amount in effect as of November 5,  
9           1990, and

10                   “(B) the Secretary may not change the  
11           regulations in effect on November 5, 1990, gov-  
12           erning the amounts described in subparagraph  
13           (A) which are eligible for Federal financial par-  
14           ticipation, to reduce the reimbursement limits  
15           described in such regulations.

16           “(2) CONSTRUCTION.—If the Secretary notified  
17           a State before November 5, 1990, that its payment  
18           amounts under this title with respect to the ingredi-  
19           ent cost of a covered outpatient drug or the dispens-  
20           ing fee for such a drug were in excess of those per-  
21           mitted under regulations in effect on such date,  
22           paragraph (1)(B) shall not be construed as prevent-  
23           ing a State from reducing payment amounts or dis-  
24           pensing fee in order to comply with such regula-  
25           tions.”.

1 (B) Not later than April 1, 1994, the Secretary of  
2 Health and Human Services shall establish an upper limit  
3 on the amount of payment which is eligible for Federal  
4 financial participation under title XIX of the Social Secu-  
5 rity Act for each multiple source drug (as defined in sec-  
6 tion 1927(k)(7)(A)(i) of such Act) for which the Food and  
7 Drug Administration has rated at least 3 formulations of  
8 such drug as therapeutically and pharmaceutically equiva-  
9 lent, regardless of whether all the formulations of such  
10 drug are rated as so equivalent. In establishing such a  
11 limit for a drug, the Secretary shall take into account only  
12 those formulations of the drug which the Food and Drug  
13 Administration has rated as therapeutically and pharma-  
14 ceutically equivalent.

15 (6) Section 1927(g) (42 U.S.C. 1396r-8(g)) is  
16 amended—

17 (A) by amending paragraph (1) to read as fol-  
18 lows:

19 “(1) REQUIREMENT FOR DRUG USE REVIEW  
20 PROGRAM.—Each State shall provide, by not later  
21 than January 1, 1993, for a drug use review pro-  
22 gram for covered outpatient drugs (other than drugs  
23 dispensed to residents of nursing facilities) that—

24 “(A) meets the requirements of paragraph  
25 (2), and

1           “(B) is intended to assure that prescrip-  
2           tions for such drugs are appropriate, medically  
3           necessary, and not likely to lead to adverse  
4           medical results.”;

5           (B) in paragraph (2)—

6           (i) by amending the matter before subpara-  
7           graph (A) to read as follows:

8           “(2) REQUIREMENTS.—”,

9           (ii) by amending subparagraph (A) to read  
10          as follows:

11          “(A) PROSPECTIVE DRUG USE REVIEW.—  
12          Each drug use review program shall provide for  
13          a review of drug therapy before each prescrip-  
14          tion is filled or delivered to an individual receiv-  
15          ing benefits under this title (including counsel-  
16          ing by pharmacists) consistent with standards  
17          established by the Secretary. Nothing in this  
18          paragraph shall be construed as requiring a  
19          pharmacist to provide consultation when an in-  
20          dividual receiving benefits under this title or  
21          caregiver of such individual refuses such con-  
22          sultation.”,

23          (iii) in subparagraph (C)—

1 (I) by striking “APPLICATION OF  
2 STANDARDS.—” and inserting “STAND-  
3 ARDS.—(i)”,

4 (II) by striking “and literature re-  
5 ferred to in subsection (1)(B)” and insert-  
6 ing “described in clause (ii)”,

7 (III) by striking “including but not  
8 limited to” and inserting “. Such assess-  
9 ment shall include”,

10 (IV) by striking “abuse/misuse and,  
11 as necessary, introduce remedial strate-  
12 gies,” and inserting “abuse or misuse and  
13 introduce remedial strategies”, and

14 (V) by adding at the end the following  
15 new clause:

16 “(ii) The compendia described in this  
17 clause are the American Hospital Formulary  
18 Service Drug Information, the United States  
19 Pharmacopeia-Drug Information, and the  
20 American Medical Association Drug Evalua-  
21 tions.”, and

22 (iv) by amending subparagraph (D) to  
23 read as follows:

24 “(D) EDUCATIONAL PROGRAM.—The pro-  
25 gram shall educate (directly or by contract)

1 pharmacists, physicians, and other individuals  
2 prescribing or dispensing covered outpatient  
3 drugs under the State plan on common drug  
4 therapy problems in order to improve prescrib-  
5 ing or dispensing practices.”;

6 (C) in paragraph (3)—

7 (i) in subparagraph (A), by striking  
8 “(hereinafter” and all that follows and inserting  
9 “(in this paragraph referred to as the ‘DUR  
10 Board’).”,

11 (ii) in subparagraph (B), by striking “51  
12 percent” and all that follows and inserting “50  
13 percent licensed and actively practicing physi-  
14 cians and at least 1/3 but not more than 50  
15 percent licensed and actively practicing phar-  
16 macists.”,

17 (iii) by amending subparagraph (C) to  
18 read as follows:

19 “(C) RESPONSIBILITIES.—The responsibil-  
20 ities of the DUR Board shall include the follow-  
21 ing:

22 “(i) Carrying out retrospective drug  
23 use review pursuant to paragraph (2)(B).

1           “(ii) Establishing and applying stand-  
2           ards for drug use review described in para-  
3           graph (2)(C).

4           “(iii) Implementing educational pro-  
5           grams described in paragraph (2)(D).

6           “(iv) Conducting ongoing evaluations  
7           of the effectiveness of its programs and ac-  
8           tivities in improving the quality and safety  
9           of drug therapy for individuals receiving  
10          benefits under the State plan.”; and

11          (D) by amending subparagraph (D) to read as  
12          follows:

13          “(4) ANNUAL REPORT.—Each State shall sub-  
14          mit a report each year to the Secretary on the na-  
15          ture and scope of the drug use review program  
16          under this subsection. Such report shall include an  
17          estimate of cost savings resulting from operation of  
18          such program.”.

19          (7) Section 1927(h) (42 U.S.C. 1396r-8(h)) is  
20          amended to read as follows:

21          “(h) ENCOURAGING ELECTRONIC CLAIMS MANAGE-  
22          MENT.—The Secretary shall encourage each single State  
23          agency under this title to establish, as its principal means  
24          of processing claims for covered outpatient drugs, a point-  
25          of-sale electronic claims management system for the pur-

1 pose of verifying eligibility, transmitting data on claims,  
2 and assisting pharmacists and other authorized persons  
3 in applying for and receiving payment under the State  
4 plan.”.

5 (8) Section 1927(i) (42 U.S.C. 1396r-8(i)) is amend-  
6 ed to read as follows:

7 “(i) ANNUAL REPORT ON REBATE PROGRAM.—Not  
8 later than May 1 of each year, the Secretary shall submit  
9 to the Committee on Finance of the Senate, the Commit-  
10 tee on Energy and Commerce of the House of Representa-  
11 tives, and the Committee on Aging of the Senate a report  
12 on the operation of the rebate agreements required for  
13 covered outpatient drugs under this section in the preced-  
14 ing fiscal year, and shall include in the report such infor-  
15 mation in addition to the information required to be re-  
16 ported under section 601(d) of the Veterans Health Care  
17 Act of 1992 as the Secretary considers appropriate.”.

18 (9) Section 1927(j) (42 U.S.C. 1396r-8(j)) is amend-  
19 ed to read as follows:

20 “(j) EXEMPTION FROM CERTAIN REQUIREMENTS  
21 FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS  
22 AND HOSPITALS.—

23 “(1) CERTAIN HEALTH MAINTENANCE ORGANI-  
24 ZATIONS 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

1           that is not included in the State formulary  
2           under subsection (d)(5).

3           “(3) CONSTRUCTION IN DETERMINING BEST  
4           PRICE.—Nothing in this subsection shall be con-  
5           strued to exclude any covered outpatient drugs sub-  
6           ject to the provisions of this subsection from the de-  
7           termination of the best price (as defined in sub-  
8           section (c)(1)(C)) for such drugs.”.

9           (10) Section 1927(k) (42 U.S.C. 1396r-8(k)) is  
10          amended—

11           (A) in paragraph (1), by striking “calendar  
12          quarter” and inserting “rebate period”;

13           (B) in paragraph (2)—

14           (i) in the matter before clause (i) of sub-  
15          paragraph (A), by striking “paragraph (5)” and  
16          inserting “subparagraph (D)”,

17           (ii) by striking “, and” at the end of sub-  
18          paragraph (A),

19           (iii) by striking the period at the end of  
20          subparagraph (C) and inserting “; and”, and

21           (iv) by adding at the end the following new  
22          subparagraph:

23           “(D) a drug which may be sold without a  
24          prescription (commonly referred to as an ‘over-  
25          the-counter drug’), if the drug is prescribed by

1 a physician (or other person authorized to pre-  
2 scribe under State law).”;

3 (C) in paragraph (3)—

4 (i) in subparagraph (E), by striking “\*\*\*\*  
5 emergency room visits”,

6 (ii) in subparagraph (F), by striking  
7 “sevices” and inserting “services”, and

8 (iii) in subparagraph (H), by inserting  
9 “services” after “dialysis”;

10 (D) by striking paragraph (4);

11 (E) by amending paragraph (5) to read as fol-  
12 lows:

13 “(5) MANUFACTURER.—The term ‘manufac-  
14 turer’ means, with respect to a covered outpatient  
15 drug,—

16 “(A) the entity (if any) that both manufac-  
17 tures and distributes the drug, or

18 “(B) if no such entity exists, the entity  
19 that distributes the drug.

20 Such term does not include a wholesale distributor  
21 of the drug that does not hold a National Drug Code  
22 number for the drug or a retail pharmacy licensed  
23 under State law.”;

24 (F) in paragraph (6), by striking “, which ap-  
25 pears” and all that follows and inserting “which is

1 accepted by any of the compendia described in sub-  
2 section (g)(2)(C)(ii).”;

3 (G) in paragraph (7)—

4 (i) in subparagraph (A)(i), by striking  
5 “calendar quarter” and inserting “rebate pe-  
6 riod”,

7 (ii) in subparagraph (A)(i), by striking  
8 “paragraph (5)” and inserting “paragraph  
9 (2)(D)”,

10 (iii) in subparagraph (A)(ii), by inserting  
11 “or product licensing application” after “appli-  
12 cation”,

13 (iv) in subparagraph (C)(i), by striking  
14 “pharmaceutically” and inserting “pharma-  
15 ceutically”, and

16 (v) in subparagraph (C)(iii), by striking “,  
17 provided that” and inserting “and”; and

18 (H) by redesignating paragraph (8) as para-  
19 graph (9) and by inserting after paragraph (7) the  
20 following new paragraph:

21 “(8) REBATE PERIOD.—The term ‘rebate pe-  
22 riod’ means, with respect to an agreement under  
23 subsection (a), a calendar quarter or other period  
24 specified with respect to the agreement under sub-  
25 section (b)(1)(A) for the payment of rebates.”.

1 (d) FUNDING.—Section 4401(b)(2) of OBRA–1990  
2 is amended by striking “75 percent,” and all that follows  
3 and inserting “75 percent.”.

4 (e) DEMONSTRATION PROJECTS.—Section  
5 4401(c)(1) of OBRA–1990 is amended—

6 (A) in subparagraph (A), by striking “10” and  
7 inserting “5”; and

8 (B) in subparagraph (C), by striking “regi-  
9 ment” and inserting “regimen”.

10 (f) STUDIES.—Section 4401(d) of OBRA–1990 is  
11 amended—

12 (1) in paragraph (1)(A), by striking “other in-  
13 stitutional facilities, and managed care plans” and  
14 inserting “nursing facilities, intermediate care facili-  
15 ties for the mentally retarded, and health mainte-  
16 nance organizations”;

17 (2) in paragraph (1)(B), by striking “under  
18 this subsection” and inserting “under this para-  
19 graph”;

20 (3) in paragraph (1)(B)(i), by striking “under  
21 this section” and inserting “under section 1927 of  
22 the Social Security Act”;

23 (4) in paragraph (1)(B)(ii)—

1 (A) by striking “drug use review” the sec-  
2 ond place it appears and inserting “the type of  
3 drug use review that is”, and

4 (B) by striking “under this section” and  
5 inserting “under such section”;

6 (5) in paragraph (1)(B)(iii), by striking “under  
7 this title” and inserting “under title XIX of the So-  
8 cial Security Act”;

9 (6) in paragraph (1)(C)—

10 (A) by striking “May 1, 1991” and insert-  
11 ing “May 1, 1992”, and

12 (B) by striking “hereafter”;

13 (7) in paragraph (2), by striking “the Commit-  
14 tees on Aging of the Senate and House of Rep-  
15 resentatives an annual report” and inserting “the  
16 Committee on Aging of the Senate a report”;

17 (8) in paragraph (3)—

18 (A) in subparagraph (A), by striking “,  
19 acting in consultation with the Comptroller  
20 General,” and

21 (B) in subparagraph (B)—

22 (i) by striking “December 31, 1991,  
23 the Secretary and the Comptroller Gen-  
24 eral” and inserting “June 1, 1993, the  
25 Secretary”, and

1 (ii) by striking “the Committees on  
 2 Aging of the Senate and the House of Rep-  
 3 resentatives” and inserting “the Commit-  
 4 tee on Aging of the Senate”;

5 (9) in paragraph (4)(A), by striking “each” and  
 6 by striking the semicolon and inserting a comma;  
 7 and

8 (10) by striking paragraphs (5) and (6).

9 **PART III—RESTRICTIONS ON DIVESTITURE OF**  
 10 **ASSETS AND ESTATE RECOVERY**

11 **SEC. 5111. TRANSFER OF ASSETS.**

12 (a) PERIOD OF INELIGIBILITY.—

13 (1) EXTENDING LOOK-BACK PERIOD TO 36  
 14 MONTHS.—Section 1917(c)(1) (42 U.S.C.  
 15 1396p(c)(1)) is amended by striking “30-month pe-  
 16 riod” and inserting “36-month period”.

17 (2) ELIMINATING 30-MONTH LIMIT ON PERIOD  
 18 OF INELIGIBILITY.—The second sentence of such  
 19 section is amended by striking “equal to” and all  
 20 that follows and inserting the following: “equal to—

21 “(A) the total uncompensated value of the re-  
 22 sources so transferred; divided by

23 “(B) the average monthly cost, to a private pa-  
 24 tient at the time of the application, of nursing facil-  
 25 ity services in the State or, at State option, in the

1 community in which the individual is institutional-  
2 ized.”.

3 (3) CUMULATIVE PERIODS OF INELIGIBILITY IN  
4 THE CASE OF MULTIPLE TRANSFERS.—Such sen-  
5 tence is further amended by inserting “(or, in the  
6 case of a transfer which occurs during a period of  
7 ineligibility attributable to a previous transfer, the  
8 first month after the end of all periods of ineligibil-  
9 ity attributable to any previous transfer)” after  
10 “shall begin with the month in which such resources  
11 were transferred”.

12 (b) CRITERIA FOR UNDUE HARDSHIP EXCEPTION.—  
13 Section 1917(c)(2)(D) (42 U.S.C. 1396p(c)(2)(D)) is  
14 amended to read as follows:

15 “(D) the State agency determines, under proce-  
16 dures established by the State (in accordance with  
17 standards specified by the Secretary) that the denial  
18 of eligibility would work an undue hardship (in ac-  
19 cordance with criteria established by the Sec-  
20 retary).”.

21 (c) TREATMENT OF JOINTLY HELD ASSETS.—Sec-  
22 tion 1917(c) (42 U.S.C. 1936p(c)) is further amended by  
23 adding at the end the following new paragraph:

24 “(6) For purposes of this subsection, in the case of  
25 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

1           “(iii) any other payments from the  
2           trust shall be considered a transfer of as-  
3           sets by the individual subject to section  
4           1917(c).

5           “(B) IRREVOCABLE TRUSTS WHICH MAY  
6           BENEFIT GRANTOR.—In the case of an irrev-  
7           ocable trust, if there are any circumstances  
8           under which payment from the trust could be  
9           made to or for the benefit of the individual—

10           “(i) the corpus of the trust (or that  
11           portion of the corpus from which, or from  
12           the increase whereof, payment to the indi-  
13           vidual could be made) shall be considered  
14           resources available to the individual, and  
15           payments from that portion of the corpus  
16           (or increase)—

17           “(I) to or for the benefit of the  
18           individual, shall be considered income  
19           of the individual, and

20           “(II) for any other purpose, shall  
21           be considered a transfer of assets by  
22           the individual subject to the provisions  
23           of section 1917(c); and

24           “(ii) any portion of the trust from  
25           which (or from the income whereof) no

1 payment could under any circumstances be  
2 made to the individual shall be considered,  
3 as of the date of establishment of the trust  
4 (or, if later, the date on which payment to  
5 the individual was foreclosed), a transfer of  
6 assets by the individual subject to section  
7 1917(c), and payments from such portion  
8 of the trust after such date shall be dis-  
9 regarded.

10 “(C) IRREVOCABLE TRUSTS WHICH CAN-  
11 NOT BENEFIT GRANTOR.—In the case of an ir-  
12 revocable trust, if no payment may be made  
13 from the trust under any circumstances to or  
14 for the benefit of the individual—

15 “(i) the corpus of the trust shall be  
16 considered, as of the date of establishment  
17 of the trust (or, if later, the date on which  
18 payment to the individual was foreclosed),  
19 a transfer of assets subject to section  
20 1917(c), and

21 “(ii) payments from the trust after  
22 the date specified in clause (i) shall be dis-  
23 regarded.

24 “(2) DETERMINATION OF GRANTOR.—

1           “(A) TREATMENT OF ACTS BY INDIVIDUAL  
2           AND OTHERS.—For purposes of this subsection,  
3           an individual shall be considered to have estab-  
4           lished a trust if—

5                   “(i) the individual (or the individual’s  
6                   spouse), or a person (including a court or  
7                   administrative body) with legal authority  
8                   to act in place of or on behalf of such indi-  
9                   vidual (or spouse), or any person (includ-  
10                  ing any court or administrative body) act-  
11                  ing at the direction or upon the request of  
12                  such individual (or spouse), established  
13                  (other than by will) such a trust, and

14                  “(ii) assets of the individual (as de-  
15                  fined in subparagraph (B)) were used to  
16                  form all or part of the corpus of such  
17                  trust.

18           “(B) ASSETS.—For purposes of this para-  
19           graph, assets of an individual include all income  
20           and resources of the individual and of the indi-  
21           vidual’s spouse, including any income or re-  
22           sources which the individual (or spouse) is enti-  
23           tled to but does not receive because of action by  
24           the individual (or spouse), by a person (includ-  
25           ing a court or administrative body) with legal

1 authority to act in place of or on behalf of such  
2 individual (or spouse), or by any person (includ-  
3 ing any court or administrative body) acting at  
4 the direction or upon the request of such indi-  
5 vidual (or spouse).

6 “(C) TRUSTS CONTAINING ASSETS OF  
7 MORE THAN ONE INDIVIDUAL.—In the case of  
8 a trust whose corpus includes assets of an indi-  
9 vidual (as determined pursuant to subpara-  
10 graph (A)) and assets of any other person or  
11 persons, the provisions of this subsection shall  
12 apply to the portion of the trust attributable to  
13 the assets of the individual.

14 “(3) APPLICATION; RELATION TO OTHER PRO-  
15 VISIONS.—Subject to paragraph (4), this subsection  
16 shall apply without regard to—

17 “(A) the purposes for which the trust is es-  
18 tablished,

19 “(B) whether the trustees have or exercise  
20 any discretion under the trust,

21 “(C) any restrictions on when or whether  
22 distributions may be made from the trust, or

23 “(D) any restrictions on the use of dis-  
24 tributions from the trust.

25 “(4) EXCEPTIONS AND HARDSHIP WAIVER.—

1           “(A) EXCEPTION FOR CERTAIN TRUSTS.—

2           This subsection shall not apply to any of the  
3           following trusts:

4                   “(i) A trust established for the benefit  
5                   of a disabled individual (as determined  
6                   under section 1614(a)(3)) by a parent,  
7                   grandparent, or other representative payee  
8                   of the individual.

9                   “(ii) A trust established in a State for  
10                  the benefit of an individual if—

11                           “(I) the trust is composed only of  
12                           pension, Social Security, and other in-  
13                           come to the individual (and accumu-  
14                           lated income in the trust),

15                           “(II) the State will receive any  
16                           amounts remaining in the trust upon  
17                           the death of the individual, and

18                           “(III) the State makes medical  
19                           assistance available to individuals de-  
20                           scribed           in           section  
21                           1902(a)(10)(A)(ii)(V), but does not  
22                           make such assistance available to any  
23                           group of individuals under section  
24                           1902(a)(10)(C).

1           “(B) SPECIAL TREATMENT OF ANNU-  
2           ITIES.—In this subsection, the term ‘trust’ in-  
3           cludes an annuity only to such extent and in  
4           such manner as the Secretary specifies.

5           “(C) HARDSHIP WAIVER.—The State  
6           agency shall establish procedures (in accordance  
7           with standards specified by the Secretary)  
8           under which the agency waives the application  
9           of this subsection with respect to an individual  
10          if the individual establishes (under criteria es-  
11          tablished by the Secretary) that such applica-  
12          tion would work an undue hardship on the indi-  
13          vidual.”.

14          (e) EFFECTIVE DATE.—(1) The amendments made  
15          by this section shall apply, except as provided in this sub-  
16          section, to payments under title XIX of the Social Security  
17          Act for calendar quarters beginning on or after October  
18          1, 1993, without regard to whether or not final regulations  
19          to carry out such amendments have been promulgated by  
20          such date.

21          (2) The amendments made by this section shall not  
22          apply—

23                  (A) to medical assistance provided for services  
24          furnished before October 1, 1993,

- 1 (B) with respect to resources disposed of before  
 2 May 11, 1993,  
 3 (C) with respect to trusts established before  
 4 May 11, 1993, or  
 5 (D) with respect to inter-spousal transfers.

6 **SEC. 5112. MEDICAID ESTATE RECOVERIES.**

7 (a) REQUIRING ESTABLISHMENT OF ESTATE RECOV-  
 8 ERY PROGRAMS.—

9 (1) IN GENERAL.—Section 1902(a)(51) (42  
 10 U.S.C. 1396a(a)(51)) is amended by striking “and  
 11 (B)” and inserting “(B) provide for an estate recov-  
 12 ery program that meets the requirements of section  
 13 1917(b)(1), and (C)”.

14 (2) REQUIREMENTS FOR ESTATE RECOVERY  
 15 PROGRAMS.—Section 1917(b) (42 U.S.C. 1396p(b))  
 16 is amended—

17 (A) in paragraph (1)—

18 (i) by striking “(b)(1)” and inserting  
 19 “(2)”, and

20 (ii) by striking “(a)(1)(B)” and in-  
 21 serting “(a)(1)(B)(i)”;

22 (B) in paragraph (2), by striking “(2) Any  
 23 adjustment or recovery under” and inserting  
 24 “(3) Any adjustment or recovery under an es-  
 25 tate recovery program under”; and



1 (C) by inserting before paragraph (2), as  
2 designated by subparagraph (A), the following:

3 “(b)(1) For purposes of section 1902(a)(51)(B), the  
4 requirements for an estate recovery program of a State  
5 are as follows:

6 “(A) The program provides for identifying and  
7 tracking (and, at the option of the State, preserving)  
8 resources (whether excluded or not) of individuals  
9 who are furnished any of the following long-term  
10 care services for which medical assistance is pro-  
11 vided under this title:

12 “(i) Nursing facility services.

13 “(ii) Home and community-based services  
14 (as defined in section 1915(d)(5)(C)(i)).

15 “(iii) Services described in section  
16 1905(a)(14) (relating to services in an institu-  
17 tion for mental diseases).

18 “(iv) Home and community care provided  
19 under section 1929.

20 “(v) Community supported living arrange-  
21 ments services provided under section 1930.

22 “(B) The program provides for promptly  
23 ascertaining—

24 “(i) when such an individual dies;

1           “(ii) in the case of such an individual who  
2           was married at the time of death, when the sur-  
3           viving spouse dies; and

4           “(iii) at the option of the State, cases in  
5           which adjustment or recovery may not be made  
6           at the time of death because of the application  
7           of paragraph (3)(A) or paragraph (3)(B).

8           “(C)(i) The program provides for the collection  
9           consistent with paragraph (3) of an amount (not to  
10          exceed the amount described in clause (ii)) from—

11           “(I) the estate of the individual;

12           “(II) in the case of an individual described  
13          in subparagraph (B)(ii), from the estate of the  
14          surviving spouse; or

15           “(III) at the option of the State, in a case  
16          described in subparagraph (B)(iii), from the ap-  
17          propriate person.

18          “(ii) The amount described in this clause is the  
19          amount of medical assistance correctly paid under  
20          this title for long-term care services described in  
21          subparagraph (A) furnished on behalf of the individ-  
22          ual.”.

23          (b) **HARDSHIP WAIVER.**—Section 1917(b) (42 U.S.C.  
24          1396p(b)) is further amended by adding at the end the  
25          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.

1 **SEC. 5113. CLOSING LOOPHOLE PERMITTING WEALTHY IN-**  
 2 **DIVIDUALS TO QUALIFY FOR MEDICAID.**

3 (a) IN GENERAL.—Section 1902(r)(2) (42 U.S.C.  
 4 1396a(r)(2)) is amended by adding at the end the follow-  
 5 ing:

6 “(C)(i) Notwithstanding subparagraph (A), except as  
 7 provided in clause (ii), a State plan may not provide pur-  
 8 suant to this paragraph for disregarding any assets—

9 “(I) to the extent that payments are made  
 10 under a long-term care insurance policy; or

11 “(II) because an individual has received (or is  
 12 entitled to receive) benefits for a specified period of  
 13 time under a long-term care insurance policy.

14 “(ii) Clause (i) shall not apply to State plan provi-  
 15 sions that are approved as of May 14, 1993.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
 17 subsection (a) shall take effect on the date of the enact-  
 18 ment of this Act.

19 **PART IV—IMPROVEMENT IN IDENTIFICATION**  
 20 **AND COLLECTION OF THIRD PARTY PAYMENTS**

21 **SEC. 5116. LIABILITY OF THIRD PARTIES TO PAY FOR CARE**  
 22 **AND SERVICES.**

23 (a) LIABILITY OF ERISA PLANS.—(1) Section  
 24 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended  
 25 by striking “insurers)” and inserting “insurers and group  
 26 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

1           on the individual's behalf, from taking into ac-  
2           count that the individual is eligible for or is  
3           provided medical assistance under a State  
4           plan;”.

5           (c) STATE RIGHT TO SUBROGATION.—Section  
6 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by  
7 subsection (b), is further amended—

8           (1) by striking “and” at the end of subpara-  
9           graph (G);

10          (2) by adding “and” at the end of subpara-  
11          graph (H); and

12          (3) by adding after subparagraph (H) the fol-  
13          lowing new subparagraph:

14               “(I) that to the extent that payment has  
15               been made under the State plan for medical as-  
16               sistance in any case where a third party has a  
17               legal liability to make payment for such assist-  
18               ance, the State is subrogated to the right of any  
19               other party to payment for such assistance;”.

20          (d) EFFECTIVE DATE.—(1) Except as provided in  
21 paragraph (2), the amendments made by subsections  
22 (a)(1), (b), and (c) shall apply to calendar quarters begin-  
23 ning on or after October 1, 1993, without regard to wheth-  
24 er or not final regulations to carry out such amendments  
25 have been promulgated by such date.

1       (2) In the case of a State plan for medical assistance  
2 under title XIX of the Social Security Act which the Sec-  
3 retary of Health and Human Services determines requires  
4 State legislation (other than legislation appropriating  
5 funds) in order for the plan to meet the additional require-  
6 ments imposed by the amendments made by subsections  
7 (a) and (b), the State plan shall not be regarded as failing  
8 to comply with the requirements of such title solely on the  
9 basis of its failure to meet these additional requirements  
10 before the first day of the first calendar quarter beginning  
11 after the close of the first regular session of the State leg-  
12 islature that begins after the date of the enactment of this  
13 Act. For purposes of the previous sentence, in the case  
14 of a State that has a 2-year legislative session, each year  
15 of such session shall be deemed to be a separate regular  
16 session of the State legislature.

17       (3) The amendment made by subsection (a)(2) shall  
18 apply to items and services furnished on or after October  
19 1, 1993.

20 **SEC. 5117. HEALTH COVERAGE CLEARINGHOUSE.**

21       (a) IN GENERAL.—The Social Security Act is amend-  
22 ed 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.

1           “(4) A State program under title V that pro-  
2       vides payment for items or services.

3       “(d) OTHER DEFINITIONS.—In this title:

4           “(1) The term ‘administrator’ means, with re-  
5       spect to the covered health program described in—

6           “(A) subsection (c)(1), the Administrator  
7       of the Health Care Financing Administration;

8           “(B) subsection (c)(2), the single State  
9       agency referred to in section 1902(a)(5);

10          “(C) subsection (c)(3), the Director of the  
11       Indian Health Service; and

12          “(D) subsection (c)(4), the State agency  
13       receiving funds under title V.

14          “(2) The term ‘group health plan’ has the  
15       meaning given such term in section  
16       6103(l)(12)(E)(ii) of such Code.

17          “(3) The term ‘qualified employer’ has the  
18       meaning given such term in section  
19       6103(l)(12)(E)(iii) of the Internal Revenue Code of  
20       1986.

21                “PROVISION OF INFORMATION

22       “SEC. 2102. (a) REQUEST FOR INFORMATION.—An  
23       administrator of a covered health program may request  
24       from the Director information concerning the employment  
25       and group health coverage of a program beneficiary, the  
26       beneficiary’s spouse, and (if the beneficiary is a dependent

1 child) the beneficiary's parents. The Director shall provide  
2 such information if the request—

3 “(1) is in such form and manner and at such  
4 a time as the Director may require, and

5 “(2) specifies the name and tax identification  
6 number of the beneficiary.

7 “(b) DATA MATCHING PROGRAM.—

8 “(1) REQUEST BY DIRECTOR.—The Director  
9 shall, at such intervals as the Director finds appro-  
10 priate, transmit to the Secretary of the Treasury the  
11 names and tax identification numbers of bene-  
12 ficiaries with respect to whom a request has been  
13 made pursuant to subsection (a), and request that  
14 such Secretary disclose to the Commissioner of So-  
15 cial Security the following information:

16 “(A) Whether the beneficiary is married  
17 and, if so, the name of the spouse and such  
18 spouse's tax identification number.

19 “(B) If the beneficiary is a dependent  
20 child, the name of and tax identification num-  
21 bers of the beneficiary's parents.

22 “(2) INFORMATION FROM COMMISSIONER OF  
23 SOCIAL SECURITY.—The Secretary, acting through  
24 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

1 group health plan of, an employer in a previous  
2 year—

3 “(i) the name and taxpayer identifica-  
4 tion number of the individual and of the  
5 individual’s spouse;

6 “(ii) the name, address, and taxpayer  
7 identification number of the spouse’s em-  
8 ployer, and whether such employer is a  
9 qualified employer; and

10 “(iii) whether the spouse’s employer  
11 has made available a group health plan to  
12 the spouse and the plan coverage provided  
13 (if any) with respect to the spouse and  
14 family members of the spouse under the  
15 group health plan.

16 “(C) For each individual who is identified  
17 as a dependent child and whose parent is iden-  
18 tified as having received wages (as defined in  
19 section 3401(a) of the Internal Revenue Code  
20 of 1986) from, and as having available coverage  
21 under a group health plan of, an employer in a  
22 previous year—

23 “(i) the name and taxpayer identifica-  
24 tion number of the individual and of the  
25 individual’s parent;

1           “(ii) the name, address, and taxpayer  
2           identification number of the parent’s em-  
3           ployer, and whether such employer is a  
4           qualified employer; and

5           “(iii) whether the parent’s employer  
6           has made available a group health plan to  
7           the parent and the plan coverage provided  
8           (if any) with respect to the parent and de-  
9           pendent children of the parent under the  
10          group health plan.

11          “(3) INFORMATION FROM EMPLOYERS.—The  
12          Director shall—

13               “(A) request, from the employer of each  
14               individual (including each spouse) with respect  
15               to whom information was received from the  
16               Commissioner of Social Security pursuant to  
17               paragraph (2), specific information concerning  
18               coverage of such individual (and of the individ-  
19               ual’s spouse and dependent children) under the  
20               employer’s group health plan (including the pe-  
21               riod and nature of the coverage, and the name,  
22               address, and identifying number of the plan),  
23               and

24               “(B) furnish the information received in  
25               response to such request with respect to an in-

6       “SEC. 2103. (a) IN GENERAL.—An employer shall  
7 furnish to the Director the information requested pursu-  
8 ant to section 2102(b)(3) within 30 days after receipt of  
9 such a request.

13       “(c) CIVIL MONEY PENALTY FOR FAILURE TO CO-  
14   OPERATE.—

24 “(2) ENFORCEMENT AUTHORITY.—In cases of  
25 failure to respond to the Director in accordance with  
26 subsection (a) to inquiries relating to requests pur-

1       suant to section 2102, the provisions of section  
2       1128A (other than subsections (a) and (b)) shall  
3       apply to civil money penalties under paragraph (1)  
4       in the same manner as such provisions apply to pen-  
5       alties or proceedings under section 1128A(a).

6                       “DATA BANK

7       “SEC. 2104. (a) MAINTENANCE OF INFORMATION.—  
8       The Clearinghouse shall maintain a data bank, containing  
9       information on individuals obtained pursuant to this title.  
10      Individual information in the data bank shall be retained  
11      for not less than one year after the date the information  
12      was obtained.

13      “(b) DISCLOSURE OF INFORMATION IN DATA  
14      BANK.—

15               “(1) IN GENERAL.—The Director is authorized  
16      (subject to paragraph (2)) to disclose any informa-  
17      tion in the data bank established pursuant to sub-  
18      section (a) with respect to an individual (or an indi-  
19      vidual’s spouse or parent)—

20               “(A) to the Commissioner of Social Secu-  
21      rity, the Secretary of the Treasury, administra-  
22      tors, employers, and insurers, to the extent nec-  
23      essary to assist such administrators;

24               “(B) to Federal and State law enforcement  
25      officials responsible for enforcement of civil or  
26      criminal laws, in connection with investigations



1 or administrative or judicial law enforcement  
2 proceedings relating to a covered health pro-  
3 gram; and

4 “(C) for research or statistical purposes.

5 “(2) RESTRICTIONS ON DISCLOSURE.—Informa-  
6 tion in the data bank may be disclosed under this  
7 subsection only for purposes of, and to the extent  
8 necessary in, determining the extent to which an in-  
9 dividual is covered under any group health plan.

10 “(c) USE OF CONTRACTORS.—The responsibilities of  
11 the Clearinghouse under this section may be carried out  
12 by contract.

13 “(d) FEES.—The Clearinghouse shall—

14 “(1) establish fees for services under this sec-  
15 tion designed to cover the full costs to the Clearing-  
16 house of providing such services, and

17 “(2) require the payment of such fees to pro-  
18 vide such services.”.

19 (b) CONFORMING MEDICARE AMENDMENTS.—Sec-  
20 tion 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

21 (1) in subparagraph (A)(i)—

22 (A) by striking “Secretary of the Treas-  
23 ury” and inserting “Director of the Health Cov-  
24 erage Clearinghouse”,

1 (B) by striking “(as defined in section  
2 6103(l)(12) of the Internal Revenue Code of  
3 1986)” and inserting “(as defined in clause  
4 (iii))”, and

5 (C) by striking “and request” and all that  
6 follows and inserting a period;  
7 (2) in subparagraph (A)(ii)—

8 (A) by striking “the Commissioner of the  
9 Social Security Administration” and all that  
10 follows and inserting “the Director of the  
11 Health Coverage Clearinghouse to obtain and  
12 disclose to the Administrator, pursuant to sec-  
13 tion 2102(b) and to subparagraph (C) of sec-  
14 tion 6103(l)(12) of the Internal Revenue Code  
15 of 1986, the information described in section  
16 2102(b) and subparagraph (B) of such section  
17 6103(l)(12).”, and

18 (B) by inserting “, pursuant to section  
19 1144(c),” after “disclose to the Administrator”;  
20 and

21 (3) by striking subparagraph (C).

22 (c) MEDICAID USE OF CLEARINGHOUSE.—Section  
23 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended  
24 by inserting “(including making appropriate requests to

1 the Director of the Health Coverage Clearinghouse under  
2 section 2102)” after “all reasonable measures”.

3 (d) COLLECTION OF THIRD PARTY PAYMENTS  
4 UNDER MATERNAL AND CHILD HEALTH BLOCK GRANT  
5 PROGRAM.—Section 505(a) (42 U.S.C. 705(a)) is amend-  
6 ed—

7 (1) by striking “and” at the end of paragraph  
8 (4),

9 (2) by striking the period at the end of para-  
10 graph (5) and inserting “; and”, and

11 (3) by inserting after paragraph (5) the follow-  
12 ing new paragraph:

13 “(6) provides for an entity providing health  
14 services with assistance from the State under this  
15 title taking all reasonable steps—

16 “(A) to ascertain the legal liability of third  
17 parties to pay for such services, and

18 “(B) where such liability is found to exist,  
19 to seek reimbursement for such services.”.

20 (e) EFFECTIVE DATES.—

21 (1) The amendments made by subsections (a),  
22 (b), and (d) shall take effect on April 1, 1995.

23 (2) The amendments made by subsection (c)  
24 shall apply to allotments for years beginning with  
25 fiscal year 1994.

1 **SEC. 5118. MEDICAL CHILD SUPPORT.**

2 (a) STATE PLAN REQUIREMENT.—Section  
3 1902(a)(45) (42 U.S.C. 1396a(a)(45)) is amended by  
4 striking “owed to recipients” and inserting “and have in  
5 effect laws relating to medical child support”.

6 (b) MEDICAL CHILD SUPPORT LAWS.—Section 1912  
7 of such Act (42 U.S.C. 1396k) is amended—

8 (1) by adding at the end of the heading the fol-  
9 lowing: “; REQUIRED LAWS RELATING TO MEDICAL  
10 CHILD SUPPORT”; and

11 (2) by adding at the end the following new sub-  
12 section:

13 “(c) The laws relating to medical child support, which  
14 a State is required to have in effect under section  
15 1902(a)(45), are as follows:

16 “(1) A law that prohibits an insurer from deny-  
17 ing enrollment of a child under the health coverage  
18 of the child’s parent on the ground that the child  
19 was born out of wedlock, on the ground that the  
20 child may not be claimed as a dependent on the par-  
21 ent’s Federal income tax return, or on the ground  
22 that the child does not reside with the parent or in  
23 the insurer’s service area. In this subsection, the  
24 term ‘insurer’ includes a group health plan, as de-  
25 fined in section 607(1) of the Employee Retirement  
26 Income Security Act of 1974, a health maintenance

1 organization, and an entity offering a service benefit  
2 plan.

3 “(2) A law that requires an insurer, in any case  
4 in which a parent is required by court or administra-  
5 tive order to provide health coverage for a child and  
6 the parent is eligible for family health coverage  
7 through the insurer—

8 “(A) to permit such parent, upon applica-  
9 tion and without regard to any enrollment sea-  
10 son restrictions, to enroll the parent and such  
11 child under such family coverage;

12 “(B) if such a parent is enrolled but fails  
13 to make application to obtain coverage of such  
14 child, to enroll such child under such family  
15 coverage upon application by the child’s other  
16 parent or by the State agency administering the  
17 program under this title or part D of title IV;  
18 and

19 “(C) not to disenroll (or eliminate coverage  
20 of) such a child unless the insurer is provided  
21 satisfactory written evidence that—

22 “(i) such court or administrative  
23 order is no longer in effect, or

24 “(ii) the child is or will be enrolled in  
25 comparable health coverage through an-

1           other insurer which will take effect not  
2           later than the effective date of such  
3           disenrollment.

4           “(3) A law that requires an employer doing  
5           business in the State, in the case of health coverage  
6           offered through employment with the employer and  
7           providing coverage of a child of an employee pursu-  
8           ant to a court or administrative order, to withhold  
9           from such employee’s compensation the employee’s  
10          share (if any) of premiums for health coverage (to  
11          the maximum amount permitted under section  
12          303(b) of the Consumer Credit Protection Act) and  
13          to pay such share of premiums to the insurer.

14          “(4) A law that prohibits an insurer from im-  
15          posing requirements upon a State agency, which is  
16          acting as an agent or subrogee of an individual eligi-  
17          ble for medical assistance under this title and cov-  
18          ered for health benefits from the insurer, that are  
19          different from requirements applicable to an agent  
20          or subrogee of any other individual so covered.

21          “(5) A law that requires an insurer, in any case  
22          in which a child has health coverage through the in-  
23          surer of a noncustodial parent—

1           “(A) to provide such information to the  
2           custodial parent as may be necessary for the  
3           child to obtain benefits through such coverage;

4           “(B) to permit the custodial parent (or  
5           provider, with the custodial parent’s approval)  
6           to submit claims for covered services without  
7           the approval of the noncustodial parent; and

8           “(C) to make payment on claims submitted  
9           in accordance with subparagraph (B) directly to  
10          the custodial parent or the provider.

11          “(6) A law that requires the State agency under  
12          this title to garnish the wages, salary, or other em-  
13          ployment income of, and to withhold amounts from  
14          State tax refunds to, any person who—

15               “(A) is required by court or administrative  
16               order to provide coverage of the costs of health  
17               services to a child who is eligible for medical as-  
18               sistance under this title,

19               “(B) has received payment from a third  
20               party for the costs of such services to such  
21               child, but

22               “(C) has not used such payments to reim-  
23               burse, as appropriate, either the other parent or  
24               guardian of such child or the provider of such  
25               services,

1 to the extent necessary to reimburse the State agen-  
2 cy for expenditures for such costs under its plan  
3 under this title, but any claims for current or past-  
4 due child support shall take priority over any such  
5 claims for the costs of such services.”.

6 (c) EFFECTIVE DATE.—(1) Except as provided in  
7 paragraph (2), the amendments made by this section  
8 apply to calendar quarters beginning on or after April 1,  
9 1994, without regard to whether or not final regulations  
10 to carry out such amendments have been promulgated by  
11 such date.

12 (2) In the case of a State plan under title XIX of  
13 the Social Security Act which the Secretary of Health and  
14 Human Services determines requires State legislation in  
15 order for the plan to meet the additional requirements im-  
16 posed by the amendments made by this section, the State  
17 plan shall not be regarded as failing to comply with the  
18 requirements of such title solely on the basis of its failure  
19 to meet these additional requirements before the first day  
20 of the first calendar quarter beginning after the close of  
21 the first regular session of the State legislature that be-  
22 gins after the date of enactment of this Act. For purposes  
23 of the previous sentence, in the case of a State that has  
24 a 2-year legislative session, each year of such session shall



1 be deemed to be a separate regular session of the State  
2 legislature.

3       **PART V—ASSURING PROPER PAYMENTS TO**  
4       **DISPROPORTIONATE SHARE HOSPITALS**

5       **SEC. 5121. ASSURING PROPER PAYMENTS TO DISPROPOR-**  
6       **TIONATE SHARE HOSPITALS.**

7       (a) DISPROPORTIONATE SHARE HOSPITALS RE-  
8 QUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO  
9 MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r-  
10 4) is amended—

11           (1) in subsection (a)(1)(A), by striking “re-  
12 quirement” and inserting “requirements”;

13           (2) in subsection (b)(1), by striking “require-  
14 ment” and inserting “requirements”;

15           (3) in the heading to subsection (d), by striking  
16 “REQUIREMENT” and inserting “REQUIREMENTS”;

17           (4) by adding at the end of subsection (d) the  
18 following new paragraph:

19           “(3) No hospital may be defined or deemed as  
20 a disproportionate share hospital under a State plan  
21 under this title or under subsection (b) or (e) of this  
22 section unless the hospital has a medicaid inpatient  
23 utilization rate (as defined in subsection (b)(2)) of  
24 not less than 1 percent.”;

25           (5) in subsection (e)(1)—

1 (A) by striking “and” before “(B)”, and

2 (B) by inserting before the period at the  
3 end the following: “, and (C) the plan meets the  
4 requirement of subsection (d)(3) and such pay-  
5 ment adjustments are made consistent with the  
6 fourth sentence of subsection (c)”; and

7 (6) in subsection (e)(2)—

8 (A) in subparagraph (A), by inserting  
9 “(other than the fourth sentence of subsection  
10 (c))” after “(c)”,

11 (B) by striking “and” at the end of sub-  
12 paragraph (A),

13 (C) by striking the period at the end of  
14 subparagraph (B) and inserting “, and”, and

15 (D) by adding at the end the following new  
16 subparagraph:

17 “(C) subsection (d)(3) shall apply.”.

18 (b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS  
19 FOR STATE OR COUNTY HOSPITALS TO UNCOVERED  
20 COSTS.—Subsection (c) of such section is amended by  
21 adding at the end the following: “A payment adjustment  
22 during a year is not considered to be consistent with this  
23 subsection with respect to a hospital owned or operated  
24 by a State (or by an instrumentality of or a unit of govern-  
25 ment 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.

1       **Subchapter B—Miscellaneous Provisions**

2       **PART I—ANTI-FRAUD AND ABUSE PROVISIONS**

3       **SEC. 5131. APPLICATION OF MEDICARE RULES LIMITING**  
4               **CERTAIN PHYSICIAN REFERRALS.**

5           (a) IN GENERAL.—Section 1903(i) (42 U.S.C.  
6 1396b(i)), as amended by section 5174(b), is amended—

7               (A) in paragraph (12), by striking or at  
8               the end,

9               (B) in paragraph (13), by striking the pe-  
10              riod at the end and inserting “; or”, and

11              (C) by inserting after paragraph (13) the  
12              following new paragraph:

13              “(14) with respect to any amount expended for  
14              an item or service for which payment would be de-  
15              nied under section 1877(g)(1) if the item or service  
16              were furnished to an individual entitled to benefits  
17              under title XVIII.”.

18           (b) EFFECTIVE DATE.—The amendment made by  
19           subsection (a) shall apply to items and services furnished  
20           on or after October 1, 1993.

21       **SEC. 5132. INTERMEDIATE SANCTIONS FOR KICKBACK VIO-**  
22               **LATIONS.**

23           (a) PENALTY FOR KICKBACKS.—Section 1128A(a)  
24           (42 U.S.C. 1320a–7a(a)) is amended—

1           (1) by striking “or” at the end of paragraphs  
2           (1) and (2);

3           (2) by adding “or” at the end of paragraph (3);

4           (3) by inserting after paragraph (3) the follow-  
5           ing new paragraph:

6           “(4) carries out any activity in violation of  
7           paragraph (1) or (2) of section 1128B(b);”;

8           (4) by striking “given).” at the end of the first  
9           sentence and inserting “given or, in cases under  
10          paragraph (4), \$50,000 for each such violation).”;

11          (5) in the second sentence, by inserting “in  
12          cases under paragraphs (1), (2), and (3),” after “In  
13          addition,”; and

14          (6) by inserting after the second sentence, the  
15          following new sentence: “In cases under paragraph  
16          (4), such a person shall be subject to an assessment  
17          of not more than twice the total amount of the re-  
18          muneration offered, paid, solicited, or received in  
19          violation of section 1128B(b), determined without  
20          regard to whether a portion of such remuneration  
21          was offered, paid, solicited, or received for a lawful  
22          purpose.”.

23          (b) AUTHORIZATION TO ACT.—The first sentence of  
24          section 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is  
25          amended by striking all that follows “(b)” and inserting

1 the following: “unless, within one year after the date the  
2 Secretary presents a case to the Attorney General for con-  
3 sideration, the Attorney General brings an action in a dis-  
4 trict court of the United States.”.

5 (c) EFFECTIVE DATES.—

6 (1) The amendments made by subsection (a)  
7 shall apply to remuneration offered, paid, solicited,  
8 or received before, on, or after the date of the enact-  
9 ment of this Act.

10 (2) The amendment made by subsection (b)  
11 shall apply to cases presented by the Secretary of  
12 Health and Human Services for consideration on or  
13 after the date of the enactment of this Act.

14 **SEC. 5133. REQUIRING MAINTENANCE OF EFFORT FOR**  
15 **STATE MEDICAID FRAUD CONTROL UNITS.**

16 (a) IN GENERAL.—Section 1902(a)(49) (42 U.S.C.  
17 1396a(a)(49)) is amended—

18 (1) by inserting “(A)” after “(49)”, and

19 (2) by adding at the end the following new sub-  
20 paragraph:

21 “(B) provide that the State will expend for its  
22 medicaid fraud and abuse control unit (as defined in  
23 section 1903(q)), for each State fiscal year, an  
24 amount that is not less than the amount expended  
25 for such unit in the State fiscal year that ended in

1       1992 adjusted to reflect the percentage increase in  
2       total expenditures under the State plan between  
3       such State fiscal year and the State fiscal year in-  
4       volved;”.

5       (b) EFFECTIVE DATE.—The amendments made by  
6       subsection (a) shall apply to State fiscal years ending after  
7       1993.

8               **PART II—MANAGED CARE PROVISIONS**

9       **SEC. 5135. MEDICAID MANAGED CARE ANTI-FRAUD PROVI-**  
10               **SIONS.**

11       (a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS  
12       DEBARRED BY FEDERAL AGENCIES.—

13               (1) IN GENERAL.—Section 1903(m) (42 U.S.C.  
14       1396b(m)) is amended—

15                       (A) in paragraph (2)(A)—

16                               (i) by striking “and” at the end of  
17                               clause (x),

18                               (ii) by striking the period at the end  
19                               of clause (xi) and inserting “; and”, and

20                               (iii) by adding at the end the follow-  
21                               ing new clause:

22                               “(xii) the entity complies with the requirements  
23       of paragraph (3) (relating to certain protections  
24       against fraud and abuse).”;

1 (B) in paragraph (2)(B), as amended by  
2 section 5158(b), by striking “clause (ix)” and  
3 inserting “clauses (ix) and (xii)”;

4 (C) by inserting after paragraph (2) the  
5 following new paragraph:

6 “(3)(A)(i) A health maintenance organization may  
7 not have a person described in clause (iv) as a director,  
8 officer, partner, or person with beneficial ownership of  
9 more than 5 percent of organization’s equity.

10 “(ii) A health maintenance organization may not have  
11 an employment, consulting, or other agreement with a per-  
12 son described in clause (iv) for the provision of goods and  
13 services that are significant and material to the organiza-  
14 tion’s obligations under its contract with the State de-  
15 scribed in paragraph (2)(A)(iii).

16 “(iii) If a health maintenance organization is not in  
17 compliance with clause (i) or clause (ii)—

18 “(I) a State may continue an existing agree-  
19 ment with the organization unless the Secretary (in  
20 consultation with the Inspector General of the De-  
21 partment of Health and Human Services) directs  
22 otherwise; and

23 “(II) a State may not renew or otherwise ex-  
24 tend the duration of an existing agreement with the  
25 organization unless the Secretary (in consultation



1 with the Inspector General of the Department of  
2 Health and Human Services) provides a written  
3 statement describing compelling reasons that exist  
4 for renewing or extending the agreement.

5 “(iv) A person described in this clause is a person  
6 that—

7 “(I) is debarred or suspended by the Federal  
8 Government, pursuant to the Federal acquisition  
9 regulation, from Government contracting and sub-  
10 contracting, or

11 “(II) is an affiliate (within the meaning of the  
12 Federal acquisition regulation) of a person described  
13 in subclause (I).”.

14 (2) EFFECTIVE DATE.—The amendments made  
15 by paragraph (1) shall apply to agreements between  
16 a State and an entity under section 1903(m) of the  
17 Social Security Act entered into or renewed on or  
18 after October 1, 1993, without regard to whether  
19 regulations to carry out such amendments are pro-  
20 mulgated by such date.

21 (b) REQUIREMENT FOR STATE CONFLICT-OF-INTER-  
22 EST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

23 (1) IN GENERAL.—Section 1903(m)(2)(A) (42  
24 U.S.C. 1396b(m)(2)(A)), as amended by subsection  
25 (a)(1)(C), is amended—

1 (A) by striking “and” at the end of clause  
2 (xi),

3 (B) by striking the period at the end of  
4 clause (xii) and inserting “; and”, and

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

7 “(xiii) the State certifies to the Secretary that  
8 it has in effect conflict-of-interest safeguards with  
9 respect to officers and employees of the State with  
10 responsibility with respect to contracts with organi-  
11 zations under this subsection that are at least as ef-  
12 fective as the Federal safeguards, provided under  
13 section 27 of the Office of Federal Procurement Pol-  
14 icy Act (41 U.S.C. 423), against conflicts of interest  
15 that apply with respect to Federal procurement offi-  
16 cials with comparable responsibilities with respect to  
17 such contracts.”.

18 (2) EFFECTIVE DATE.—The amendments made  
19 by paragraph (1) shall apply as of July 1, 1994,  
20 without regard to whether regulations to carry out  
21 such amendments are promulgated by such date.

22 (c) REQUIRING DISCLOSURE OF FINANCIAL INFOR-  
23 MATION.—

1           (1) IN GENERAL.—Section 1903(m)(3), as in-  
2       serted by subsection (a)(1)(C), is amended by add-  
3       ing at the end the following new subparagraph:

4       “(B) The contract between the State and an entity  
5       referred to in paragraph (2)(A)(iii) shall provide that—

6           “(i) the entity agrees to report to the State  
7       such financial information as the Secretary or the  
8       State may require to demonstrate that the entity has  
9       a fiscally sound operation; and

10          “(ii) the entity agrees to make available to its  
11       enrollees upon reasonable request—

12           “(I) the information reported under para-  
13       graph (1),

14           “(II) the information required to be dis-  
15       closed under sections 1124 and 1126, and

16           “(III) a description of each transaction,  
17       described in subparagraphs (A) through (C) of  
18       section 1318(a)(3) of the Public Health Service  
19       Act, between the entity and a party in interest  
20       (as defined in section 1318(b) of such Act).”.

21       (2) EFFECTIVE DATE.—The amendment made  
22       by paragraph (1) shall apply to contract years begin-  
23       ning on or after October 1, 1993, without regard to  
24       whether regulations to carry out such amendments  
25       are promulgated by such date, with respect to infor-

1       mation reported or required to be disclosed, or  
2       transactions occurring, before, on, or after such  
3       date.

4       (d) PROHIBITING MARKETING FRAUD.—

5           (1) IN GENERAL.—Section 1903(m)(3), as in-  
6       serted by subsection (a)(1) and as amended by sub-  
7       section (c)(1), is amended by adding at the end the  
8       following new subparagraph:

9       “(C) The contract between the State and an entity  
10      referred to in paragraph (2)(A)(iii) shall provide that the  
11      entity agrees to comply with such procedures and condi-  
12      tions as the Secretary prescribes in order to ensure that,  
13      before an individual is enrolled with the entity, the individ-  
14      ual is provided accurate and sufficient information to  
15      make an informed decision whether or not to enroll.”.

16           (2) EFFECTIVE DATE.—The amendment made  
17      by paragraph (1) shall apply to contract years that  
18      begin on or after October 1, 1993, without regard  
19      to whether regulations to carry out such amendment  
20      are promulgated by such date.

21       (e) REQUIRING ADEQUATE EQUITY FOR FOR-PROFIT  
22      ENTITIES.—

23           (1) IN GENERAL.—Section 1903(m)(3), as pre-  
24      viously amended by this section, is further amended

1 by adding at the end the following new subpara-  
2 graph:

3 “(D)(i) The contract between the State and an entity  
4 referred to in paragraph (2)(A)(iii) shall require, in the  
5 case of a for-profit entity, that the entity shall maintain  
6 an average ratio of—

7 “(I) equity capital to

8 “(II) payments made by the State to the entity  
9 under the contract on a capitation basis or any other  
10 risk basis,

11 of not less than such minimum ratio as the Secretary shall  
12 specify.

13 “(ii) The contract between the State and a non-profit  
14 entity referred to in paragraph (2)(A)(iii) shall require  
15 that no payment shall be made directly or indirectly under  
16 an agreement between the non-profit entity and a related  
17 for-profit entity (as defined by the Secretary) unless the  
18 for-profit entity maintains an average ratio of equity cap-  
19 ital to payments under such agreement of not less than  
20 such ratio as the Secretary shall specify.”.

21 (2) EFFECTIVE DATE.—The amendment made  
22 by paragraph (1) shall apply to contract years begin-  
23 ning on or after July 1, 1994, without regard to  
24 whether regulations to carry out such amendment  
25 are promulgated by such date.

1       (f) REQUIRING ADEQUATE PROVISION AGAINST RISK  
2 OF INSOLVENCY.—

3           (1) IN GENERAL.—Section 1903(m)(1)(A)(ii)  
4 (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by in-  
5 serting “, which meets such standards as the Sec-  
6 retary shall prescribe” after “satisfactory to the  
7 State”.

8           (2) EFFECTIVE DATE AND TRANSITION.—(A)  
9 The amendment made by paragraph (1) shall apply  
10 to contract years beginning on or after July 1, 1994,  
11 without regard to whether regulations to carry out  
12 such amendments are promulgated by such date.

13           (B) If the Secretary of Health and Human  
14 Services has not promulgated standards to carry out  
15 the amendment made by paragraph (1) by July 1,  
16 1994, until such standards have been promulgated a  
17 provision of a health maintenance organization  
18 against the risk of insolvency shall not be considered  
19 to meet standards prescribed by the Secretary, for  
20 purposes of section 1903(m)(1)(A)(ii) of the Social  
21 Security Act, unless such provision has been found  
22 satisfactory by the Secretary under section  
23 1876(b)(2)(E) of such Act.

24       (g) REQUIRING REPORT ON NET EARNINGS AND AD-  
25 DITIONAL BENEFITS.—

1           (1) IN GENERAL.—Section 1903(m)(3), as pre-  
2           viously amended by this section, is amended by add-  
3           ing at the end the following new subparagraph:

4           “(E) The contract between the State and an entity  
5           referred to in paragraph (2)(A)(iii) shall provide that the  
6           entity shall submit a report to the State and the Secretary  
7           not later than 12 months after the close of a contract year  
8           containing—

9           “(i) a financial statement of the entity’s net  
10          earnings under the contract during the contract  
11          year, which statement has been audited using audit-  
12          ing standards established by the Secretary in con-  
13          sultation with the States; and

14          “(ii) a description of any benefits that are in  
15          addition to the benefits required to be provided  
16          under the contract that were provided during the  
17          contract year to members enrolled with the entity  
18          and entitled to medical assistance under the plan.”.

19          (2) EFFECTIVE DATE.—The amendment made  
20          by paragraph (1) shall apply to contract years begin-  
21          ning on or after October 1, 1993, without regard to  
22          whether regulations to carry out such amendments  
23          are promulgated by such date.

24          (h) REPORT ON NET EARNINGS OF CONTRACTORS.—  
25          Not later than 6 months after the date of the enactment

1 of this Act, the Secretary of Health and Human Services  
2 shall submit a report to Congress on the earnings of orga-  
3 nizations with contracts to receive payment for providing  
4 medical assistance under title XIX of the Social Security  
5 Act on a prepaid capitation or any other risk basis. The  
6 report shall include the Secretary's recommendations on  
7 options for requiring such organizations, as a condition  
8 of participation under such title, to dedicate a portion of  
9 such earnings to the provision of additional benefits to in-  
10 dividuals enrolled with the organization.

11 **SEC. 5136. CLARIFICATION OF TREATMENT OF HMO EN-**  
12 **ROLLEES IN COMPUTING THE MEDICAID IN-**  
13 **PATIENT UTILIZATION RATE IN QUALIFYING**  
14 **HOSPITALS AS DISPROPORTIONATE SHARE**  
15 **HOSPITALS.**

16 (a) IN GENERAL.—Section 1923(b)(2) (42 U.S.C.  
17 1396r-4(b)(2)) is amended by inserting before the period  
18 at the end the following: “and whether or not the individ-  
19 ual is enrolled with an entity contracting with the State  
20 on a prepaid capitation basis or other risk basis under sec-  
21 tion 1903(m)”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall apply to payments to States under sec-  
24 tion 1903(a) of the Social Security Act for payments to  
25 hospitals made under State plans on and after the first



1 day of the first calendar quarter beginning after the date  
2 of the enactment of this Act.

3 **SEC. 5137. EXTENSION OF PERIOD OF APPLICABILITY OF**  
4 **ENROLLMENT MIX REQUIREMENT TO CER-**  
5 **TAIN HEALTH MAINTENANCE ORGANIZA-**  
6 **TIONS PROVIDING SERVICES UNDER DAYTON**  
7 **AREA HEALTH PLAN.**

8 Section 2 of Public Law 102–276 is amended by  
9 striking “January 31, 1994” and inserting “December 31,  
10 1995”.

11 **SEC. 5138. EXTENSION OF MEDICAID WAIVER FOR TEN-**  
12 **NESSEE PRIMARY CARE NETWORK.**

13 Section 6411(f) of the Omnibus Budget Reconcili-  
14 ation Act of 1989, as amended by section 1 of Public Law  
15 102–317, is amended by striking “January 31, 1994” and  
16 inserting “December 31, 1995”.

17 **SEC. 5139. WAIVER OF APPLICATION OF MEDICAID EN-**  
18 **ROLLMENT MIX REQUIREMENT TO DISTRICT**  
19 **OF COLUMBIA CHARTERED HEALTH PLAN,**  
20 **INC.**

21 (a) IN GENERAL.—The Secretary of Health and  
22 Human Services shall waive the application of the require-  
23 ment described in section 1903(m)(2)(A)(ii) of the Social  
24 Security Act to the entity known as the District of Colum-  
25 bia Chartered Health Plan, Inc., for the period described

1 in subsection (b), if the Secretary determines that the en-  
2 tity is making continuous efforts and progress toward  
3 achieving compliance with such requirement.

4 (b) PERIOD OF APPLICABILITY.—The period referred  
5 to in subsection (a) is the period that begins on October  
6 1, 1992, and ends on December 31, 1995.

7 **SEC. 5140. EXTENSION OF MINNESOTA PREPAID MEDICAID**  
8 **DEMONSTRATION PROJECT.**

9 (a) IN GENERAL.—Section 507 of the Family Sup-  
10 port Act of 1988, as amended by section 6411(j) of  
11 OBRA–1989 and by section 4733 of OBRA–1990, is  
12 amended by striking “1996” and inserting “1998”.

13 (b) AUTHORITY TO IMPOSE PREMIUM.—

14 (1) IN GENERAL.—Notwithstanding section  
15 1916 of the Social Security Act and subject to para-  
16 graph (2), the State of Minnesota may impose a pre-  
17 mium on individuals receiving medical assistance  
18 under the Minnesota Prepaid Demonstration Project  
19 operated under a waiver granted by the Secretary of  
20 Health and Human Services under section 1115(a)  
21 of the Social Security Act and other individuals eligi-  
22 ble under the State’s plan for medical assistance  
23 under title XIX of such Act.

24 (2) LIMITATION ON AMOUNT OF PREMIUM.—In  
25 no case may the amount of any premium imposed on

1 an individual receiving medical assistance under the  
2 State plan or under the Demonstration Project de-  
3 scribed in paragraph (1) exceed 10 percent of the  
4 amount by which the family income (less expenses  
5 for the care of a dependent child) of the individual  
6 exceeds 110 percent of the income official poverty  
7 line (as defined by the Office of Management and  
8 Budget), and revised annually in accordance with  
9 section 673(2) of the Omnibus Budget Reconcili-  
10 ation Act of 1981) applicable to a family of the size  
11 involved.

12 **PART III—EMERGENCY SERVICES TO**  
13 **UNDOCUMENTED ALIENS**

14 **SEC. 5141. INCREASE IN FEDERAL FINANCIAL PARTICIPA-**  
15 **TION FOR EMERGENCY MEDICAL ASSIST-**  
16 **ANCE TO UNDOCUMENTED ALIENS.**

17 (a) IN GENERAL.—Section 1905(b) (42 U.S.C.  
18 1396d(b)) is amended by adding at the end the following:  
19 “Notwithstanding the first sentence of this section, sub-  
20 ject to 1903(v)(4), the Federal medical assistance percent-  
21 age shall be 100 per centum with respect to amounts ex-  
22 pended by an eligible State in a covered fiscal year (as  
23 defined in section 1903(v)(4)(C)) as medical assistance for  
24 care and services described in section 1903(v)(2) to aliens  
25 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.

1       “(iii) In the case of an eligible State which notifies  
2 the Secretary that an amount of its allotment will not be  
3 used by the State under this paragraph, the State’s allot-  
4 ment shall be reduced by such amount and such amount  
5 shall be redistributed among the other eligible States in  
6 proportion to the amount otherwise allotted to such State  
7 under clause (ii).

8       “(C) For purposes of this paragraph and the fourth  
9 sentence of section 1905(b):

10           “(i) The term ‘eligible State’ means a State—

11                   “(I) with a plan approved under this title  
12                   (including a State which is providing medical  
13                   assistance to its residents under a statewide  
14                   waiver granted under section 1115), and

15                   “(II) for which its allotment for fiscal year  
16                   1993 under section 204 of the Immigration Re-  
17                   form and Control Act of 1986 is at least 1 per-  
18                   cent of the total of such allotments for all the  
19                   States for fiscal year 1993.

20           “(ii) The term ‘covered fiscal year’ means only  
21           fiscal year 1994.

22       “(D) Nothing in this paragraph or the fourth sen-  
23 tence of section 1905(b) shall be construed as establishing  
24 entitlement authority (within the meaning of section 3(9)

1 of the Congressional Budget Act of 1974) for any fiscal  
2 year other than a covered fiscal year.”.

3 **SEC. 5142. LIMITING FEDERAL MEDICAID MATCHING PAY-**  
4 **MENT TO BONA FIDE EMERGENCY SERVICES**  
5 **FOR UNDOCUMENTED ALIENS.**

6 (a) IN GENERAL.—Section 1903(v)(2) (42 U.S.C.  
7 1396b(v)(2)) is amended—

8 (1) by striking “and” at the end of subpara-  
9 graph (A),

10 (2) by striking the period at the end of sub-  
11 paragraph (B) and inserting “, and”, and

12 (3) by adding at the end the following new sub-  
13 paragraph:

14 “(C) such care and services are not related to  
15 an organ transplant procedure.”.

16 (b) EFFECTIVE DATE.—(1) Subject to paragraph  
17 (2), the amendments made by subsection (a) shall apply  
18 as if included in the enactment of OBRA–1986.

19 (2) The Secretary of Health and Human Services  
20 shall not disallow expenditures made for the care and serv-  
21 ices described in section 1903(v)(2)(C) of the Social Secu-  
22 rity Act, as added by subsection (a), furnished before the  
23 date of the enactment of this Act.

1       **PART IV—MISCELLANEOUS PROVISIONS**

2       **SEC. 5144. INCREASE IN LIMIT ON FEDERAL MEDICAID**  
3                   **MATCHING PAYMENTS TO PUERTO RICO AND**  
4                   **OTHER TERRITORIES.**

5       (a) IN GENERAL.—Paragraphs (1) through (5) of  
6 section 1108(c) (42 U.S.C. 1308(c)) are amended to read  
7 as follows:

8           “(1) Puerto Rico shall not exceed (A)  
9       \$104,000,000 for fiscal year 1994 and (B) for each  
10       succeeding fiscal year the amount provided in this  
11       paragraph for the preceding fiscal year increased by  
12       the percentage increase in the medical care compo-  
13       nent of the consumer price index for all urban con-  
14       sumers (as published by the Bureau of Labor Statis-  
15       tics) for the twelve-month period ending in March  
16       preceding the beginning of the fiscal year, rounded  
17       to the nearest \$100,000;

18           “(2) the Virgin Islands shall not exceed (A)  
19       \$3,425,000 for fiscal year 1994, and (B) for each  
20       succeeding fiscal year the amount provided in this  
21       paragraph for the preceding fiscal year increased by  
22       the percentage increase referred to in paragraph  
23       (1)(B), rounded to the nearest \$10,000;

24           “(3) Guam shall not exceed (A) \$3,290,000 for  
25       fiscal year 1994, and (B) for each succeeding fiscal  
26       year the amount provided in this paragraph for the

1 preceding fiscal year increased by the percentage in-  
 2 crease referred to in paragraph (1)(B), rounded to  
 3 the nearest \$10,000;

4 “(4) Northern Mariana Islands shall not exceed  
 5 (A) \$990,000 for fiscal year 1994, and (B) for each  
 6 succeeding fiscal year the amount provided in this  
 7 paragraph for the preceding fiscal year increased by  
 8 the percentage increase referred to in paragraph  
 9 (1)(B), rounded to the nearest \$10,000; and

10 “(5) American Samoa shall not exceed (A)  
 11 \$1,910,000 for fiscal year 1994, and (B) for each  
 12 succeeding fiscal year the amount provided in this  
 13 paragraph for the preceding fiscal year increased by  
 14 the percentage increase referred to in paragraph  
 15 (1)(B), rounded to the nearest \$10,000.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
 17 subsection (a) shall apply beginning with fiscal year 1994.

18 **SEC. 5145. CRITERIA FOR MAKING DETERMINATIONS OF**  
 19 **DENIAL OF FEDERAL MEDICAID MATCHING**  
 20 **PAYMENTS TO STATES.**

21 (a) IN GENERAL.—Section 1903 (42 U.S.C. 1396b)  
 22 is amended by adding at the end the following new sub-  
 23 section:

24 “(x)(1) In any case in which the Secretary proposes  
 25 to disallow under section 1116(d) a claim by a State under



1 this section and the State exercises its right of reconsider-  
2 ation under section 1116(d), the Departmental Appeals  
3 Board established in the Department of Health and  
4 Human Services shall, if such Board upholds the basis for  
5 the disallowance, determine whether the amount of the  
6 disallowance should be reduced. In making this determina-  
7 tion, the Board shall take into account (to the extent the  
8 State makes a showing) factors which shall include—

9           “(A) the nature of the basis for the disallow-  
10        ance;

11           “(B) whether the amount of the disallowance is  
12        proportionate to the error or deficiency on which the  
13        disallowance is based;

14           “(C) whether the basis of the disallowance con-  
15        stitutes noncompliance that prevented or materially  
16        affected the provision of appropriate services to indi-  
17        viduals eligible under this title; or

18           “(D) whether Federal guidance with respect to  
19        the action that is the basis for the proposed dis-  
20        allowance was insufficient and the State made good  
21        faith efforts to conform its action to the intent of  
22        the applicable Federal statute or regulation.

23        “(2) No disallowance shall be taken or upheld if the  
24        action of the State on which the disallowance would be  
25        based is consistent with its approved State plan.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to disallowances made after the  
3 date of the enactment of this Act and shall take effect  
4 without regard to the promulgation of implementing regu-  
5 lations.

6 **SEC. 5146. RENEWAL OF UNFUNDED DEMONSTRATION**  
7 **PROJECT FOR LOW-INCOME PREGNANT**  
8 **WOMEN AND CHILDREN.**

9 (a) IN GENERAL.—Section 6407 of OBRA-89 is  
10 amended—

11 (1) in subsection (d), by striking “3 years” and  
12 inserting “5 years”;

13 (2) in subsection (f), by striking “\$10,000,000  
14 in each of fiscal years 1990, 1991, and 1992” and  
15 inserting “\$30,000,000”; and

16 (3) in subsection (g)(2), by striking “January  
17 1, 1994” and inserting “one year after the termi-  
18 nation of the demonstration projects”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 subsection (a) shall take effect as if included in the enact-  
21 ment of OBRA-89.

1 **SEC. 5147. OPTIONAL MEDICAID COVERAGE OF TB-RELAT-**  
2 **ED SERVICES FOR CERTAIN TB-INFECTED IN-**  
3 **DIVIDUALS.**

4 (a) COVERAGE AS OPTIONAL, CATEGORICALLY  
5 NEEDY GROUP.—Section 1902(a)(10)(A)(ii) (42 U.S.C.  
6 1396a(a)(10)(A)(ii)) is amended—

7 (1) by striking “or” at the end of subclause  
8 (X),

9 (2) by adding “or” at the end of subclause  
10 (XI), and

11 (3) by adding at the end the following new  
12 subclause:

13 “(XII) who are described in sub-  
14 section (z)(1) (relating to certain TB-  
15 infected individuals);”.

16 (b) GROUP AND BENEFIT DESCRIBED.—Section  
17 1902 is amended by adding at the end the following new  
18 subsection:

19 “(z)(1) Individuals described in this paragraph are  
20 individuals not described in subsection (a)(10)(A)(i)—

21 “(A) who have tested positively to be infected  
22 with tuberculosis;

23 “(B) whose income (as determined under the  
24 State plan under this title with respect to disabled  
25 individuals) does not exceed the maximum amount  
26 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.”.

1 (c) LIMITATION ON BENEFITS.—Section  
2 1902(a)(10), as amended by section 5162(a), is amended,  
3 in the matter following subparagraph (F)—

4 (1) by striking “, and (XII)” and inserting “,  
5 (XII)”, and

6 (2) by inserting before the semicolon at the end  
7 the following: “, and (XIII) the medical assistance  
8 made available to an individual described in sub-  
9 section (z)(1) who is eligible for medical assistance  
10 only because of subparagraph (A)(ii)(XII) shall be  
11 limited to medical assistance for TB-related services  
12 (as defined in subsection (z)(2))”.

13 (d) CONFORMING EXPANSION OF CASE MANAGE-  
14 MENT SERVICES OPTION.—Section 1915(g)(1) (42 U.S.C.  
15 1396n(g)(1)) is amended by inserting “or to individuals  
16 described in section 1902(z)(1)(A),” after “or with ei-  
17 ther,”.

18 (e) CONFORMING AMENDMENT.—Section 1905(a)  
19 (42 U.S.C. 1396d(a)) is amended—

20 (1) by striking “or” at the end of clause (ix),

21 (2) by adding “or” at the end of clause (x),

22 (3) by inserting after clause (x) the following  
23 new clause:

24 “(xi) individuals described in section  
25 1902(z)(1),”, and

1           (4) by amending paragraph (19) to read as fol-  
2       lows:

3           “(19) case management services (as defined in  
4       section 1915(g)(2)) and TB-related services de-  
5       scribed in section 1902(z)(2)(F);”.

6       (f) EFFECTIVE DATE.—The amendments made by  
7       this section shall apply to medical assistance furnished on  
8       or after January 1, 1994, without regard to whether or  
9       not final regulations to carry out such amendments have  
10      been promulgated by such date.

11   **SEC. 5148. APPLICATION OF MAMMOGRAPHY CERTIFI-**  
12                   **CATION REQUIREMENTS UNDER THE MEDIC-**  
13                   **AID PROGRAM.**

14       (a) IN GENERAL.—Section 1902(a)(9) (42 U.S.C.  
15   1396a(a)(9)) is amended—

16           (1) by striking “and” at the end of subpara-  
17       graph (B),

18           (2) by striking the semicolon at the end of sub-  
19       paragraph (C) and inserting “, and”, and

20           (3) by adding at the end the following new sub-  
21       paragraph:

22           “(D) that any mammography paid for  
23       under such plan must be conducted by a facility  
24       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

1 of such session shall be deemed to be a separate regular  
2 session of the State legislature.

3 **SEC. 5149. REMOVAL OF SUNSET ON EXTENSION OF ELIGI-**  
4 **BILITY FOR WORKING FAMILIES.**

5 Subsection (f) of section 1925 (42 U.S.C. 1396r-6)  
6 is repealed.

7 **SEC. 5150. EXTENSION OF MORATORIUM ON TREATMENT**  
8 **OF CERTAIN FACILITIES AS INSTITUTIONS**  
9 **FOR MENTAL DISEASES.**

10 Effective as if included in the enactment of OBRA-  
11 1989, section 6408(a)(3) of such Act is amended by strik-  
12 ing “180 days” and all that follows and inserting “Decem-  
13 ber 31, 1995.”.

14 **SEC. 5150A. TREATMENT OF CERTAIN CLINICS AS FEDER-**  
15 **ALLY-QUALIFIED HEALTH CENTERS.**

16 (a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C.  
17 1396d(l)(2)(B)), as amended by section 5158(c), is  
18 amended—

19 (1) by striking “or” at the end of clause

20 (ii)(II),

21 (2) by adding “or” at the end of clause (iii),

22 and

23 (3) by inserting after clause (iii) the following

24 new clause:



1           “(iv) was treated by the Secretary, for purposes  
2           of part B of title XVIII, as a comprehensive Feder-  
3           ally funded health center as of January 1, 1990;”.

4           (b) EFFECTIVE DATE.—The amendments made by  
5           subsection (a) shall apply to calendar quarters beginning  
6           on or after July 1, 1993.

7   **SEC. 5150B. NURSING HOME REFORM.**

8           (a) SUSPENSION OF DECERTIFICATION OF NURSE  
9           AIDE TRAINING AND COMPETENCY EVALUATION PRO-  
10          GRAMS BASED ON EXTENDED SURVEYS.—

11           (1)               IN               GENERAL.—Section  
12          1919(f)(2)(B)(iii)(I)(b)               (42               U.S.C.  
13          1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the  
14          semicolon and inserting the following: “, unless the  
15          survey shows that the facility is in compliance with  
16          the requirements of subsections (b), (c), and (d) of  
17          this section;”.

18           (2) EFFECTIVE DATE.—The amendment made  
19          by paragraph (1) shall take effect as included in the  
20          enactment of OBRA–1990.

21          (b) REQUIREMENTS FOR CONSULTANTS CONDUCT-  
22          ING REVIEWS OF USE OF DRUGS.—

23           (1) IN GENERAL.—Section 1919(c)(1)(D) (42  
24          U.S.C. 1396r(c)(1)(D)) is amended by adding at the  
25          end the following sentence: “In determining whether

1       such a consultant is qualified to conduct reviews  
2       under the previous sentence, the Secretary shall take  
3       into account the needs of nursing facilities under  
4       this title to have access to the services of such a con-  
5       sultant on a timely basis.”.

6           (2) EFFECTIVE DATE.—The amendment made  
7       by paragraph (1) shall take effect as included in the  
8       enactment of OBRA–1987.

9       (c) INCREASE IN MINIMUM AMOUNT REQUIRED FOR  
10      SEPARATE DEPOSIT OF PERSONAL FUNDS.—

11           (1) IN GENERAL.—Section 1919(c)(6)(B)(i) (42  
12      U.S.C. 1396r(c)(6)(B)(i)) is amended by striking  
13      “\$50” and inserting “\$100”.

14           (2) EFFECTIVE DATE.—The amendment made  
15      by paragraph (1) shall take effect October 1, 1993.

16      (d) DUE PROCESS PROTECTIONS FOR NURSE  
17      AIDES.—

18           (1) PROHIBITING STATE FROM INCLUDING UN-  
19      DOCUMENTED ALLEGATIONS IN NURSE AIDE REG-  
20      ISTRY.—Section 1919(e)(2)(B) (42 U.S.C.  
21      1396r(e)(2)(B)) is amended by striking the period at  
22      the end of the first sentence and inserting the fol-  
23      lowing: “, but shall not include any allegations of  
24      resident abuse or neglect or misappropriation of

1 resident property that are not specifically docu-  
 2 mented by the State under such subsection.”.

3 (2) DUE PROCESS REQUIREMENTS FOR REBUT-  
 4 TING ALLEGATIONS.—Section 1919(g)(1)(C) (42  
 5 U.S.C. 1396r(g)(1)(C)) is amended by striking the  
 6 second sentence and inserting the following: “The  
 7 State shall, after providing the individual involved  
 8 with a written notice of the allegations (including a  
 9 statement of the availability of a hearing for the in-  
 10 dividual to rebut the allegations) and the oppor-  
 11 tunity for a hearing on the record, make a written  
 12 finding as to the accuracy of the allegations.”.

13 (3) EFFECTIVE DATE.—The amendments made  
 14 by this subsection shall take effect October 1, 1993.

15 **Subchapter C—Miscellaneous and Technical**  
 16 **Corrections Relating to OBRA-1990**

17 **SEC. 5151. EFFECTIVE DATE.**

18 Except as otherwise provided, the amendments made  
 19 by this subchapter shall take effect as if included in the  
 20 enactment of OBRA-1990.

21 **SEC. 5152. CORRECTIONS RELATING TO SECTION 4402 (EN-**  
 22 **ROLLMENT UNDER GROUP HEALTH PLANS).**

23 Section 4402(b) of OBRA-1990 is amended by strik-  
 24 ing “1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))”

1 and inserting “1903(u)(1)(D)(iv) (42 U.S.C.  
2 1396b(u)(1)(D)(iv))”.

3 **SEC. 5153. CORRECTIONS RELATING TO SECTION 4501**  
4 **(LOW-INCOME MEDICARE BENEFICIARIES).**

5 (a) Section 1902(a)(10)(E)(iii), as added by section  
6 4501(b)(3) of OBRA–1990, is amended by striking “cost  
7 sharing” and inserting “cost-sharing”.

8 (b) Section 1905(p)(4)(B), as amended by section  
9 4501(c)(1) of OBRA–1990, is amended by striking  
10 “1902(a)(10)(E)(iii)” and inserting “section  
11 1902(a)(10)(E)(iii)”.

12 **SEC. 5154. CORRECTIONS RELATING TO SECTION 4601**  
13 **(CHILD HEALTH).**

14 (a) Section 1902(a)(10)(A)(i)(VII), as added by sec-  
15 tion 4601(a)(10)(A)(iii) of OBRA–1990, is amended by  
16 striking “family;” and inserting “family; and”.

17 (b) Section 1902(l), as amended by section  
18 4601(a)(1)(C) of OBRA–1990, is amended—

19 (1) in paragraph (1)(C), by striking “children”  
20 after “(C)”;

21 (2) in paragraph (3), by striking  
22 “(a)(10)(A)(i)(VII),,” and inserting  
23 “(a)(10)(A)(i)(VII),”; and

24 (3) in paragraph (4)(B), by inserting a comma  
25 before “(a)(10)(A)(i)(VI),”.

1 (c) Subsections (a)(3)(C) and (b)(3)(C)(i) of section  
2 1925, as amended by section 4601(a) of OBRA-1990, are  
3 each amended by striking “(i)(VI)” and inserting  
4 “(i)(VI),”.

5 **SEC. 5155. CORRECTIONS RELATING TO SECTION 4602 (OUT-**  
6 **REACH LOCATIONS).**

7 (a) Section 1902(a)(55), as added by section  
8 4602(a)(3) of OBRA-1990, is amended—

9 (1) in the matter preceding subparagraph (A)—

10 (A) by striking “subsection” and inserting  
11 “paragraph”, and

12 (B) by striking “(a)” each place it ap-  
13 pears; and

14 (2) in subparagraph (A), by striking  
15 “1905(1)(2)(B)” and inserting “1905(l)(2)(B)”.

16 (b) Section 1902(l)(1) is amended by striking “who  
17 are not described in any of subclauses (I) through (III)  
18 of subsection (a)(10)(A)(i) and”.

19 **SEC. 5156. CORRECTIONS RELATING TO SECTION 4604 (PAY-**  
20 **MENT FOR HOSPITAL SERVICES FOR CHIL-**  
21 **DREN UNDER 6 YEARS OF AGE).**

22 (a) Section 1902(a)(10) is amended in clause (X) in  
23 the matter following subparagraph (F) by striking “under  
24 one year of age” and inserting “under 6 years of age”.

1 (b) Section 1902(s), as added by section 4604(a) of  
2 OBRA–1990, is amended to read as follows:

3 “(s) In order to meet the requirements of subsection  
4 (a)(56), the State plan must provide that payments to hos-  
5 pitals under the plan for inpatient services furnished to  
6 infants who have not attained the age of 1 year (or, in  
7 the case of such an individual who is an inpatient on his  
8 first birthday, until such individual is discharged) shall—

9 “(1) if made on a prospective basis (whether  
10 per diem, per case, or otherwise) provide for an  
11 outlier adjustment in payment amounts for medi-  
12 cally necessary inpatient hospital services involving  
13 exceptionally high costs or exceptionally long lengths  
14 of stay;

15 “(2) not be limited by the imposition of day  
16 limits; and

17 “(3) not be limited by the imposition of dollar  
18 limits (other than dollar limits resulting from pro-  
19 spective payments as adjusted pursuant to para-  
20 graph (1)).”.

21 (c) Section 1923(a)(2)(C) is amended by striking  
22 “provided on or after July 1, 1989,” and all that follows  
23 and inserting the following: “involving exceptionally high  
24 costs or exceptionally long lengths of stay—

1 “(i) for individuals under 1 year of age, in the  
2 case of services provided on or after July 1, 1989,  
3 and on or before June 30, 1991; and

4 “(ii) for individuals under 6 years of age, in the  
5 case of services provided on or after July 1, 1991.”.

6 **SEC. 5157. CORRECTIONS RELATING TO SECTION 4703 (PAY-**  
7 **MENT ADJUSTMENTS FOR DISPROPORTION-**  
8 **ATE SHARE HOSPITALS).**

9 (a) Section 1923(c) is amended—

10 (1) in paragraph (2), by striking “paragraph  
11 (b)(3)” and inserting “subsection (b)(3)”;

12 (2) by striking the period at the end of para-  
13 graph (3)(B) and inserting a comma; and

14 (3) in the third sentence, by striking “the pay-  
15 ment adjustment described in paragraph (2)” and  
16 inserting “a payment adjustment described in para-  
17 graph (2) or (3)”.

18 (b) Effective December 22, 1987, section  
19 1923(d)(2)(A)(ii) is amended by striking “the date of the  
20 enactment of this Act” and inserting “December 22,  
21 1987”.

22 (c) Section 4703(d) of OBRA-1990 is amended by  
23 striking “412(a)(2)” and inserting “4112(a)(2)”.

1 **SEC. 5158. CORRECTIONS RELATING TO SECTION 4704 (FED-**  
2 **ERALLY-QUALIFIED HEALTH CENTERS).**

3 (a) Clause (ix) of section 1903(m)(2)(A), as added  
4 by section 4704(b)(1)(C) of OBRA-1990, is amended—

5 (1) by striking “of such center” the first place  
6 it appears;

7 (2) by striking “federally qualified” and insert-  
8 ing “Federally-qualified”;

9 (3) by inserting “section” before  
10 “1905(a)(2)(C)”;

11 (4) by moving such clause 2 ems to the left.

12 (b) Section 1903(m)(2)(B), as amended by section  
13 4704(b)(2) of OBRA-1990, is amended by striking “ex-  
14 cept with respect to clause (ix) of subparagraph (A),” and  
15 inserting “(except with respect to clause (ix) of such sub-  
16 paragraph)”.

17 (c) Section 1905(l)(2), as amended by section  
18 4704(c) of OBRA-1990, is amended—

19 (1) in subparagraph (A)—

20 (A) by striking “Federally-qualififed” and  
21 inserting “Federally-qualified”, and

22 (B) by striking “an patient” and inserting  
23 “a patient”; and

24 (2) in subparagraph (B)—

25 (A) in the matter preceding clause (i), by  
26 striking “a entity” and inserting “an entity”,



- 1 (B) by striking “or” at the end of clause  
2 (i),  
3 (C) by striking the semicolon at the end of  
4 clause (ii)(II) and inserting “, or”,  
5 (D) by moving clause (ii) 4 ems to the left,  
6 and  
7 (E) in the last sentence, by striking  
8 “clause (ii)” and inserting “clause (iii)”.

9 **SEC. 5159. CORRECTIONS RELATING TO SECTION 4708 (SUB-**  
10 **STITUTE PHYSICIANS).**

11 Section 1902(a)(32)(C), as added by section  
12 4708(a)(3) of OBRA–1990, is amended to read as follows:

13 “(C) payment may be made to a physician  
14 for physicians’ services (and services furnished  
15 incident to such services) furnished by a second  
16 physician to patients of the first physician if (i)  
17 the first physician is unavailable to provide the  
18 services; (ii) the services are furnished pursuant  
19 to an arrangement between the two physicians  
20 that (I) is informal and reciprocal, or (II) in-  
21 volves per diem or other fee-for-time compensa-  
22 tion for such services; (iii) the services are not  
23 provided by the second physician over a contin-  
24 uous period of more than 60 days; and (iv) the  
25 claim form submitted to the carrier for such

1 services includes the second physician's unique  
2 identifier (provided under the system estab-  
3 lished under subsection (x)) and indicates that  
4 the claim meets the requirements of this clause  
5 for payment to the first physician.”.

6 **SEC. 5160. CORRECTIONS RELATING TO SECTION 4711**  
7 **(HOME AND COMMUNITY CARE FOR FRAIL**  
8 **ELDERLY).**

9 (a) Section 1929, as added by section 4711(b) of  
10 OBRA–1990, is amended—

11 (1) in subsection (c)(2)(F), by moving the sec-  
12 ond sentence 2 ems to the right;

13 (2) in subsection (d)(2)(F)(ii), by striking “they  
14 manage” and inserting “it manages”;

15 (3) in subsection (d)(2)(F)(iii), by inserting  
16 “the agency or organization” after “(iii)”;

17 (4) in subsection (e)(2)(B), by striking “fiscal  
18 year 1989” and inserting “fiscal year 1990”;

19 (5) in subsection (f)(1), by striking “Commu-  
20 nity care” and inserting “community care”;

21 (6) in subsection (g)(1)—

22 (A) by striking “SETTINGS” and inserting  
23 “SETTING”, and

24 (B) in subparagraph (B), by striking “set-  
25 ting.” and inserting “setting in which home and

1 community care under this section is pro-  
2 vided.”;

3 (7) in subsection (g)(2), by striking “commu-  
4 nity care” the second, third, and fourth places it ap-  
5 pears and inserting “home and community care”;

6 (8) in subsection (h)(1)—

7 (A) by striking “more than 8” each place  
8 it appears and inserting “8 or more”, and

9 (B) in subparagraph (B), by inserting  
10 “(other than merely board)” after “personal  
11 services”;

12 (9) in subsection (h)(2), by striking “commu-  
13 nity care” the second and third places it appears  
14 and inserting “home and community care”;

15 (10) in subsection (j)(1)—

16 (A) in subparagraph (B)(ii), by striking  
17 “1990” and inserting “1991”, and

18 (B) by adding at the end the following new  
19 subparagraph:

20 “(C) APPLICABILITY TO COMMUNITY CARE  
21 SETTINGS.—Subparagraphs (A) and (B) shall  
22 apply to community care settings in the same  
23 manner as such subparagraphs apply to provid-  
24 ers of home or community care.”;

1           (11) in subsection (j)(2), by adding at the end  
2     the following new subparagraph:

3           “(D) APPLICABILITY TO COMMUNITY CARE  
4     SETTINGS.—Subparagraphs (A), (B), and (C)  
5     shall apply to community care settings in the  
6     same manner as such subparagraphs apply to  
7     providers of home or community care.”;

8     (12) in subsection (k)(1)(A)(i)—

9           (A) by striking “(d)(2)(E)” and inserting  
10          “(d)(2)”, and

11          (B) by striking “settings,” and inserting  
12          “settings),”;

13     (13) in subsection (l), by striking “State wide-  
14     ness” and inserting “Statewideness”;

15     (14) in subsection (m)—

16           (A) in paragraph (2), by striking “Individ-  
17     ual Community Care Plan” and inserting “indi-  
18     vidual community care plan”,

19           (B) in paragraph (3), by striking “and  
20     need for services” and inserting “need for serv-  
21     ices, and income”,

22           (C) in the second sentence in paragraph  
23     (4), by striking “elderly individuals” and all  
24     that follows and inserting “individuals receiving  
25     home and community care under this section

1           who reside in such State in relation to the total  
2           number of individuals receiving home and com-  
3           munity care under this section.”, and

4                   (D) by adding at the end the following new  
5           paragraph:

6           “(5) NOTICE TO STATES OF AMOUNTS AVAIL-  
7           ABLE FOR ASSISTANCE.—

8                   “(A) NOTICE TO SECRETARY.—In order to  
9           receive Federal medical assistance for expendi-  
10          tures for home and community care under this  
11          section for a fiscal year (beginning with fiscal  
12          year 1994), a State shall submit a notice to the  
13          Secretary of its intention to provide such care  
14          under this section not later than 3 months be-  
15          fore the beginning of the fiscal year.

16                  “(B) NOTICE TO STATES.—Not later than  
17          2 months before the beginning of each fiscal  
18          year (beginning with fiscal year 1994), the Sec-  
19          retary shall notify each State that has submit-  
20          ted a notice to the Secretary under subpara-  
21          graph (A) for the fiscal year of the amount of  
22          Federal medical assistance that will be available  
23          to the State for the fiscal year (as established  
24          under paragraph (4)).”; and

1           (15) by adding at the end the following new  
2       subsection:

3       “(n) COMMUNITY CARE SETTING DEFINED.—In this  
4       section, the term ‘community care setting’ means a small  
5       community care setting (as defined in subsection (g)(1))  
6       or a large community care setting (as defined in sub-  
7       section (h)(1)).”.

8       (b) Section 1905(r)(5) is amended by striking  
9       “1905(a)” and inserting “subsection (a) (other than serv-  
10      ices described in paragraph (22) or (23) of such sub-  
11      section)”.

12      (c) Section 4711(f) of OBRA–1990 is amended by  
13      striking “Act” each place it appears and inserting “sec-  
14      tion”.

15   **SEC. 5161. CORRECTIONS RELATING TO SECTION 4712**  
16                   **(COMMUNITY SUPPORTED LIVING ARRANGE-**  
17                   **MENTS SERVICES).**

18      (a) Section 1930, as added by section 4712(b)(2) of  
19      OBRA–1990, is amended—

20           (1) in subsection (b)—

21                   (A) by striking “title the term,” and in-  
22                   serting “title, the term”,

23                   (B) by striking “guardian” and inserting  
24                   “guardian or”, and

1 (C) by striking “3 other” and inserting  
2 “3”;

3 (2) in subsection (d)—

4 (A) in the matter preceding paragraph (1),  
5 by striking “program,” and inserting “pro-  
6 gram”, and

7 (B) in the second sentence, by striking  
8 “plan” each place it appears and inserting  
9 “program”; and

10 (3) in subsection (i), by striking “FUNDS” and  
11 inserting “FUNDS”.

12 (b) Section 4712(c) of OBRA-1990 is amended—

13 (1) in paragraph (1), by inserting “of section  
14 1930 of the Social Security Act” after “subsection  
15 (h)”; and

16 (2) in paragraph (2), by striking “this section”  
17 and inserting “such section”.

18 **SEC. 5162. CORRECTION RELATING TO SECTION 4713**

19 **(COBRA CONTINUATION COVERAGE).**

20 (a) Section 1902(a)(10) is amended in the matter fol-  
21 lowing subparagraph (F)—

22 (1) by striking “; and (XI)” and inserting “,  
23 (XI)”;

24 (2) by striking “individuals, and (XI)” and in-  
25 serting “individuals, and (XII)”;

1           (3) by striking “COBRA continuation pre-  
2           miums” and inserting “COBRA premiums”.

3           (b) Section 1902(u)(3), as added by section  
4 4713(a)(2) of OBRA-1990, is amended by striking “title  
5 VI” and inserting “part 6 of subtitle B of title I”.

6 **SEC. 5163. CORRECTION RELATING TO SECTION 4716 (MED-**  
7 **ICAID TRANSITION FOR FAMILY ASSIST-**  
8 **ANCE).**

9           Section 4716(a) of OBRA-1990 is amended by strik-  
10 ing “AMENDMENTS.—Subsection (f) of section” and in-  
11 serting “IN GENERAL.—Section”.

12 **SEC. 5164. CORRECTIONS RELATING TO SECTION 4723**  
13 **(MEDICAID SPENDDOWN OPTION).**

14           Section 1903(f)(2), as amended by section 4723(a)  
15 of OBRA-1990, is amended—

16           (1) by striking “(A)” after “(2)”;

17           (2) by striking “or, (B)” and inserting “. There  
18 shall also be excluded,”;

19           (3) by striking “to the State, provided that”  
20 and inserting “to the State if”; and

21           (4) by striking “pursuant to this subpara-  
22 graph.” and inserting “pursuant to the previous sen-  
23 tence”.



1 **SEC. 5165. CORRECTIONS RELATING TO SECTION 4724 (OP-**  
2 **TIONAL STATE DISABILITY DETERMINA-**  
3 **TIONS).**

4 Section 1902(v), as added by section 4724 of OBRA–  
5 1990, is amended—

6 (1) by striking “(v)(1)” and inserting “(v)”;

7 and

8 (2) by striking “of the Social Security Act”.

9 **SEC. 5166. CORRECTION RELATING TO SECTION 4732 (SPE-**  
10 **CIAL RULES FOR HEALTH MAINTENANCE OR-**  
11 **GANIZATIONS).**

12 Section 1903(m)(2)(F)(i), as amended by section  
13 4732(b)(2)(B) of OBRA–1990, is amended by striking  
14 “or” before “with an eligible organization”.

15 **SEC. 5167. CORRECTIONS RELATING TO SECTION 4741**  
16 **(HOME AND COMMUNITY-BASED WAIVERS).**

17 The first sentence of section 1915(d)(3) is amended  
18 by striking the period at the end and inserting the follow-  
19 ing: “, and a waiver of the requirements of section  
20 1902(a)(23) (relating to choice of providers) insofar as  
21 such requirements relate to the provision of case manage-  
22 ment services and the State provides assurances satisfac-  
23 tory to the Secretary that a waiver of such requirements  
24 will not substantially limit access to such services).”

1 **SEC. 5168. CORRECTIONS RELATING TO SECTION 4744**  
2 **(FRAIL ELDERLY WAIVERS).**

3 (a) Section 1924(a)(5), as added by section  
4 4744(b)(1) of OBRA–1990, is amended by striking  
5 “1986.” and inserting “1986 or a waiver under section  
6 603(c) of the Social Security Amendments of 1983.”.

7 (b) Section 603(c) of the Social Security Amend-  
8 ments of 1983 is amended—

9 (1) by striking “(c)” and inserting “(c)(1)”;

10 (2) by redesignating paragraphs (1) and (2) as  
11 subparagraphs (A) and (B); and

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

14 “(2) Section 1924 of the Social Security Act shall  
15 apply to any individual receiving services from an organi-  
16 zation receiving a waiver under this subsection.”.

17 **SEC. 5169. CORRECTIONS RELATING TO SECTION 4747 (COV-**  
18 **ERAGE OF HIV-POSITIVE INDIVIDUALS).**

19 Section 4747 of OBRA–1990 is amended—

20 (1) in subsection (a), by striking “subsection  
21 (c)” and inserting “subsection (b)”;

22 (2) in subsection (b)(2)—

23 (A) by striking “preventative” each place it  
24 appears and inserting “preventive”, and

25 (B) by adding a period at the end of sub-  
26 paragraph (J);

1 (3) in subsection (c)(1)—

2 (A) by striking “subsection (c)” and in-  
3 serting “subsection (b)”, and

4 (B) by striking “paragraphs (1) and (2)  
5 of”; and

6 (4) in subsection (d)—

7 (A) by striking “paragraph (3)” and in-  
8 serting “subsection (b)”, and

9 (B) by striking “paragraph (1)” and in-  
10 serting “subsection (a)”.

11 **SEC. 5170. CORRECTION RELATING TO SECTION 4751 (AD-**  
12 **VANCE DIRECTIVES).**

13 Section 1903(m)(1)(A), as amended by section  
14 4751(b)(1) of OBRA–1990, is amended—

15 (1) by striking “1902(w)” and inserting  
16 “1902(w) and”; and

17 (2) by striking “1902(a)” and inserting  
18 “1902(w)”.

19 **SEC. 5171. CORRECTIONS RELATING TO SECTION 4752 (PHY-**  
20 **SICIANS’ SERVICES).**

21 (a) The paragraph (58) of section 1902(a) added by  
22 section 4752(c)(1)(C) of OBRA–1990 is amended by  
23 striking “subsection (v)” and inserting “subsection (x)”.

1 (b) Subparagraphs (A) and (B) of the paragraph (14)  
2 of section 1903(i) added by section 4752(e)(2) of OBRA–  
3 1990 are each amended—

4 (1) by striking “or” at the end of clause (v);

5 (2) by redesignating clause (vi) as clause (vii);

6 and

7 (3) by inserting after clause (v) the following  
8 new clause:

9 “(vi) delivers such services in the  
10 emergency department of a hospital par-  
11 ticipating in the state plan approved under  
12 this title, or”.

13 **SEC. 5172. CORRECTIONS RELATING TO SECTION 4801**  
14 **(NURSING HOME REFORM).**

15 (a) Section 1919(b)(3)(C)(i)(I), as amended by sec-  
16 tion 4801(e)(3) of OBRA–1990, is amended by striking  
17 “no later than” before “not to exceed 14 days”.

18 (b) Section 1919(b)(5)(D), as amended by section  
19 4801(a)(4) of OBRA–1990, is amended by striking the  
20 comma before “or a new competency evaluation pro-  
21 gram.”.

22 (c) Section 1919(b)(5)(G) is amended by striking “or  
23 licensed or certified social worker” and inserting “licensed  
24 or certified social worker, registered respiratory therapist,  
25 or certified respiratory therapy technician”.

1 (d) Section 1919(f)(2)(B)(i) is amended by striking  
2 “facilities,” and inserting “facilities (subject to clause  
3 (iii)),”.

4 (e) Section 1919(f)(2)(B)(iii)(I)(c) is amended by  
5 striking “clauses” each place it appears and inserting  
6 “clause”.

7 (f) Section 1919(g)(5)(B) is amended by striking  
8 “paragraphs” and inserting “paragraph”.

9 (g) Section 4801(a)(6)(B) of OBRA-1990 is amend-  
10 ed—

11 (1) by striking “The amendments” and insert-  
12 ing “(i) The amendments”;

13 (2) by redesignating clauses (i) through (v) as  
14 subclauses (I) through (V); and

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

17 “(ii) Notwithstanding clause (i) and sub-  
18 ject to section 1919(f)(2)(B)(iii) of the Social  
19 Security Act (as amended by subparagraph  
20 (A)), a State may approve a training and com-  
21 petency evaluation program or a competency  
22 evaluation program offered by or in a nursing  
23 facility described in clause (i) if, during the pre-  
24 vious 2 years, none of the subclauses of clause  
25 (i) applied to the facility.”.

1 **SEC. 5173. OTHER TECHNICAL CORRECTIONS.**

2 (a) Section 1905(o)(1)(A) is amended—

3 (1) in the first sentence, by striking “intermedi-  
4 ate care facility services” and inserting “for nursing  
5 facility services or intermediate care facility services  
6 for the mentally retarded”; and

7 (2) in the second sentence, by striking “or in-  
8 termediate care facility” and inserting “(for pur-  
9 poses of title XVIII), a nursing facility, or an inter-  
10 mediate care facility for the mentally retarded”.

11 (b) Section 1915(d) is amended—

12 (1) by striking “skilled nursing facility or inter-  
13 mediate care facility” each place it appears in para-  
14 graphs (1), (2)(B), and (2)(C) and inserting “nurs-  
15 ing facility”;

16 (2) in paragraph (2)(B)(i), by striking “skilled  
17 nursing or intermediate care facility” and inserting  
18 “nursing facility”;

19 (3) in paragraph (5)(A), by striking “under”  
20 the second place it appears and inserting “(or, in the  
21 case of waiver years beginning on or after October  
22 1, 1990, with respect to nursing facility services and  
23 home and community-based services) under”; and

24 (4) in paragraph (5)(B)—

25 (A) in clause (i), by striking “furnished”  
26 and inserting “(or, with respect to waiver years

1 beginning on or after October 1, 1990, for  
2 nursing facility services) furnished”; and

3 (B) in clause (iii)(I), by striking “(regard-  
4 less” and inserting “(or, with respect to waiver  
5 years beginning on or after October 1, 1990,  
6 which comprise nursing facility services) (re-  
7 gardless”.

8 **SEC. 5174. CORRECTIONS TO DESIGNATIONS OF NEW PRO-**  
9 **VISIONS.**

10 (a) PARAGRAPHS ADDED TO SECTION 1902(a).—

11 Section 1902(a) is amended—

12 (1) by striking “and” at the end of paragraph  
13 (54);

14 (2) in the paragraph (55) inserted by section  
15 4602(a)(3) of OBRA–1990, by striking the period at  
16 the end and inserting a semicolon;

17 (3) by redesignating the paragraph (55) in-  
18 serted by section 4604(b)(3) of OBRA–1990 as  
19 paragraph (56), by transferring and inserting it  
20 after the paragraph (55) inserted by section  
21 4602(a)(3) of such Act, and by striking the period  
22 at the end and inserting a semicolon;

23 (4) by placing paragraphs (57) and (58), in-  
24 serted by section 4751(a)(1)(C) of OBRA–1990, im-

1       mediately after paragraph (56), as redesignated by  
2       paragraph (3);

3           (5) in the paragraph (58) inserted by section  
4       4751(a)(1)(C) of OBRA-1990, by striking the pe-  
5       riod at the end and inserting “; and”; and

6           (6) by redesignating the paragraph (58) in-  
7       serted by section 4752(c)(1)(C) of OBRA-1990 as  
8       paragraph (59) and by transferring and inserting it  
9       after the paragraph (58) inserted by section  
10      4751(a)(1)(C) of such Act.

11      (b) PARAGRAPHS ADDED TO SECTION 1903(i).—Sec-  
12      tion 1903(i), as amended by section 2(b)(2) of the Medic-  
13      aid Voluntary Contribution and Provider-Specific Tax  
14      Amendments of 1991, is amended—

15           (1) in the paragraph (10) inserted by section  
16      4401(a)(1)(B) of OBRA-1990, by striking all that  
17      follows “1927(g)” and inserting a semicolon;

18           (2) by redesignating the paragraph (12) in-  
19      serted by section 4752(a)(2) of OBRA-1990 as  
20      paragraph (11), by transferring and inserting it  
21      after the paragraph (10) inserted by section  
22      4401(a)(1)(B) of OBRA-1990, and by striking the  
23      period at the end and inserting a semicolon;

24           (3) by redesignating the paragraph (14) in-  
25      serted 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

1 amended by striking “through (21)” and inserting  
2 “through (23)”.

3 (B) Effective July 1, 1991, section 1902(j), as  
4 amended by section 4711(d)(1) of OBRA–1990, is  
5 amended by striking “through (22)” and inserting  
6 “through (24)”.

7 (d) FINAL SECTIONS.—Section 1928, as redesignated  
8 by section 4401(a)(3) of OBRA–1990, is amended—

9 (1) by transferring such section to the end of  
10 title XIX of the Social Security Act; and

11 (2) by redesignating such section as section  
12 1931.

13 **CHAPTER 2—UNIVERSAL ACCESS TO**  
14 **CHILDHOOD IMMUNIZATIONS**

15 **SEC. 5181. ESTABLISHMENT OF ENTITLEMENT AND MON-**  
16 **ITORING PROGRAMS WITH RESPECT TO**  
17 **CHILDHOOD IMMUNIZATIONS.**

18 (a) IN GENERAL.—Title XXI of the Public Health  
19 Service Act (42 U.S.C. 300aa–1 et seq.) is amended by  
20 adding at the end the following subtitle:

1 **“Subtitle 3—Entitlement and Mon-**  
2 **itoring Programs With Respect**  
3 **to Childhood Immunizations**

4 **“PART A—ENTITLEMENT PROGRAM**

5 **“SEC. 2151. DELIVERY TO STATES OF SUFFICIENT QUAN-**  
6 **TITIES OF PEDIATRIC VACCINES.**

7 “(a) IN GENERAL.—In the case of any State that  
8 submits to the Secretary an application in accordance with  
9 section 2157, the Secretary, acting through the Director  
10 of the Centers for Disease Control and Prevention, shall  
11 provide for the purchase and delivery on behalf of the  
12 State of such quantities of pediatric vaccines as may be  
13 necessary for the immunization of each eligible child in  
14 the State. The preceding sentence is subject to sections  
15 2152(d) and 2159(a).

16 “(b) ELIGIBLE CHILDREN.—For purposes of this  
17 part, the term ‘eligible child’ means an individual 18 years  
18 of age or younger who—

19 “(1) with respect to the State involved, is enti-  
20 tled to medical assistance under the plan approved  
21 for the State under title XIX of the Social Security  
22 Act (including a State operating under a statewide  
23 waiver under section 1115 of such Act);

24 “(2)(A) is uninsured with respect to health in-  
25 surance policies or plans (including group health

1 plans or prepaid health plans and including em-  
2 ployee welfare benefit plans under the Employee Re-  
3 tirement Income Security Act of 1974); or

4 “(B) is covered under such a policy or plan, but  
5 under the policy or plan benefits are not available  
6 with respect to immunizations; or

7 “(3) is an Indian.

8 **“SEC. 2152. ENTITLEMENTS.**

9 “(a) ENTITLEMENT OF STATES.—Subject to sub-  
10 section (d), in the case of any State that submits to the  
11 Secretary an application in accordance with section 2157,  
12 the State is entitled to have the Secretary provide for the  
13 purchase and delivery on behalf of the State of pediatric  
14 vaccines under section 2151. The preceding sentence con-  
15 stitutes budget authority in advance of appropriations  
16 Acts, and represents the obligation of the Federal Govern-  
17 ment to provide for the purchase and delivery to the State  
18 of the vaccines.

19 “(b) ENTITLEMENTS OF CHILDREN AND HEALTH  
20 CARE PROVIDERS.—Subject to subsection (d), the Sec-  
21 retary may provide for the purchase and delivery of pedi-  
22 atric vaccines under section 2151 on behalf of a State only  
23 if the State agrees as follows:

24 “(1) Each eligible child in the State, in receiv-  
25 ing an immunization with a pediatric vaccine from

1 a program-registered provider (as defined in section  
2 2153(a)), is entitled to receive the immunization  
3 without charge for the cost of such vaccine.

4 “(2) Each program-registered provider in the  
5 State who administers a pediatric vaccine to an eligi-  
6 ble child in the State is entitled to receive such vac-  
7 cine from the State without charge.

8 “(3) The State will carry out a program to ad-  
9 minister the entitlements established pursuant to  
10 paragraphs (1) and (2).

11 “(c) ENFORCEMENT OF PROVIDER RIGHTS BY ELI-  
12 GIBLE CHILDREN.—With respect to the obligation of a  
13 State under the entitlement established in subsection  
14 (b)(2), an eligible child (or representative of the child)  
15 may enforce the rights of the provider under such para-  
16 graph if—

17 “(1) the provider administered a pediatric vac-  
18 cine to the child notwithstanding the failure of the  
19 State to carry out such obligation with respect to the  
20 vaccine; or

21 “(2) an immunization with the vaccine was  
22 sought for the child by a parent of the child, but the  
23 provider, on the basis of such failure of the State,  
24 did not administer the vaccine to the child.

25 “(d) CERTAIN CONDITIONS.—

1           “(1) IN GENERAL.—This part does not apply  
2       with respect to any vaccine administered before Oc-  
3       tober 1, 1994.

4           “(2) RELATIONSHIP TO PURCHASE CONTRACTS  
5       WITH MANUFACTURERS.—With respect to a pedi-  
6       atric vaccine, the obligation of the Federal Govern-  
7       ment pursuant to subsection (a), and the obligations  
8       of the State pursuant to subsection (b), are effective  
9       only to the extent that there is in effect a contract  
10      under section 2158 for the purchase and delivery of  
11      the vaccine.

12          “(3) SUBMISSION OF APPLICATION.—

13               “(A) Subject to subparagraph (C), the en-  
14              titlements established pursuant to subsections  
15              (a) and (b) are established with respect to a  
16              State upon the State submitting to the Sec-  
17              retary an application in accordance with section  
18              2157.

19               “(B) An application submitted to the Sec-  
20              retary under section 2157 is deemed to have  
21              been submitted in accordance with such section  
22              unless the Secretary, not later than 30 days  
23              after the date on which the application is sub-  
24              mitted, notifies the State that the application is  
25              not in accordance with such section.

1           “(C) In the case of a State whose applica-  
2           tion submitted under section 2157 is not sub-  
3           mitted in accordance with such section, the Sec-  
4           retary may, upon the submission by the State  
5           of an application that is in accordance with  
6           such section, provide that the entitlements es-  
7           tablished pursuant to such submission are  
8           deemed to have been established on the date on  
9           which the State first submitted the application.

10 **“SEC. 2153. VOLUNTARY PARTICIPATION OF HEALTH CARE**  
11 **PROVIDERS.**

12       “(a) IN GENERAL.—

13           “(1) REQUEST FOR PARTICIPATION; REQUIRED  
14       APPROVAL.—The Secretary may provide for the pur-  
15       chase and delivery of pediatric vaccines under sec-  
16       tion 2151 on behalf of a State only if the State  
17       agrees that federally-supplied pediatric vaccines will  
18       not be distributed to a health care provider unless—

19           “(A) the provider submits to the State a  
20       written request to participate in the program  
21       established by the State pursuant to section  
22       2152(b)(3);

23           “(B) the request is in such form and is  
24       made in such manner as the Secretary may  
25       require; and

1           “(C) the provider makes the agreements  
2           described in this section.

3           “(2) PROGRAM-REGISTERED PROVIDERS.—For  
4           purposes of this part, the term ‘program-registered  
5           provider’ means a health care provider that meets  
6           the conditions specified in subparagraphs (A)  
7           through (C) of paragraph (1).

8           “(b) ELIGIBILITY OF CHILDREN.—

9           “(1) IN GENERAL.—An agreement for a health  
10          care provider under subsection (a) is that the pro-  
11          vider—

12               “(A) before administering a pediatric vac-  
13               cine to a child, will ask a parent of the child  
14               such questions as are necessary to determine  
15               whether the child is an eligible child;

16               “(B) will, for a period of time specified by  
17               the Secretary, maintain records of responses  
18               made to the questions; and

19               “(C) will, upon request, make such records  
20               available to the State involved and to the Sec-  
21               retary, subject to paragraph (2).

22           “(2) RESTRICTION ON USE OF INFORMATION.—  
23          Records provided to a State or to the Secretary  
24          under paragraph (1)(C) may be used only for pur-



1 poses of audit of the program carried out under sec-  
2 tion 2152(b)(3) by the State.

3 “(c) CHARGES FOR VACCINES.—

4 “(1) VACCINES PER SE.—An agreement for a  
5 health care provider under subsection (a) is that, in  
6 administering a federally-supplied pediatric vaccine  
7 to an eligible child, the provider will not impose a  
8 charge for the cost of the vaccine.

9 “(2) ADMINISTRATION OF VACCINES.—With re-  
10 spect to compliance with an agreement under para-  
11 graph (1), a program-registered provider may im-  
12 pose a charge for the administration of a federally-  
13 supplied pediatric vaccine, subject to an agreement  
14 by the provider that the provider will not impose  
15 such charge with respect to a child if a parent of the  
16 child certifies to the provider that the parent is un-  
17 able to pay the charge.

18 “(d) RULES OF CONSTRUCTION.—

19 “(1) EXTENT OF PARTICIPATION.—This section  
20 may not be construed as requiring that a program-  
21 registered provider administer a federally-supplied  
22 pediatric vaccine to each eligible child for whom an  
23 immunization with the vaccine is sought from the  
24 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

1           “(B)(i) health care providers that receive  
2           funds under title V of the Indian Health Care  
3           Improvement Act;

4           “(ii) the Indian Health Service; and

5           “(iii) health programs or facilities operated  
6           by Indian tribes or tribal organizations.

7           “(c) CULTURAL CONTEXT OF SERVICES.—In estab-  
8           lishing criteria under subsection (a), the Secretary shall  
9           require that, in providing a federally-supplied pediatric  
10          vaccine to any population of eligible children a substantial  
11          portion of whose parents have a limited ability to speak  
12          the English language, a State have in effect a reasonable  
13          plan to administer the vaccines through program-reg-  
14          istered providers who are able to communicate with the  
15          population involved in the language and cultural context  
16          that is most appropriate.

17          “(d) COMPLIANCE BY STATES.—The Secretary may  
18          provide for the purchase and delivery of pediatric vaccines  
19          under section 2151 on behalf of a State only if the State  
20          agrees to maintain compliance with the criteria established  
21          under subsection (a).

22       **“SEC. 2155. GENERAL PROVISIONS.**

23          “(a) FEDERAL STANDARDS ON ACCOUNTABILITY.—

24               “(1) ESTABLISHMENT OF STANDARDS.—Not  
25          later than 180 days after the date of the enactment

1 of the Omnibus Budget Reconciliation Act of 1993,  
2 the Secretary shall, through publication in the Fed-  
3 eral Register, establish standards with respect to de-  
4 termining the extent to which States and program-  
5 registered providers are in compliance with the  
6 agreements made under this part.

7 “(2) COMPLIANCE BY STATES.— The Secretary  
8 may provide for the purchase and delivery of pedi-  
9 atric vaccines under section 2151 on behalf of a  
10 State only if the State agrees to maintain compli-  
11 ance with the standards established under subsection  
12 (a).

13 “(b) STATE MAINTENANCE OF IMMUNIZATION  
14 LAWS.—The Secretary may provide for the purchase and  
15 delivery of vaccines under section 2151 on behalf of a  
16 State only if the State certifies to the Secretary that, if  
17 it had in effect as of May 1, 1993, a law that requires  
18 some or all health insurance policies or plans to provide  
19 some coverage with respect to a pediatric vaccine, the  
20 State has not modified or repealed such law in a manner  
21 that reduces the amount of coverage so required.

22 “(c) PARTICIPATION IN NATIONAL MONITORING SYS-  
23 TEM.—On and after January 1, 1998, the Secretary may  
24 provide for the purchase and delivery of vaccines under  
25 section 2151 on behalf of a State only if the State certifies

1 to the Secretary that the State is operating a registry in  
2 accordance with part B.

3 **“SEC. 2156. STATE OPTION REGARDING IMMUNIZATION OF**  
4 **ADDITIONAL CATEGORIES OF CHILDREN.**

5 “(a) STATE PURCHASES.—Subject to subsections (b)  
6 and (c), for the purpose of administering a pediatric vac-  
7 cine to children in addition to eligible children, any partici-  
8 pating State under section 2151 may, pursuant to section  
9 2158(a)(2), purchase the vaccine from a manufacturer of  
10 the vaccine at the price in effect under section 2158.

11 “(b) REQUIREMENTS.—A State may purchase pedi-  
12 atric vaccines pursuant to subsection (a) only if the follow-  
13 ing conditions are met:

14 “(1) The State agrees that the vaccines will be  
15 used to provide immunizations for children who are  
16 not eligible children.

17 “(2) The State designates the particular cat-  
18 egories of children who are to receive the immuniza-  
19 tions, and submits to the Secretary a description of  
20 the categories so designated.

21 “(3) The State provides to the Secretary such  
22 information as the Secretary determines to be nec-  
23 essary to provide for quantities of pediatric vaccines  
24 for the State to purchase pursuant to section  
25 2158(a)(2).

1           “(4) The State agrees, subject to subsection (c),  
2           that the program established by the State pursuant  
3           to section 2152(b)(3) applies to children designated  
4           under paragraph (2) to the same extent and in the  
5           same manner as the program applies to eligible chil-  
6           dren (except for the State being the purchaser of the  
7           pediatric vaccines involved).

8           “(c) CERTAIN LIMITATIONS.—A State may purchase  
9           pediatric vaccines pursuant to subsection (a) only if the  
10          State agrees as follows:

11           “(1) The authorization established in such sub-  
12          section with respect to a pediatric vaccine is subject  
13          to the quantity of the vaccine that, on behalf of the  
14          State, the Secretary provides for under section  
15          2158(a)(2).

16           “(2) In any case in which multiple contracts are  
17          in effect under section 2158 with respect to such a  
18          vaccine and the State elects to purchase the vaccine  
19          pursuant to subsection (a), the Secretary will deter-  
20          mine which of such contracts will be applicable to  
21          the purchase.

22          **“SEC. 2157. STATE APPLICATION FOR VACCINES.**

23           “(a) IN GENERAL.—An application by a State for pe-  
24          diatric vaccines under section 2151(a) is in accordance  
25          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

1 paragraph (2), terminate payments to the State  
2 under part A of title XIX.

3 “(2) EXCEPTIONS.—Paragraph (1) does not  
4 apply in the case of a State described in such para-  
5 graph that—

6 “(A) is, through all willing health care pro-  
7 viders, providing for the immunization of eligi-  
8 ble children with pediatric vaccines, and is not  
9 imposing a charge on such providers or children  
10 for the costs of the vaccines; or

11 “(B) meets or exceeds the objectives estab-  
12 lished by the Secretary for the year 2000 for  
13 the immunization status of children in the  
14 United States who are 2 years of age.

15 **“SEC. 2158. CONTRACTS WITH MANUFACTURERS OF PEDI-**  
16 **ATRIC VACCINES.**

17 “(a) IN GENERAL.—Subject to the provisions of this  
18 section, the Secretary shall periodically enter into negotia-  
19 tions with manufacturers of pediatric vaccines for the pur-  
20 pose of maintaining contracts under which—

21 “(1) the Secretary provides for the purchase of  
22 quantities of pediatric vaccines necessary for carry-  
23 ing out section 2151, and provides for the delivery  
24 of the vaccines to participating States under such  
25 section; and



1           “(2) each participating State, at the option of  
2           the State under section 2156, is permitted to obtain  
3           additional quantities of pediatric vaccines (subject to  
4           limits in such contracts regarding quantities)  
5           through purchasing the vaccines from the manufac-  
6           turers at the price negotiated by the Secretary for  
7           the quantities specified in paragraph (1).

8           The Secretary shall enter into the initial negotiations  
9           under the preceding sentence not later than 180 days after  
10          the date of the enactment of the Omnibus Budget  
11          Reconciliation Act of 1993.

12          “(b) NEGOTIATION OF PURCHASE PRICE.—

13                 “(1) IN GENERAL.—In negotiating the prices at  
14                 which pediatric vaccines will be purchased from a  
15                 manufacturer under subsection (a), the Secretary  
16                 shall negotiate a price that provides a reasonable  
17                 profit for the manufacturer.

18                 “(2) CERTAIN FACTORS.—

19                         “(A) In determining a reasonable profit for  
20                         a manufacturer under paragraph (1), the Sec-  
21                         retary shall consider the following factors:

22                                 “(i) The costs of the manufacturer in  
23                                 researching, developing, and producing the  
24                                 pediatric vaccine involved.

1           “(ii) The costs of the manufacturer in  
2           researching and developing new or im-  
3           proved vaccines (pediatric or otherwise).

4           “(iii) The costs of shipping and han-  
5           dling pediatric vaccines in compliance with  
6           the agreement under subsection (c).

7           “(iv) Such other factors as the Sec-  
8           retary determines to be appropriate.

9           “(B) With respect to factors considered  
10          under subparagraph (A), the Secretary may  
11          enter into a contract under subsection (a) only  
12          if the manufacturer involved provides to the  
13          Secretary such information regarding the fac-  
14          tors as the Secretary determines to be appro-  
15          priate.

16          “(3) CONFIDENTIALITY.—With respect to infor-  
17          mation provided to the Secretary by a manufacturer  
18          under paragraph (2), the following applies:

19               “(A) The Secretary shall maintain the con-  
20               fidentiality of the information, with provision  
21               for reasonable disclosures.

22               “(B) For purposes of section 552(b)(4) of  
23               title 5, United States Code, the information  
24               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

1 paragraph (3) of subsection (b), such reports shall be con-  
2 sidered to be information provided by the manufacturer  
3 to the Secretary under paragraph (2) of such subsection.

4 “(h) MULTIPLE SUPPLIERS.—

5 “(1) IN GENERAL.—In the case of the pediatric  
6 vaccine involved, the Secretary shall, as appropriate,  
7 enter into a contract under subsection (a) with each  
8 manufacturer of the vaccine that meets the terms  
9 and conditions of the Secretary for an award of such  
10 a contract (including terms and conditions regarding  
11 safety, quality, and price).

12 “(2) RULE OF CONSTRUCTION.—With respect  
13 to multiple contracts entered into pursuant to para-  
14 graph (1), such paragraph may not be construed as  
15 prohibiting the Secretary from having in effect dif-  
16 ferent prices under each of such contracts.

17 **“SEC. 2159. CERTAIN ADMINISTRATIVE VARIATIONS.**

18 “(a) TRIBES AND TRIBAL ORGANIZATIONS.—

19 “(1) IN GENERAL.—Subject to paragraph (2),  
20 the Secretary shall provide for the purchase and de-  
21 livery on behalf of each Indian tribe and each tribal  
22 organization of such quantities of pediatric vaccines  
23 as may be necessary for the immunization of each  
24 Indian child in the State in which the tribe or orga-  
25 nization (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

1 basis of the price in effect for the vaccine under con-  
2 tracts under section 2158. If more than 1 such con-  
3 tract is in effect, the Secretary shall determine such  
4 value on the basis of the average of the prices under  
5 the contracts, after weighting each such price in re-  
6 lation to the quantity of vaccine under the contract  
7 involved.

8 “(3) USE OF PAYMENTS.—A State may expend  
9 payments received under paragraph (1) only for pur-  
10 poses relating to pediatric vaccines.

11 **“SEC. 2160. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR**  
12 **ADMINISTRATION.**

13 “(a) RECOMMENDED PEDIATRIC VACCINES.—

14 “(1) IN GENERAL.—The Secretary shall estab-  
15 lish a list of the vaccines that the Secretary rec-  
16 ommends for administration to all children for the  
17 purpose of immunizing the children, subject to such  
18 contraindications for particular medical categories of  
19 children as the Secretary may establish under sub-  
20 section (b)(1)(D). The Secretary shall periodically  
21 review the list, and shall revise the list as appro-  
22 priate.

23 “(2) RULE OF CONSTRUCTION.—

1           “(A) The list of vaccines specified in sub-  
2           paragraph (B) is deemed to be the list of vac-  
3           cines maintained under paragraph (1).

4           “(B) The list of vaccines specified in this  
5           subparagraph is the list of vaccines that, for  
6           purposes of paragraph (1), is established (and  
7           periodically reviewed and as appropriate re-  
8           vised) by the Advisory Committee on Immuni-  
9           zation Practices, an advisory committee estab-  
10          lished by the Secretary, acting through the Di-  
11          rector of the Centers for Disease Control and  
12          Prevention.

13          “(b) RECOMMENDED SCHEDULE FOR ADMINISTRA-  
14          TION.—

15               “(1) IN GENERAL.—Subject to paragraph (2),  
16               in the case of a pediatric vaccine, the Secretary shall  
17               establish (and periodically review and as appropriate  
18               revise) a schedule of nonbinding recommendations  
19               for the following:

20                       “(A) The number of immunizations with  
21                       the vaccine that children should receive.

22                       “(B) The ages at which children should re-  
23                       ceive the immunizations.

24                       “(C) The dosage of vaccine that should be  
25                       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           “(1) IN GENERAL.—The list established under  
2       subsection (a) and the schedules established under  
3       subsection (b) do not constitute guidelines, stand-  
4       ards, performance measures, or review criteria for  
5       purposes of the program carried out by the Adminis-  
6       trator for Health Care Policy and Research under  
7       part B of title IX or under section 1142 of the  
8       Social Security Act.

9           “(2) STATE LAWS.—This section does not su-  
10      persede any State law on requirements with respect  
11      to receiving immunizations (including any such law  
12      relating to religious exemptions or medical exemp-  
13      tions).

14      “(d) ISSUANCE OF LIST AND SCHEDULES.—Not later  
15      than 180 days after the date of the enactment of the Om-  
16      nibus Budget Reconciliation Act of 1993, the Secretary  
17      shall establish the initial list required in subsection (a) and  
18      the schedule required in subsection (b).

19      **“SEC. 2161. CHILDHOOD IMMUNIZATION TRUST FUND.**

20      “(a) ESTABLISHMENT OF FUND.—There is estab-  
21      lished in the Treasury of the United States a fund to be  
22      known as the National Childhood Immunization Trust  
23      Fund (in this section referred to as the ‘Fund’). The Fund  
24      shall consist of such amounts as may be appropriated to  
25      the Fund in appropriations Acts, in the Internal Revenue

1 Code of 1986, or in subsection (c)(3). Amounts appro-  
2 priated to the Fund shall remain available until expended.

3 “(b) EXPENDITURES FROM FUND.—Amounts in the  
4 Fund are available to the Secretary for the purpose of car-  
5 rying out this part. Payments under the program under  
6 this part, and the costs of carrying out such program,  
7 shall be exempt from reduction under any order issued  
8 under part C of the Balanced Budget and Emergency  
9 Deficit Control Act of 1985.

10 “(c) INVESTMENT.—

11 “(1) IN GENERAL.—The Secretary of the  
12 Treasury shall invest such amounts of the Fund as  
13 such Secretary determines are not required to meet  
14 current withdrawals from the Fund. Such invest-  
15 ments may be made only in interest-bearing obliga-  
16 tions of the United States. For such purpose, such  
17 obligations may be acquired on original issue at the  
18 issue price, or by purchase of outstanding obliga-  
19 tions at the market price.

20 “(2) SALE OF OBLIGATIONS.—Any obligation  
21 acquired by the Fund may be sold by the Secretary  
22 of the Treasury at the market price.

23 “(3) AVAILABILITY OF INCOME.—Any interest  
24 derived from obligations acquired by the Fund, and

1 proceeds from any sale or redemption of such obliga-  
2 tions, are hereby appropriated to the Fund.

3 **“SEC. 2162. DEFINITIONS.**

4 “For purposes of this subtitle:

5 “(1) The term ‘eligible child’ has the meaning  
6 given such term in section 2151(b).

7 “(2) The term ‘federally-supplied’, with respect  
8 to a pediatric vaccine, means that such vaccine is  
9 purchased and delivered on behalf of a State under  
10 section 2151(a).

11 “(3) The term ‘health care provider’, with re-  
12 spect to the administration of vaccines to children,  
13 means an entity that is licensed or otherwise author-  
14 ized for such administration under the law of the  
15 State in which the entity administers the vaccine,  
16 subject to section 333(e).

17 “(4) The term ‘immunization’ means an immu-  
18 nization against a vaccine-preventable disease.

19 “(5) Each of the terms ‘Indian’, ‘Indian tribe’,  
20 and ‘tribal organization’ has the meaning given such  
21 term in section 4 of the Indian Health Care  
22 Improvement Act.

23 “(6) The term ‘Indian child’ means an Indian  
24 who is 18 years of age or younger.

1           “(7) The term ‘manufacturer’ means any cor-  
2           poration, organization, or institution, whether public  
3           or private (including Federal, State, and local de-  
4           partments, agencies, and instrumentalities), which  
5           manufactures, imports, processes, or distributes  
6           under its label any pediatric vaccine. The term  
7           ‘manufacture’ means to manufacture, import, proc-  
8           ess, or distribute a vaccine.

9           “(8) The term ‘parent’, with respect to a child,  
10          means a legal guardian of the child.

11          “(9) The term ‘participating State under sec-  
12          tion 2151’ means a State that has submitted to the  
13          Secretary an application in accordance with section  
14          2157.

15          “(10) The term ‘pediatric vaccine’ means a vac-  
16          cine included on the list established under section  
17          2160(a).

18          “(11) The term ‘program-registered provider’  
19          has the meaning given such term in 2153(a)(2).

20   **“SEC. 2163. TERMINATION OF PROGRAM.**

21          This part shall cease to be in effect beginning on such  
22          date as may be prescribed in Federal law providing for  
23          immunization services for all children as part of a broad-  
24          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);

1           “(4) notifying parents if children have not re-  
2           ceived immunizations in accordance with such sched-  
3           ule; and

4           “(5) such other activities as the Secretary may  
5           authorize with respect to achieving the objectives es-  
6           tablished by the Secretary for the year 2000 for the  
7           immunization status of children in the United  
8           States.

9           “(c) REQUIREMENT REGARDING STATE LAWS.—

10           “(1) IN GENERAL.—The Secretary may make a  
11           grant under subsection (a) only if the State in-  
12           volved—

13                   “(A) provides assurances satisfactory to  
14                   the Secretary that, not later than October 1,  
15                   1996, the State will be operating a registry in  
16                   accordance with this part, including having in  
17                   effect such laws and regulations as may be nec-  
18                   essary to so operate such a registry; and

19                   “(B) agrees that, prior to such date, the  
20                   State will make such efforts to operate a reg-  
21                   istry in accordance with this part as may be au-  
22                   thorized in the law and regulations of the State.

23           “(2) RULES OF CONSTRUCTION.—

24                   “(A) With respect to the agreements made  
25                   by a State under this part, other than the

1           agreement under paragraph (1)(B), the Sec-  
2           retary may require compliance with the agree-  
3           ments only to the extent consistent with such  
4           paragraph.

5           “(B) This part does not authorize the Sec-  
6           retary, as a condition of the receipt of a grant  
7           under subsection (a) by a State, to prohibit the  
8           State from providing any parent, upon the re-  
9           quest of the parent, with an exemption from the  
10          requirements established by the State pursuant  
11          to this part for the collection of data regarding  
12          any child of the parent.

13   **“SEC. 2172. REGISTRY DATA.**

14          “(a) IN GENERAL.—For purposes of section  
15   2171(b)(1), the data described in this section are the data  
16   described in subsection (b) and the data described in sub-  
17   section (c). This section applies to data regarding a child  
18   without regard to whether the child is an eligible child as  
19   defined in section 2162.

20          “(b) DATA REGARDING BIRTH OF CHILD.—With re-  
21   spect to the birth of a child, the data described in this  
22   subsection is as follows:

23               “(1) The name of each child born in the State  
24               involved on or after October 1, 1993.

25               “(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

1           “(2) the data described in subsection (c) with  
2       respect to a vaccine are submitted to such registry  
3       not later than 6 weeks after the date on which the  
4       vaccine is administered to the child.

5   **“SEC. 2173. GENERAL PROVISIONS.**

6       “(a) FEDERAL STANDARDS ON CONFIDENTIALITY.—  
7   The Secretary shall by regulation establish standards pro-  
8   viding for maintaining the confidentiality of the identity  
9   of individuals with respect to whom data are maintained  
10  in registries under section 2171. Such standards shall,  
11  with respect to a State, provide that the State is to have  
12  in effect laws regarding such confidentiality, including ap-  
13  propriate penalties for violation of the laws. The Secretary  
14  may make a grant under such section only if the State  
15  involved agrees to comply with the standards.

16       “(b) USE OF SOCIAL SECURITY ACCOUNT NUM-  
17  BERS.—Any usage or disclosure of data in registries under  
18  section 2171 that consists of social security account num-  
19  bers and related information which is otherwise permitted  
20  under this part may be exercised only to the extent per-  
21  mitted under section 205(c)(2)(E) of the Social Security  
22  Act. For purposes of the preceding sentence, the term ‘re-  
23  lated information’ has the meaning given such term in  
24  clause (iv)(II) of such section.

1       “(c) UNIFORMITY IN METHODOLOGIES.—The Sec-  
2   retary shall establish standards regarding the methodolo-  
3   gies used in establishing and operating registries under  
4   section 2171, and may make a grant under such section  
5   only if the State agrees to comply with the standards. The  
6   Secretary shall provide for a reasonable degree of uniform-  
7   ity among the States in such methodologies for the pur-  
8   pose of ensuring the utility, comparability, and exchange  
9   of the data maintained in such registries.

10       “(d) COORDINATION AMONG STATES.—The Sec-  
11   retary may make a grant under section 2171 to a State  
12   only if, with respect to the operation of the registry of  
13   the State under such section, the State agrees to cooperate  
14   with the Secretary and with other States in carrying out  
15   activities with respect to achieving the objectives estab-  
16   lished by the Secretary for the year 2000 for the immuni-  
17   zation status of children in the United States.

18       “(e) REPORTS TO SECRETARY.—The Secretary may  
19   make a grant under section 2171 only if the State involved  
20   agrees to submit to the Secretary such reports as the Sec-  
21   retary determines to be appropriate with respect to the  
22   activities of the State under this part.

23   **“SEC. 2174. APPLICATION FOR GRANT.**

24       “An application by a State for a grant under section  
25   2171 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;

5           “(3) contains any information required in this  
6       part to be submitted to the Secretary; and

7           “(4) is in such form, is made in such manner,  
8       and contains such agreements, assurances, and in-  
9       formation as the Secretary determines to be nec-  
10      essary to carry out this part.

11   **“SEC. 2175. DETERMINATION OF AMOUNT OF ALLOTMENT.**

12       “The Secretary shall determine the amount of the al-  
13      lotments required in section 2171 for States for a fiscal  
14      year in accordance with a formula established by the Sec-  
15      retary that allots the amounts appropriated under section  
16      2177 for the fiscal year on the basis of the costs of the  
17      States in establishing and operating registries under sec-  
18      tion 2171.

19   **“SEC. 2176. DEFINITIONS.**

20       “For purposes of this part, each of the terms ‘health  
21      care provider, ‘pediatric vaccine’ and ‘parent’ has the  
22      meaning given the term in section 2162.

23   **“SEC. 2177. AUTHORIZATION OF APPROPRIATIONS.**

24       “For the purpose of carrying out this part, there are  
25      authorized to be appropriated \$50,000,000, for fiscal year

1 1994, \$152,000,000 for fiscal year 1995, \$125,000,000  
2 for fiscal year 1996, and \$35,000,000 for each of the fis-  
3 cal years 1997 through 1999.

4 “PART C—FUNDING FOR OTHER PURPOSES REGARDING  
5 CHILDHOOD IMMUNIZATIONS

6 “**SEC. 2181. GRANTS REGARDING YEAR 2000 HEALTH OBJEC-**  
7 **TIVES.**

8 “(a) IN GENERAL.—The Secretary, acting through  
9 the Director of the Centers for Disease Control and Pre-  
10 vention, may make grants to States for the purpose of car-  
11 rying out activities with respect to achieving the objectives  
12 established by the Secretary for the year 2000 for the im-  
13 munization status of children in the United States, other  
14 than providing for the purchase and delivery on behalf of  
15 the State of any pediatric vaccine (as defined in section  
16 2162).

17 “(b) CERTAIN ACTIVITIES.—Subject to subsection  
18 (a), the purposes for which a grant under such subsection  
19 may be expended include the following:

20 “(1) Research into the prevention and control  
21 of diseases that may be prevented through vaccina-  
22 tion.

23 “(2) Demonstration projects for the prevention  
24 and control of such diseases.

1           “(3) Public information and education pro-  
2           grams for the prevention and control of such dis-  
3           eases.

4           “(4) Education, training, and clinical skills im-  
5           provement activities in the prevention and control of  
6           such diseases for health professionals (including al-  
7           lied health personnel).

8           “(5) Such other activities as the Secretary de-  
9           termines to be appropriate.

10          “(c) APPLICATION FOR GRANT.—The Secretary may  
11          make a grant under subsection (a) only if an application  
12          for the grant is submitted to the Secretary and the appli-  
13          cation is in such form, is made in such manner, and con-  
14          tains such agreements, assurances, and information as the  
15          Secretary determines to be necessary to carry out this  
16          section.

17          “(d) SUPPLIES AND SERVICES IN LIEU OF GRANT  
18          FUNDS.— The Secretary, at the request of a recipient of  
19          a grant under subsection (a), may reduce the amount of  
20          such grant by—

21                 “(1) the fair market value of any supplies or  
22                 equipment furnished the grant recipient, and

23                 “(2) the amount of the pay, allowances, and  
24                 travel expenses of any officer or employee of the  
25                 Federal Government when detailed to the grant re-

1        cipient and the amount of any other costs incurred  
2        in connection with the detail of such officer or  
3        employee.

4        When the furnishing of such supplies or equipment or the  
5        detail of such an officer or employee is for the convenience  
6        of and at the request of such grant recipient and for the  
7        purpose of carrying out a program with respect to which  
8        the grant under subsection (a) is made. The amount by  
9        which any such grant is so reduced shall be available for  
10       payment by the Secretary of the costs incurred in furnish-  
11       ing the supplies or equipment, or in detailing the person-  
12       nel, on which the reduction of such grant is based, and  
13       such amount shall be deemed as part of the grant and  
14       shall be deemed to have been paid to the grant recipient.

15       “(e) AUTHORIZATION OF APPROPRIATIONS.—For the  
16       purpose of carrying out this part, there are authorized to  
17       be appropriated \$580,000,000 for fiscal year 1993,  
18       \$680,000,000 for fiscal year 1994, and such sums as may  
19       be necessary for each of the fiscal years 1995 through  
20       1999.”.

21       (b) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT  
22       NUMBERS.—Section 205(c)(2) of the Social Security Act  
23       (42 U.S.C. 405(c)(2)) is amended—

24                (1) by redesignating subparagraphs (E) and  
25                (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-

1 lic Health Service Act. The Secretary shall take such ac-  
2 tions as are necessary to restrict access to information  
3 consisting of such numbers and related information only  
4 to such authorized persons whose duties or responsibilities  
5 require access for the purposes described in clause (i). The  
6 Secretary shall issue regulations governing the use, main-  
7 tenance, and disclosure by any holder of such information,  
8 including appropriate administrative, technical, and phys-  
9 ical safeguards, to ensure that only such authorized per-  
10 sons have access to such information. Any use or disclo-  
11 sure of such information in violation of such regulations  
12 shall be deemed a disclosure in violation of subparagraph  
13 (C)(vii).

14 “(iii) The Secretary shall submit a report to the Com-  
15 mittee on Ways and Means of the House of Representa-  
16 tives and the Committee on Finance of the Senate not  
17 later than January 1, 1996, and biennially thereafter, on  
18 the operation of this subparagraph.

19 “(iv) For purposes of this subparagraph—

20 “(I) the term ‘State’ has the meaning provided  
21 such term under section 2(f) of the Public Health  
22 Service Act, and

23 “(II) the term ‘related information’ means any  
24 record, list, or compilation which indicates, directly  
25 or indirectly, the identity of any individual with re-

1       spect to whom a social security account number is  
2       maintained pursuant to this subparagraph and part  
3       B of subtitle 3 of title XXI of the Public Health  
4       Service Act.”.

5       (c) RELATIONSHIP OF NEW PROGRAM OF IMMUNIZA-  
6       TION GRANTS TO CURRENT PROGRAM.—

7               (1) STRIKING OF CURRENT PROGRAM.—Section  
8       317 of the Public Health Service Act (42 U.S.C.  
9       247b) is amended—

10              (A) in subsection (j)—

11                      (i) by striking paragraph (1); and

12                      (ii) by striking the remaining para-  
13              graph designation; and

14              (B) in subsection (k)—

15                      (i) by striking paragraph (1); and

16                      (ii) by redesignating paragraphs (2)  
17              through (5) as paragraphs (1) through (4),  
18              respectively.

19               (2) TRANSITIONAL AUTHORITY UNDER NEW  
20       PROGRAM.—With respect to activities that the Sec-  
21       retary of Health and Human Services was author-  
22       ized to carry out pursuant to section 317(j)(1) of  
23       the Public Health Service Act (as in effect on the  
24       day before the date of the enactment of this Act),  
25       the Secretary may, for fiscal year 1994, carry out

1 any such activity under section 2181 of the Public  
2 Health Service Act (as added by subsection (a) of  
3 this section), notwithstanding the provisions of such  
4 section 2181. The authority established in the pre-  
5 ceding sentence includes the authority to purchase  
6 vaccines.

7 (d) CONTINUED COVERAGE OF COSTS OF A PEDI-  
8 ATRIC VACCINE UNDER GROUP HEALTH PLANS.—

9 (1) REQUIREMENT.—The requirement of this  
10 paragraph, with respect to a group health plan for  
11 plan years beginning after the date of the enactment  
12 of this Act, is that the group health plan not reduce  
13 its coverage of the costs of pediatric vaccines (as de-  
14 fined under section 2162 of the Public Health Serv-  
15 ice Act) below the coverage it provided as of May 1,  
16 1993.

17 (2) ENFORCEMENT.—

18 (A) For purposes of section 2207 of the  
19 Public Health Service Act, the requirement of  
20 paragraph (1) is deemed a requirement of title  
21 XXII of such Act.

22 (B) For purposes of subsections (a)  
23 through (e) of section 4980B of the Internal  
24 Revenue Code of 1986, paragraph (1) is

1           deemed a requirement of subsection (f) of such  
2           section.

3   **SEC. 5182. NATIONAL VACCINE INJURY COMPENSATION**  
4           **PROGRAM AMENDMENTS.**

5           (a) USE OF VACCINE INJURY COMPENSATION TRUST  
6 FUND.—Section 6601(r) of the Omnibus Budget Rec-  
7 onciliation Act of 1989 is amended by striking  
8 “\$2,500,000 for each of fiscal years 1991 and 1992” each  
9 place it appears and inserting “\$3,000,000 for fiscal year  
10 1994 and each fiscal year thereafter” (in three places).

11          (b) AMENDMENT OF VACCINE INJURY TABLE.—Sec-  
12 tion 2116(b) of the Public Health Service Act (42 U.S.C.  
13 300aa–16(b)) is amended by striking “such person may  
14 file” and inserting “or to significantly increase the likeli-  
15 hood of obtaining compensation, such person may, not-  
16 withstanding section 2111(b)(2), file”.

17          (c) EXTENSION OF TIME FOR DECISION.—Section  
18 2112(d)(3)(D) of such Act (42 U.S.C. 300aa–  
19 12(d)(3)(D)) is amended by striking “540 days” and in-  
20 serting “30 months (but for no more than 6 months at  
21 a time)”.

22          (d) SIMPLIFICATION OF VACCINE INFORMATION MA-  
23 TERIALS.—

24               (1) Section 2126(b) of such Act (42 U.S.C.  
25       300aa–26(b)) is amended—

1 (A) by striking “by rule” in the matter  
2 preceding paragraph (1);

3 (B) by striking, in paragraph (1), “, op-  
4 portunity for a public hearing, and 90” and in-  
5 serting “and 30”; and

6 (C) by striking, in paragraph (2), “, appro-  
7 priate health care providers and parent organi-  
8 zations”.

9 (2) Section 2126(c) of such Act (42 U.S.C.  
10 300aa-26(c)) is amended—

11 (A) by inserting “shall be based on avail-  
12 able data and information,” after “such mate-  
13 rials” in the matter preceding paragraph (1),  
14 and

15 (B) by striking paragraphs (1) through  
16 (10) and inserting the following:

17 “(1) a concise description of the benefits of the  
18 vaccine,

19 “(2) a concise description of the risks associ-  
20 ated with the vaccine,

21 “(3) a statement of the availability of the Na-  
22 tional Vaccine Injury Compensation Program, and

23 “(4) such other relevant information as may be  
24 determined by the Secretary.”.

1           (3) Subsections (a) and (d) of section 2126 of  
2           such Act (42 U.S.C. 300aa–26) are each amended  
3           by inserting “or to any other individual” after “to  
4           the legal representatives of any child”.

5           (4) Subsection (d) of section 2126 of such Act  
6           (42 U.S.C. 300aa–26) is amended—

7                   (A) by striking all after “subsection (a),”  
8                   the second place it appears in the first sentence  
9                   and inserting “supplemented with visual presen-  
10                  tations or oral explanations, in appropriate  
11                  cases.”, and

12                   (B) by striking “or other information” in  
13                  the last sentence.

14   **SEC. 5183. MEDICAID IMMUNIZATION PROVISIONS.**

15           (a) OUTREACH AND EDUCATION.—

16                   (1) IMMUNIZATION OUTREACH THROUGH EPSDT  
17                  PROGRAM.—Section 1902(a)(43)(A) (42 U.S.C.  
18                  1396a(a)(43)(A)) is amended by inserting before the  
19                  comma at the end the following: “and the need for  
20                  age-appropriate immunizations against vaccine-pre-  
21                  ventable diseases”.

22                   (2) COORDINATION WITH MATERNAL AND  
23                  CHILD HEALTH BLOCK GRANT PROGRAMS AND WIC  
24                  PROGRAMS.—Section 1902(a)(11) (42 U.S.C.  
25                  1396a(a)(11)) is amended—

1 (A) in clause (B)—

2 (i) by striking “effective July 1,  
3 1969,”,

4 (ii) by striking “and” before “(ii)”,  
5 and

6 (iii) by striking “to him under section  
7 1903” and inserting “to the individual  
8 under section 1903, and (iii) providing for  
9 coordination of information and education  
10 on childhood vaccinations and delivery of  
11 immunization services”; and

12 (B) in clause (C), by inserting “(including  
13 the provision of information and education on  
14 childhood vaccinations and the delivery of im-  
15 munization services)” after “operations under  
16 this title”.

17 (3) COVERAGE OF PUBLIC HOUSING HEALTH  
18 CENTERS AS FEDERALLY-QUALIFIED HEALTH CEN-  
19 TERS.—Section 1905(l)(2)(B) (42 U.S.C.  
20 1396d(l)(2)(B)) is amended by striking “or 340”  
21 each place it appears and inserting “340, or 340A”.

22 (4) EFFECTIVE DATE.—(A) Except as provided  
23 in subparagraph (B), the amendments made by this  
24 subsection shall apply to calendar quarters beginning  
25 on or after October 1, 1993, without regard to



1       whether or not final regulations to carry out such  
2       amendments have been promulgated by such 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 this subsection, the State plan  
10      shall not be regarded as failing to comply with the  
11      requirements of such title solely on the basis of its  
12      failure to meet these additional requirements before  
13      the first day of the first calendar quarter beginning  
14      after the close of the first regular session of the  
15      State legislature that begins after the date of the en-  
16      actment of this Act. For purposes of the previous  
17      sentence, in the case of a State that has a 2-year  
18      legislative session, each year of such session shall be  
19      deemed to be a separate regular session of the State  
20      legislature.

21      (b) SCHEDULE OF IMMUNIZATIONS UNDER  
22      EPSDT.—

23           (1) IN GENERAL.—Section 1905(r)(1) (42  
24      U.S.C. 1396d(r)(1)) is amended—

1 (A) in subparagraph (A)(i), by inserting  
2 “and, with respect to immunizations under sub-  
3 paragraph (B)(iii), in accordance with the  
4 schedule recommended by the Secretary under  
5 section 2160 of the Public Health Service Act”  
6 after “child health care”; and

7 (B) in subparagraph (B)(iii), by inserting  
8 “(according to the schedule recommended by  
9 the Secretary under section 2160 of the Public  
10 Health Service Act)” after “appropriate immu-  
11 nizations”.

12 (2) EFFECTIVE DATE.—The amendments made  
13 by subparagraphs (A) and (B) of paragraph (1)  
14 shall first apply 90 days after the date the Secretary  
15 of Health and Human Services first issues the rec-  
16 ommended schedule referred to in subparagraphs  
17 (A)(i) and subparagraph (B)(iii) of section  
18 1905(r)(1) of the Social Security Act (as amended  
19 by such respective subparagraphs).

20 (c) ASSURING ADEQUATE PAYMENT RATES FOR AD-  
21 MINISTRATION OF VACCINES TO CHILDREN.—

22 (1) PAYMENT RATES.—Section 1926(a)(4)(B)  
23 (42 U.S.C. 1396r–7(a)(4)(B)) is amended by insert-  
24 ing “(including the administration of vaccines)”  
25 after “means services”.

1           (2) EFFECTIVE DATE.—The amendment made  
2       by paragraph (1) shall apply to the plan amendment  
3       required to be submitted under section 1926(a)(2) of  
4       the Social Security Act by not later than April 1,  
5       1994.

6       (d) DENIAL OF FEDERAL FINANCIAL PARTICIPATION  
7       FOR INAPPROPRIATE ADMINISTRATION OF SINGLE-ANTI-  
8       GEN VACCINE.—

9           (1) IN GENERAL.—Section 1903(i) (42 U.S.C.  
10       1396b(i)), as amended by sections 5174(b) and  
11       5131(a), is amended—

12           (A) in paragraph (13), by striking “or” at  
13       the end,

14           (B) in paragraph (14), by striking the pe-  
15       riod at the end and inserting “; or”, and

16           (C) by inserting after paragraph (14) the  
17       following new paragraph:

18           “(15) with respect to any amount expended for  
19       a single-antigen vaccine and its administration in  
20       any case in which the administration of a combined-  
21       antigen vaccine was medically appropriate (as deter-  
22       mined by the Secretary).”.

23           (2) EFFECTIVE DATE.—The amendments made  
24       by paragraph (1) shall apply to amounts expended

1       for vaccines administered on or after October 1,  
2       1993.

3       (e) REQUIRING MEDICAID MANAGED CARE PLANS  
4 TO COMPLY WITH IMMUNIZATION AND OTHER EPSDT  
5 REQUIREMENTS.—

6           (1) IN GENERAL.—Section 1903(m) (42 U.S.C.  
7       1396b(m)) is amended—

8           (A) in paragraph (2)(A), as amended by  
9       subsections (a)(1) and (b)(1) of section 5135—

10           (i) by striking “and” at the end of  
11       clause (xii),

12           (ii) by striking the period at the end  
13       of clause (xiii) and inserting “; and”, and

14           (iii) by adding at the end the follow-  
15       ing new clause:

16           “(xiv) the entity complies with the requirements  
17       of paragraph (7) (relating to EPSDT compliance).”;  
18       and

19           (B) by adding at the end the following new  
20       paragraph:

21       “(7) The contract between the State and an entity  
22 referred to in paragraph (2)(A)(iii) shall—

23           “(A) specify which early and periodic screening,  
24       diagnostic, and treatment services are to be provided

1 under the contract to individuals under age 21 en-  
2 rolled with the entity;

3 “(B) in the case of such services which are not  
4 to be so provided, specify the steps the entity will  
5 take (through referrals or other arrangements) to  
6 assure that such individuals will receive such serv-  
7 ices; and

8 “(C) require the entity to submit such periodic  
9 reports as may be necessary to enable the State to  
10 prepare and submit timely reports under section  
11 1902(a)(43)(D) and section 506(a)(2).”.

12 (2) APPLICATION OF INTERMEDIATE SANC-  
13 TIONS FOR FAILURE TO PROVIDE IMMUNIZA-  
14 TIONS AND OTHER EPSDT SERVICES.—Section  
15 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is  
16 amended—

17 (A) by striking “, or” at the end of clause  
18 (iv) and inserting a semicolon,

19 (B) by striking the comma at the end of  
20 clause (v) and inserting “; or”, and

21 (C) by inserting after clause (v) the follow-  
22 ing new clause:

23 “(vi) fails substantially to provide early and  
24 periodic screening, diagnostic, and treatment serv-

1        ices to the extent specified in the contract under  
2        paragraph (7)(A);”.

3            (3) EFFECTIVE DATE.—The amendments made  
4        by this subsection shall apply to contract years be-  
5        ginning on or after October 1, 1993, without regard  
6        to whether or not final regulations to carry out such  
7        amendments have been promulgated by such date.

8        (f) TRANSITION RULE.—

9            (1) MEDICAID USE OF CDC CONTRACT PRICE.—  
10       The Secretary of Health and Human Services shall  
11       not, on or after the date of the enactment of this  
12       Act, enter into a contract for the purchase by the  
13       Centers for Disease Control and Prevention of pedi-  
14       atric vaccines for distribution (as provided for in  
15       section 317 or section 2181 of the Public Health  
16       Service Act) unless such contract provides that the  
17       charge for such vaccines, for which medical assist-  
18       ance is provided under a State plan under title XIX  
19       of the Social Security Act, will not exceed the price  
20       negotiated under the contract. The previous sentence  
21       shall not apply, with respect to a vaccine for which  
22       medical assistance is provided by a State, on and  
23       after such date as the State becomes entitled to have  
24       the Secretary provide for the purchase and delivery

1 on behalf of the State of that vaccine under section  
2 2151 of the Public Health Service Act.

3 (2) OPTIONAL USE BY STATES OF CDC CON-  
4 TRACT PRICE.—Nothing in paragraph (1) shall be  
5 construed as limiting the Federal financial participa-  
6 tion available to States, under title XIX of the So-  
7 cial Security Act, for the cost of a pediatric vaccine  
8 to the contract price described in such paragraph for  
9 the vaccine.

10 **SEC. 5184. AVAILABILITY OF MEDICAID PAYMENTS FOR**  
11 **CHILDHOOD VACCINE REPLACEMENT PRO-**  
12 **GRAMS.**

13 (a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C.  
14 1396a(a)(32)) is amended—

15 (1) by striking “and” at the end of subpara-  
16 graph (B),

17 (2) by striking the period at the end of sub-  
18 paragraph (C) and inserting “; and”, and

19 (3) by adding at the end the following new sub-  
20 paragraph:

21 “(D) in the case of payment for a child-  
22 hood vaccine administered to individuals enti-  
23 tled to medical assistance under the State plan,  
24 the State plan may make payment directly to  
25 the manufacturer of the vaccine under a vol-

1           untary replacement program agreed to by the  
2           State pursuant to which the manufacturer (i)  
3           supplies doses of the vaccine to providers ad-  
4           ministering the vaccine, (ii) periodically replaces  
5           the supply of the vaccine, and (iii) charges the  
6           State the manufacturer's bid price to the Cen-  
7           ters for Disease Control and Prevention for the  
8           vaccine so administered plus a reasonable pre-  
9           mium to cover shipping and the handling of re-  
10          turns;”.

11       (b) EFFECTIVE DATE.—The amendments made by  
12 subsection (a) shall take effect on the date of the enact-  
13 ment of this Act.

14 **SEC. 5185. HEALTHY START FOR INFANTS.**

15       (a) IN GENERAL.—Part D of title III of the Public  
16 Health Service Act (42 U.S.C. 254b et seq.) is amended  
17 by inserting after section 330 the following section:

18                   “HEALTHY START FOR INFANTS

19       “SEC. 330A. (a) GRANTS FOR COMPREHENSIVE  
20 SERVICES.—

21           “(1) IN GENERAL.—The Secretary may make  
22 grants for the operation of not more than 21 dem-  
23 onstration projects to provide the services described  
24 in subsection (b) for the purpose of reducing, in the  
25 geographic areas in which the projects are carried  
26 out—



1           “(A) the incidence of infant mortality and  
2 morbidity;

3           “(B) the incidence of fetal deaths;

4           “(C) the incidence of maternal mortality;

5           “(D) the incidence of fetal alcohol syn-  
6 drome; and

7           “(E) the incidence of low-birthweight  
8 births.

9           “(2) ACHIEVEMENT OF YEAR 2000 HEALTH STA-  
10 TUS OBJECTIVES.—With respect to the objectives es-  
11 tablished by the Secretary for the health status of  
12 the population of the United States for the year  
13 2000, the Secretary shall, in providing for a dem-  
14 onstration project under paragraph (1) in a geo-  
15 graphic area, seek to meet the objectives that are  
16 applicable to the purpose described in such para-  
17 graph and the populations served by the project.

18          “(b) AUTHORIZED SERVICES.—

19           “(1) IN GENERAL.—Subject to subsection (h),  
20 the services referred to in this subsection are com-  
21 prehensive services (including preventive and pri-  
22 mary health services for pregnant women and in-  
23 fants and childhood immunizations in accordance  
24 with the schedule recommended by the Secretary  
25 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           “(1) PUBLIC OR NONPROFIT PRIVATE ENTI-  
2           TIES.—The Secretary may make a grant under sub-  
3           section (a) only if the applicant for the grant is a  
4           State or local department of health, or other public  
5           or nonprofit private entity, or a consortium of public  
6           or nonprofit private entities.

7           “(2) APPROVAL OF POLITICAL SUBDIVISIONS.—  
8           With respect to a proposed demonstration project  
9           under subsection (a), the Secretary may make a  
10          grant under such subsection only if—

11               “(A) the chief executive officer of each po-  
12               litical subdivision in the service area of such  
13               project approves the applicant for the grant as  
14               being qualified to carry out the project; and

15               “(B) the leadership of any Indian tribe or  
16               tribal organization with jurisdiction over any  
17               portion of such area so approves the applicant.

18          “(3) STATUS AS MEDICAID PROVIDER.—

19               “(A) In the case of any service described  
20               in subsection (b) that is available pursuant to  
21               the State plan approved under title XIX of the  
22               Social Security Act for a State in which a dem-  
23               onstration project under subsection (a) is car-  
24               ried 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.

1           “(ii) A determination by the Secretary of  
2           whether an entity referred to in clause (i) meets  
3           the criteria for a waiver under such clause shall  
4           be made without regard to whether the entity  
5           accepts voluntary donations regarding the pro-  
6           vision of services to the public.

7           “(e) STATE APPROVAL OF PROJECT.—With respect  
8           to a proposed demonstration project under subsection (a),  
9           the Secretary may make a grant under such subsection  
10          to the applicant involved only if—

11           “(1) the chief executive officer of the State in  
12           which the project is to be carried out approves the  
13           proposal of the applicant for carrying out the  
14           project; and

15           “(2) the leadership of any Indian tribe or tribal  
16           organization with jurisdiction over any portion of the  
17           service area of the project so approves the proposal.

18           “(f) ELIGIBILITY FOR SERVICES PROVIDED WITH  
19          GRANT FUNDS.—

20           “(1) IN GENERAL.—With respect to any au-  
21           thorized service under subsection (b), if the service  
22           is a service that States are required or authorized to  
23           provide under title XIX of the Social Security Act,  
24           the Secretary may make a grant under subsection  
25           (a) only if the applicant involved agrees that the

1 grant will not be expended to provide the service to  
2 any individual to whom States are required or au-  
3 thorized under such title to provide the service. The  
4 Secretary may not make a grant under subsection  
5 (a) unless the State involved agrees that the grant  
6 will not be expended to make payment for any item  
7 or service to the extent that payment has been  
8 made, or can reasonably be expected to be made,  
9 with respect to such item or service—

10 “(A) under a health insurance policy or  
11 plan (including a group health plan or a pre-  
12 paid health plan),

13 “(B) under any Federal or State health  
14 benefits program, including any program under  
15 title V, XVIII, or XIX of the Social Security  
16 Act, or

17 “(C) under subpart 2 of part B of title  
18 XIX of this Act.

19 “(2) RULES OF CONSTRUCTION.—For purposes  
20 of paragraph (1):

21 “(A) Individuals to whom States are au-  
22 thorized to provide services under title XIX of  
23 the Social Security Act include, pursuant to  
24 section 1902(l) of such title, pregnant women,  
25 infants, and children with an income level not

1 less than 133 percent, and not more than 185  
2 percent, of the official poverty line.

3 “(B) Authorized services under subsection  
4 (b) that are authorized to be provided under  
5 title XIX of such Act include, pursuant to sec-  
6 tion 1920 of such title, ambulatory prenatal  
7 services during a period of presumptive eligi-  
8 bility.

9 “(C) Authorized services under subsection  
10 (b) that are required to be provided under title  
11 XIX of such Act include, pursuant to section  
12 1905(a)(4)(B) of such title, early and periodic  
13 screening, diagnostic, and treatment services for  
14 children under the age of 21.

15 “(D) Authorized services under subsection  
16 (b) that are authorized to be provided under  
17 title XIX of such Act include, pursuant to sec-  
18 tion 1905(a)(19) of such title, case-manage-  
19 ment services.

20 “(g) MAINTENANCE OF EFFORT.—

21 “(1) GRANTEE.—With respect to authorized  
22 services under subsection (b), the Secretary may  
23 make a grant under subsection (a) only if the appli-  
24 cant involved agrees to maintain expenditures of  
25 non-Federal amounts for such services at a level

1       that is not less than the level of such expenditures  
2       maintained by the applicant for fiscal year 1991.

3           “(2) RELEVANT POLITICAL SUBDIVISIONS.—

4       With respect to authorized services under subsection  
5       (b), the Secretary may make a grant under sub-  
6       section (a) only if each political subdivision in the  
7       service area of the demonstration project involved  
8       agrees to maintain expenditures of non-Federal  
9       amounts for such services at a level that is not less  
10      than the level of such expenditures maintained by  
11      the political subdivision for fiscal year 1991.

12      “(h) RESTRICTIONS ON EXPENDITURE OF GRANT.—

13           “(1) IN GENERAL.—Except as provided in para-  
14      graph (3), the Secretary may make a grant under  
15      subsection (a) only if the applicant involved agrees  
16      that the grant will not be expended—

17           “(A) to provide inpatient services, except  
18           with respect to residential treatment for sub-  
19           stance abuse provided in settings other than  
20           hospitals;

21           “(B) to make cash payments to intended  
22           recipients of health services or mental health  
23           services; or

24           “(C) to purchase or improve real property  
25           (other than minor remodeling of existing im-



1           provements to real property) or to purchase  
2           major medical equipment (other than mobile  
3           medical units for providing ambulatory prenatal  
4           services).

5           “(2) ADMINISTRATIVE EXPENSES; DATA COL-  
6           LECTION.—The Secretary may make a grant under  
7           subsection (a) only if the applicant involved agrees  
8           that not more than an aggregate 10 percent of the  
9           grant will be expended for administering the grant  
10          and the collection and analysis of data.

11          “(3) WAIVER.—If the Secretary finds that the  
12          purpose described in subsection (a) cannot otherwise  
13          be carried out, the Secretary may, with respect to an  
14          otherwise qualified applicant, waive the restriction  
15          established in paragraph (1)(C).

16          “(i) DETERMINATION OF CAUSE OF INFANT  
17          DEATHS.—The Secretary may make a grant under sub-  
18          section (a) only if the applicant involved—

19               “(1) agrees to provide for a determination of  
20               the cause of each infant death in the service area of  
21               the demonstration project involved; and

22               “(2) the applicant has made such arrangements  
23               with public entities as may be necessary to carry out  
24               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).

1           “(6) The extent of progress being made toward  
2           meeting the health status objectives specified in sub-  
3           section (a)(2).

4           “(7) The extent to which, in the service area in-  
5           volved, progress is being made toward meeting the  
6           participation goals established for the State by the  
7           Secretary under section 1905(r) of the Social Secu-  
8           rity Act (relating to early periodic screening, diag-  
9           nostic, and treatment services for children under the  
10          age of 21).

11          “(k) COMMUNITY PARTICIPATION.—The Secretary  
12          may make a grant under subsection (a) only if the appli-  
13          cant involved agrees that, in preparing the proposal of the  
14          applicant for the demonstration project involved, and in  
15          the operation of the project, the applicant will consult with  
16          the residents of the service area for the project and with  
17          public and nonprofit private entities that provide author-  
18          ized services to such residents.

19          “(l) APPLICATION FOR GRANT.—The Secretary may  
20          make a grant under subsection (a) only if an application  
21          for the grant is submitted to the Secretary and the appli-  
22          cation is in such form, is made in such manner, and con-  
23          tains such agreements, assurances, and information as the  
24          Secretary determines to be necessary to carry out this sub-  
25          section.

1       “(m) REPORT TO CONGRESS.—Not later than Feb-  
2       ruary 1, 1998, the Secretary shall submit to the Commit-  
3       tee on Energy and Commerce of the House of Representa-  
4       tives, and the Committee on Labor and Human Resources  
5       of the Senate, a report—

6               “(1) summarizing the reports received by the  
7       Secretary under subsection (j);

8               “(2) describing the extent to which demonstra-  
9       tion projects under subsection (a) have been cost ef-  
10      fective; and

11              “(3) describing the extent to which the Sec-  
12      retary has, in the service areas of such projects,  
13      been successful in meeting the health status objec-  
14      tives specified in subsection (a)(2).

15      “(n) LIMITATION ON CERTAIN EXPENSES OF SEC-  
16      RETARY.—Of the amounts appropriated under subsection  
17      (o) for a fiscal year, the Secretary may not obligate more  
18      than an aggregate 5 percent for the administrative costs  
19      of the Secretary in carrying out this section, for the provi-  
20      sion of technical assistance regarding demonstration  
21      projects under subsection (a), and for evaluations of such  
22      projects.

23      “(o) DEFINITIONS.—For purposes of this section:

24              “(1) The term ‘authorized services’ means the  
25      services specified in subsection (b).

1           “(2) The terms ‘Indian tribe’ and ‘tribal organi-  
2           zation’ have the meaning given such terms in section  
3           4(b) and section 4(c) of the Indian Self-Determina-  
4           tion and Education Assistance Act.

5           “(3) The term ‘service area’, with respect to a  
6           demonstration project under subsection (a), means  
7           the geographic area specified in subsection (c).

8           “(p) AUTHORIZATION OF APPROPRIATIONS.—For the  
9           purpose of carrying out this section, there are authorized  
10          to be appropriated for each of the fiscal years 1994  
11          through 1997 such sums as may be necessary.

12          “(q) SUNSET.—Effective October 1, 1997, this sec-  
13          tion is repealed.”.

14          (b) REPORT FOR FISCAL YEAR 1993.—With respect  
15          to grants under section 330A of the Public Health Service  
16          Act, as added by subsection (a) of this section, the Sec-  
17          retary of Health and Human Services may make a grant  
18          under such section for fiscal year 1994 only if the appli-  
19          cant for the grant agrees to submit to the Secretary, not  
20          later than April 1 of such year, a report on any federally-  
21          supported project of the applicant that is substantially  
22          similar to the demonstration projects authorized in such  
23          section 330A, which report provides, to the extent prac-  
24          ticable, the information described in subsection (j) of such  
25          section.

1       (c) SAVINGS PROVISION.—With respect to grants  
2 under section 330A of the Public Health Service Act, as  
3 added by subsection (a) of this section and in effect for  
4 the fiscal years 1994 through 1997, such grants remain  
5 available for obligation and expenditure in accordance with  
6 the terms upon which the grants were made, notwith-  
7 standing the repeal of such section 330A pursuant to sub-  
8 section (q) of such section.

9       (d) USE OF GENERAL AUTHORITY UNDER PUBLIC  
10 HEALTH SERVICE ACT.—With respect to the program es-  
11 tablished in section 330A of the Public Health Service Act,  
12 as added by subsection (a) of this section, section 301 of  
13 the Public Health Service Act may not be construed as  
14 providing to the Secretary of Health and Human Services  
15 any authority to carry out, during any fiscal year in which  
16 such program is in operation, any demonstration project  
17 to provide any of the services specified in subsection (b)  
18 of such section 330A.

19 **SEC. 5186. INCREASE IN AUTHORIZATION OF APPROPRIA-**  
20 **TIONS FOR THE MATERNAL AND CHILD**  
21 **HEALTH SERVICES BLOCK GRANT PROGRAM.**

22       Section 501(a) (42 U.S.C. 701(a)) is amended by  
23 striking “\$686,000,000 for fiscal year 1990” and insert-  
24 ing “\$705,000,000 for fiscal year 1994”.

1 **SEC. 5187. MISCELLANEOUS TECHNICAL CORRECTIONS TO**  
2 **PUBLIC HEALTH SERVICE ACT PROVISIONS.**

3 (a) COMPENSATION FOR MEMBERS OF NATIONAL  
4 ADVISORY COUNCIL ON NATIONAL HEALTH SERVICE  
5 CORPS.—

6 (1) IN GENERAL.—Section 337(b)(2) of the Public  
7 Health Service Act (42 U.S.C. 254j(b)(2)) is amended—

8 (A) by inserting after “so serving” the fol-  
9 lowing: “compensation at a rate fixed by the  
10 Secretary (but not to exceed”, and

11 (B) by striking “Schedule;” and inserting  
12 “Schedule);”.

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

16 (b) LIABILITY PROTECTIONS FOR INDIVIDUALS PRO-  
17 VIDING SERVICES AT CERTAIN CLINICS.—

18 (1) CLARIFICATION OF VOLUNTARY PARTICIPA-  
19 TION BY CERTAIN ENTITIES.—(A) Section 224(g) of  
20 the Public Health Service Act (42 U.S.C.  
21 133(g)(1)), as added by section 2(a) of the Federally  
22 Supported Health Centers Assistance Act of 1992, is  
23 amended—

24 (i) in paragraph (4), by striking “An en-  
25 tity” and inserting “Except as provided in  
26 paragraph (6), an entity”, and

1 (ii) by adding at the end the following new  
2 paragraph:

3 “(6) An entity may elect not to be treated as being  
4 described in paragraph (4) if the entity establishes that  
5 on a continuous basis since October 24, 1992, the entity  
6 has been a participant in, and partial owner of, a nonprofit  
7 risk retention group which offers malpractice and other  
8 liability coverage to the entity.”.

9 (B) Section 224(k)(2) of such Act (42 U.S.C.  
10 233(k)(2)), as added by section 4 of the Federally  
11 Supported Health Centers Assistance Act of 1992, is  
12 amended by striking “entities receiving funds” and  
13 all that follows through “subsection (g)” and insert-  
14 ing the following: “entities described in subsection  
15 (g)(4) and receiving funds under each of the grant  
16 programs described in such subsection”.

17 (2) CLARIFICATION OF COVERAGE OF OFFICERS  
18 AND EMPLOYEES OF CLINICS.—The first sentence of  
19 section 224(g)(1) of the Public Health Service Act  
20 (42 U.S.C. 233(g)(1)) is amended by striking “offi-  
21 cer, employee, or contractor” and inserting the fol-  
22 lowing: “officer or employee of such an entity, and  
23 any contractor”.

24 (3) COVERAGE FOR SERVICES FURNISHED TO  
25 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

1 section 2(b) of the Federally Supported Health Cen-  
 2 ters Assistance Act of 1992, is amended by striking  
 3 “the entity—” and inserting the following: “the Sec-  
 4 retary, after receiving such assurances and conduct-  
 5 ing such investigation as the Secretary considers  
 6 necessary, finds that the entity—”.

7 (5) EFFECTIVE DATE.—The amendments made  
 8 by this subsection shall take effect as if included in  
 9 the enactment of the Federally Supported Health  
 10 Centers Assistance Act of 1992.

11 (c) ELIMINATION OF DUPLICATE WAIVER AUTHOR-  
 12 ITY FOR PARTICIPANTS IN NATIONAL HEALTH SERVICE  
 13 CORPS.—Section 338E(c) of the Public Health Service  
 14 Act (42 U.S.C. 254o(c)) is amended by striking paragraph  
 15 (3) and redesignating paragraph (4) as paragraph (3).

16 (d) CLARIFICATION OF PROHIBITION AGAINST RE-  
 17 SALE OF DRUGS UNDER DRUG REBATE AGREEMENTS.—  
 18 Section 340B(a)(5)(B) of the Public Health Service Act  
 19 (42 U.S.C. 256b(a)(5)(B)), as added by section 602(a) of  
 20 the Veterans Health Care of 1992, is amended by striking  
 21 “entity.” and inserting “covered entity.”.

## 22 **Subtitle C—Communications**

### 23 **Licensing Improvement**

#### 24 **SEC. 5200. TABLE OF CONTENTS.**

25 The table of contents is as follows:

Subtitle C—Communications Licensing Improvement

Sec. 5200. Table of contents.

CHAPTER 1—COMPETITIVE BIDDING AUTHORITY

- Sec. 5201. Short title.
- Sec. 5202. Findings.
- Sec. 5203. Authority to use competitive bidding.
- Sec. 5204. Conforming amendments.
- Sec. 5205. Regulatory parity.
- Sec. 5206. Effective dates; deadlines for Commission action.

CHAPTER 2—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

- Sec. 5221. Short title.
- Sec. 5222. Amendment to the National Telecommunications and Information Administration Organization Act.

CHAPTER 3—COMMUNICATIONS TECHNICAL AMENDMENTS

- Sec. 5241. Clerical corrections.
- Sec. 5242. Transfer of provisions of law concerning public telecommunications facilities, children's educational television, and telecommunications demonstration program.
- Sec. 5243. Elimination of expired and outdated provisions.
- Sec. 5244. Stylistic consistency.

# 1        **CHAPTER 1—COMPETITIVE BIDDING**

# 2                                **AUTHORITY**

## 3    **SEC. 5201. SHORT TITLE.**

4        This chapter may be cited as the “Licensing Improve-

5    ment Act of 1993”.

## 6    **SEC. 5202. FINDINGS.**

7        The Congress finds that—

8                (1) current licensing procedures often delay de-

9        livery of services to the public and can result in the

10       unjust enrichment of applicants on the basis of the

11       value of the public airwaves;

12               (2) if licensees are engaged in reselling the use

13       of the public airwaves to subscribers for a fee, the

1 licensee should pay reasonable compensation to the  
2 public for those public resources;

3 (3) a carefully designed system to obtain com-  
4 petitive bids from competing qualified applicants can  
5 speed delivery of services, promote efficient and in-  
6 tensive use of the electromagnetic spectrum, prevent  
7 unjust enrichment, and produce revenues to com-  
8 pensate the public for the use of the public airwaves;  
9 and

10 (4) therefore, the Federal Communications  
11 Commission should have the authority to differen-  
12 tiate among multiple qualified applicants for a single  
13 license using a system of competitive bids.

14 **SEC. 5203. AUTHORITY TO USE COMPETITIVE BIDDING.**

15 Section 309 of the Communications Act of 1934 (47  
16 U.S.C. 309) is amended by adding at the end the following  
17 new subsection:

18 “(j) USE OF COMPETITIVE BIDDING.—

19 “(1) GENERAL AUTHORITY.—If mutually exclu-  
20 sive applications are filed for any initial license or  
21 construction permit which will involve a use of the  
22 electromagnetic spectrum described in paragraph  
23 (2), then the Commission shall have the authority to  
24 grant such license or permit to a qualified applicant

1 through the use of a system of competitive bidding  
2 that meets the requirements of this subsection.

3 “(2) USES TO WHICH BIDDING MAY APPLY.—A  
4 use of the electromagnetic spectrum is described in  
5 this paragraph if the Commission determines that—

6 “(A) the principal use of such spectrum  
7 will involve, or is reasonably likely to involve,  
8 the licensee receiving compensation from sub-  
9 scribers in return—

10 “(i) for the licensee enabling those  
11 subscribers to receive communications sig-  
12 nals that are transmitted utilizing fre-  
13 quencies on which the licensee is licensed  
14 to operate; or

15 “(ii) for the licensee enabling those  
16 subscribers to transmit directly commu-  
17 nications signals utilizing frequencies on  
18 which the licensee is licensed to operate;  
19 and

20 “(B) a system of competitive bidding will  
21 promote the objectives described in paragraph  
22 (3).

23 “(3) DESIGN OF SYSTEMS OF COMPETITIVE  
24 BIDDING.—For each license or permit, or class of  
25 licenses or permits, that the Commission grants

1 through the use of a competitive bidding system, the  
2 Commission shall, by rule, establish a competitive  
3 bidding methodology. The Commission shall seek to  
4 design and test multiple alternative methodologies  
5 under appropriate circumstances. In identifying li-  
6 censes and permits to be issued by competitive bid-  
7 ding, in specifying eligibility and other characteris-  
8 tics of such licenses and permits, and in designing  
9 the methodologies for use under this subsection, the  
10 Commission shall seek to promote the purposes  
11 specified in section 1 of this Act and the following  
12 objectives:

13 “(A) the development and rapid deploy-  
14 ment of new technologies, products, and serv-  
15 ices for the benefit of the public, including  
16 those residing in rural areas, without adminis-  
17 trative or judicial delays;

18 “(B) promoting economic opportunity and  
19 competition and ensuring that new and innova-  
20 tive technologies are readily accessible to the  
21 American people by avoiding excessive con-  
22 centration of licenses and by disseminating li-  
23 censes among a wide variety of applicants, in-  
24 cluding small businesses and businesses owned  
25 by members of minority groups and women;

1           “(C) recovery for the public of a portion of  
2           the value of the public spectrum resource made  
3           available for commercial use and avoidance of  
4           unjust enrichment through the methods em-  
5           ployed to award uses of that resource; and

6           “(D) efficient and intensive use of the elec-  
7           tromagnetic spectrum.

8           “(4) CONTENTS OF REGULATIONS.—In pre-  
9           scribing rules pursuant to paragraph (3), the Com-  
10          mission shall—

11           “(A) consider alternative payment sched-  
12           ules and methods of calculation, including ini-  
13           tial lump sums, installment or royalty pay-  
14           ments, guaranteed annual minimum payments,  
15           or other schedules or methods that promote the  
16           objectives described in paragraph (3)(B), and  
17           combinations of such schedules and methods;

18           “(B) include performance requirements,  
19           such as appropriate deadlines and penalties for  
20           performance failures, to ensure prompt delivery  
21           of service to rural areas, to prevent stockpiling  
22           or warehousing of spectrum by licensees or per-  
23           mittees, and to promote investment in and  
24           rapid deployment of new technologies and serv-  
25           ices;

1           “(C) consistent with the public interest,  
2           convenience, and necessity, the purposes of this  
3           Act, and the characteristics of the proposed  
4           service, prescribe area designations and band-  
5           width assignments that promote (i) an equitable  
6           distribution of licenses and services among geo-  
7           graphic areas, (ii) economic opportunity for a  
8           wide variety of applicants, including small busi-  
9           nesses and businesses owned by members of mi-  
10          nority groups and women, and (iii) investment  
11          in and rapid deployment of new technologies  
12          and services; and

13          “(D) require such transfer disclosures and  
14          antitrafficking restrictions and payment sched-  
15          ules as may be necessary to prevent unjust en-  
16          richment as a result of the methods employed  
17          to issue licenses and permits.

18          “(5) BIDDER AND LICENSEE QUALIFICATION.—  
19          No person shall be permitted to participate in a sys-  
20          tem of competitive bidding pursuant to this sub-  
21          section unless such bidder submits such information  
22          and assurances as the Commission may require to  
23          demonstrate that such bidder’s application is accept-  
24          able for filing. No license shall be granted to an ap-  
25          plicant selected pursuant to this subsection unless



1 the Commission determines that the applicant is  
2 qualified pursuant to subsection (a) and sections  
3 308(b) and 310. Consistent with the objectives de-  
4 scribed in paragraph (3), the Commission shall, by  
5 rule, prescribe expedited procedures consistent with  
6 the procedures authorized by subsection (i)(2) for  
7 the resolution of any substantial and material issues  
8 of fact concerning qualifications.

9 “(6) RULES OF CONSTRUCTION.—Nothing in  
10 this subsection, or in the use of competitive bidding,  
11 shall—

12 “(A) limit or otherwise affect the require-  
13 ments of subsection (h) of this section, section  
14 301, 304, 307, 310, or 706, or any other provi-  
15 sion of this Act (other than subsections (d)(2)  
16 and (e) of this section);

17 “(B) be construed to convey any rights, in-  
18 cluding any expectation of renewal of a license,  
19 that differ from the rights that apply to other  
20 licenses within the same service that were not  
21 issued pursuant to this subsection; or

22 “(C) be construed to prohibit the Commis-  
23 sion from issuing nationwide licenses or per-  
24 mits.

1           “(7) LIMITATION OF EFFECT ON ALLOCATION  
2       DECISIONS.—In making a decision pursuant to sec-  
3       tion 303(c) to assign a band of frequencies to a use  
4       for which licenses or permits will be issued pursuant  
5       to this subsection, and in prescribing regulations  
6       pursuant to paragraph (4)(A) and (4)(C) of this  
7       subsection, the Commission may not base a finding  
8       of public interest, convenience, and necessity solely  
9       or predominantly on the expectation of Federal reve-  
10      nues from the use of a system of competitive bidding  
11      under this subsection.

12          “(8) TREATMENT OF REVENUES.—All proceeds  
13      from the use of a competitive bidding system under  
14      this subsection shall be deposited in the Treasury in  
15      accordance with chapter 33 of title 31, United  
16      States Code. A license or permit issued by the Com-  
17      mission under this section shall not be treated as the  
18      property of the licensee for tax purposes by any  
19      State or local government entity.

20          “(9) TERMINATION; EVALUATION.—The author-  
21      ity of the Commission to grant a license or permit  
22      under this subsection shall expire September 30,  
23      1998. Not later than September 30, 1997, the Com-  
24      mission shall conduct a public inquiry and submit to  
25      the Congress a report—

1           “(A) describing the methodologies estab-  
2           lished by the Commission pursuant to para-  
3           graphs (3) and (4);

4           “(B) comparing the relative advantages  
5           and disadvantages of such methodologies in  
6           terms of attaining the objectives described in  
7           such paragraphs;

8           “(C) evaluating the extent to which such  
9           methodologies have secured prompt delivery of  
10          service to rural areas; and

11          “(D) containing a statement of the reve-  
12          nues obtained, and a projection of the future  
13          revenues, from the use of competitive bidding  
14          systems under this subsection.”.

15   **SEC. 5204. CONFORMING AMENDMENTS.**

16          Section 309 of the Communications Act of 1934 is  
17   further amended—

18          (1) by striking subsection (i)(1) and inserting  
19          the following:

20          “(i) RANDOM SELECTION.—

21                  “(1) GENERAL AUTHORITY.—If—

22                          “(A) there is more than one application for  
23                          any initial license or construction permit which  
24                          will involve a use of the electromagnetic spec-  
25                          trum; and

1           “(B) the Commission has determined that  
2           the use is not described in subsection (j)(2)(A);  
3           then the Commission shall have the authority to  
4           grant such license or permit to a qualified applicant  
5           through the use of a system of random selection.”;

6           (2) in paragraph (2)—

7                 (A) by indenting paragraph (2), including  
8                 subparagraphs (A) through (C), by an addi-  
9                 tional 2 em spaces; and

10                (B) by inserting “DETERMINATIONS OF  
11                QUALIFICATIONS.—” after “(2)”;

12           (3) in paragraph (3)—

13                 (A) by indenting subparagraphs (A) and  
14                 (B), and so much of subparagraph (C) as pre-  
15                 cedes clause (i), by an additional 2 em spaces;

16                 (B) by indenting clauses (i) and (ii) of sub-  
17                 paragraph (C) by an additional 4 em spaces;  
18                 and

19                 (C) by inserting “PREFERENCES; DIVER-  
20                 SITY.—” after “(3)”;

21           (4) in paragraph (4)—

22                 (A) by indenting subparagraphs (A) and  
23                 (B) of such paragraph by an additional 2 em  
24                 spaces;

1 (B) by inserting “RULEMAKING SCHEDULE  
2 AND AUTHORITY.—” after “(4)”; and

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

5 “(C) Not later than 180 days after the date of  
6 enactment of this subparagraph, the Commission  
7 shall prescribe such transfer disclosures and  
8 antitrafficking restrictions and payment schedules as  
9 are necessary to prevent the unjust enrichment of  
10 recipients of licenses or permits as a result of the  
11 methods employed to issue licenses under this sub-  
12 section.”.

13 **SEC. 5205. REGULATORY PARITY.**

14 (a) AMENDMENT.—Section 332 of the Communica-  
15 tions Act of 1934 (47 U.S.C. 332) is amended—

16 (1) by striking “PRIVATE LAND” from the head-  
17 ing of the section; and

18 (2) by amending striking subsection (c) and in-  
19 serting the following:

20 “(c) REGULATORY TREATMENT OF MOBILE SERV-  
21 ICES.—

22 “(1) COMMON CARRIER TREATMENT OF COM-  
23 MERCIAL MOBILE SERVICES.—(A) A person engaged  
24 in the provision of commercial mobile services shall,  
25 insofar as such person is so engaged, be treated as

1 a common carrier for purposes of this Act, except  
2 for such provisions of title II as the Commission  
3 may, consistent with the public interest, specify as  
4 inapplicable by rule. In prescribing any such rule,  
5 the Commission may not specify section 201, 202, or  
6 208, or any other provision that the Commission de-  
7 termines to be necessary in order to ensure that the  
8 charges, practices, classifications, or regulations for  
9 or in connection with commercial mobile services are  
10 just and reasonable and are not unjustly or unrea-  
11 sonably discriminatory or is otherwise in the public  
12 interest.

13 “(B) Upon reasonable request of any person  
14 providing commercial mobile service, the Commission  
15 shall order a common carrier to establish physical  
16 connections with such service pursuant to the provi-  
17 sions of section 201 of this Act. Except to the extent  
18 that the Commission is required to respond to such  
19 a request, this subparagraph shall not be construed  
20 as a limitation or expansion of the Commission’s au-  
21 thority to order interconnection pursuant to this  
22 Act.

23 “(2) NONCOMMON CARRIER TREATMENT OF  
24 PRIVATE LAND MOBILE SERVICES.—A person en-  
25 gaged 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

1       and the Commission shall grant such petition if such  
2       State demonstrates that (i) such service is a sub-  
3       stitute for land line telephone exchange service for a  
4       substantial portion of the public within such State,  
5       or (ii) market conditions with respect to such serv-  
6       ices fail to protect subscribers adequately from un-  
7       just and unreasonable rates or rates that are un-  
8       justly or unreasonably discriminatory. The Commis-  
9       sion shall provide reasonable opportunity for public  
10      comment in response to such petition, and shall,  
11      within 9 months after the date of its submission,  
12      grant or deny such petition. If the Commission  
13      grants such petition, the Commission shall authorize  
14      the State to exercise under State law such authority  
15      over rates, for such periods of time, as the Commis-  
16      sion deems necessary to ensure that such rates are  
17      just and reasonable and not unjustly or unreason-  
18      ably discriminatory.

19           “(4) REGULATORY TREATMENT OF COMMU-  
20      NICATIONS SATELLITE CORPORATION.—Nothing in  
21      this subsection shall be construed to alter or affect  
22      the regulatory treatment required by title IV of the  
23      Communications Satellite of 1962 of the corporation  
24      authorized by title III of such Act.

25           “(d) DEFINITIONS.—For purposes of this section—



1           “(1) the term ‘commercial mobile service’  
 2       means all mobile services (as defined in section 3(n))  
 3       that—

4                   “(A) are provided for profit (i) to the pub-  
 5       lic, (ii) on an indiscriminate basis, or (iii) to  
 6       such broad classes of eligible users as to be ef-  
 7       fectively available to a substantial portion of the  
 8       public; and

9                   “(B) are interconnected (or have requested  
 10      interconnection pursuant to paragraph (1)(B))  
 11      with the public switched network (as such terms  
 12      are defined by regulation by the Commission);  
 13      and

14           “(2) the term ‘private mobile service’ means  
 15      any mobile service (as defined in section 3(n)) that  
 16      is not a commercial mobile service.”.

17      (b) CONFORMING AMENDMENTS.—

18           (1) AMENDMENTS TO DEFINITIONS.—Section 3  
 19      of the Communications Act of 1934 (47 U.S.C. 153)  
 20      is amended—

21                   (A) in subsection (n)—

22                           (i) by inserting “(1)” after “and in-  
 23                           cludes”; and

24                           (ii) by inserting before the period at  
 25                           the end the following: “, (2) a mobile serv-

1 ice which provides a regularly interacting  
2 group of base, mobile, portable, and associ-  
3 ated control and relay stations (whether li-  
4 censed on an individual, cooperative, or  
5 multiple basis) for private one-way or two-  
6 way land mobile radio communications by  
7 eligible users over designated areas of op-  
8 eration, and (3) any service for which a li-  
9 cense is required in a personal communica-  
10 tions service established pursuant to the  
11 proceeding entitled ‘Amendment of the  
12 Commission’s Rules to Establish New Per-  
13 sonal Communications Services’ (GEN  
14 Docket No. 90–314; ET Docket No. 92–  
15 100), or any successor proceeding’’; and  
16 (B) by striking subsection (gg).

17 (2) CONFORMING AMENDMENTS TO SECTION  
18 332.—Section 332 of such Act is further amended—

19 (A) in subsection (a), by inserting after  
20 “(a)” the following: “MANAGEMENT OF PRI-  
21 VATE LAND MOBILE FREQUENCIES.—”;

22 (B) in subsection (b)—

23 (i) by indenting the margin of para-  
24 graphs (2) through (4) by 2 em spaces;

1 (ii) by striking “(b)(1)” and inserting  
2 the following:

3 “(b) USE OF ADVISORY COMMITTEE.—

4 “(1) COORDINATION OF FREQUENCY ASSIGN-  
5 MENT.—”;

6 (iii) by inserting “EXEMPTION.—”  
7 after “(2)”;

8 (iv) by inserting “NONEMPLOYEE  
9 STATUS.—” after “(3)”;

10 (v) by inserting “APPLICATION OF  
11 FEDERAL ADVISORY COMMITTEE ACT.—”  
12 after “(4).”

13 **SEC. 5206. EFFECTIVE DATES; DEADLINES FOR COMMIS-**  
14 **SION ACTION.**

15 (a) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as provided in para-  
17 graph (2), the amendments made by this chapter are  
18 effective on the date of enactment of this Act.

19 (2) EFFECTIVE DATE OF MOBILE SERVICE  
20 AMENDMENTS.—The amendments made by section  
21 5205 shall be effective 1 year after such date of en-  
22 actment, except that any person that provides pri-  
23 vate land mobile services before such date of enact-  
24 ment shall continue to be treated as a provider of

1 private land mobile service until 3 years after such  
2 date of enactment.

3 (b) DEADLINES FOR COMMISSION ACTION.—

4 (1) GENERAL RULEMAKING.—The Federal  
5 Communications Commission shall prescribe rules to  
6 implement section 309(j) of the Communications Act  
7 of 1934 (as added by this chapter) within 210 days  
8 after the date of enactment of this Act.

9 (2) PCS ORDERS AND LICENSING.—The Com-  
10 mission shall—

11 (A) within 180 days after such date of en-  
12 actment, issue a final report and order (i) in  
13 the matter entitled “Redevelopment of Spec-  
14 trum to Encourage Innovation in the Use of  
15 New Telecommunications Technologies” (ET  
16 Docket No. 92–9); and (ii) in the matter enti-  
17 tled “Amendment of the Commission’s Rules to  
18 Establish New Personal Communications Serv-  
19 ices” (GEN Docket No. 90–314; ET Docket  
20 No. 92–100); and

21 (B) within 270 days after such date of en-  
22 actment, commence issuing licenses and permits  
23 in the personal communications service.

24 (3) MOBILE SERVICE RULEMAKING RE-  
25 QUIRED.—Within 1 year after the date of enactment

1 of this Act, the Federal Communications Commis-  
2 sion shall—

3 (A) issue such modifications or termi-  
4 nations of its regulations concerning private  
5 land mobile services as are necessary to imple-  
6 ment the amendments made by section 5205;

7 (B) make such other modifications of such  
8 regulations as may be necessary to equalize the  
9 regulatory treatment of providers of all com-  
10 mercial mobile services that offer services that  
11 are substantially similar; and

12 (C) include in such modifications and ter-  
13 minations such provisions as are necessary to  
14 provide for an orderly transition to the regu-  
15 latory treatment required by such amendments.

16 (c) SPECIAL RULE.—The Federal Communications  
17 Commission shall not issue any license or permit pursuant  
18 to section 309(i) of the Communications Act of 1934 after  
19 the date of enactment of this Act unless the Commission  
20 has made the determination required by paragraph (1)(B)  
21 of such section (as added by this chapter).

1                   **CHAPTER 2—EMERGING**  
2   **TELECOMMUNICATIONS TECHNOLOGIES**

3   **SEC. 5221. SHORT TITLE.**

4           This chapter may be cited as the “Emerging Tele-  
5   communications Technologies Act of 1993”.

6   **SEC. 5222. AMENDMENT TO THE NATIONAL TELECOMMUNI-**  
7                   **CATIONS AND INFORMATION ADMINISTRA-**  
8                   **TION ORGANIZATION ACT.**

9           The National Telecommunications and Information  
10   Administration Organization Act is amended—

11               (1) by striking the heading of part B and in-  
12               serting the following:

13                   **“PART D—SPECIAL AND TEMPORARY**  
14                   **PROVISIONS”;**

15               (2) by redesignating sections 131 through 135  
16               as sections 151 through 155, respectively; and

17               (3) by inserting after part A the following new  
18               part:

19                   **“PART B—EMERGING TELECOMMUNICATIONS**  
20                   **TECHNOLOGIES**

21   **“SEC. 111. FINDINGS.**

22           “The Congress finds that—

23               “(1) the Federal Government currently reserves  
24               for its own use, or has priority of access to, approxi-  
25               mately 40 percent of the electromagnetic spectrum

1       that is assigned for use pursuant to the Communica-  
2       tions Act of 1934;

3           “(2) many of such frequencies are underutilized  
4       by Federal Government licensees;

5           “(3) the public interest requires that many of  
6       such frequencies be utilized more efficiently by Fed-  
7       eral Government and non-Federal licensees;

8           “(4) additional frequencies are assigned for  
9       services that could be obtained more efficiently from  
10      commercial carriers or other vendors;

11          “(5) scarcity of assignable frequencies for li-  
12      censing by the Commission can and will—

13           “(A) impede the development and commer-  
14      cialization of new telecommunications products  
15      and services;

16           “(B) limit the capacity and efficiency of  
17      the United States telecommunications systems;

18           “(C) prevent some State and local police,  
19      fire, and emergency services from obtaining  
20      urgently needed radio channels; and

21           “(D) adversely affect the productive capac-  
22      ity and international competitiveness of the  
23      United States economy;

24          “(6) a reassignment of these frequencies can  
25      produce significant economic returns; and

1           “(7) the Secretary of Commerce, the President,  
2           and the Federal Communications Commission should  
3           be directed to take appropriate steps to correct these  
4           deficiencies.

5   **“SEC. 112. NATIONAL SPECTRUM PLANNING.**

6           “(a) PLANNING ACTIVITIES.—The Assistant Sec-  
7   retary and the Chairman of the Commission shall meet,  
8   at least biannually, to conduct joint spectrum planning  
9   with respect to the following issues—

10           “(1) the future spectrum requirements for pub-  
11   lic and private uses, including State and local gov-  
12   ernment public safety agencies;

13           “(2) the spectrum allocation actions necessary  
14   to accommodate those uses; and

15           “(3) actions necessary to promote the efficient  
16   use of the spectrum, including spectrum manage-  
17   ment techniques to promote increased shared use of  
18   the spectrum that does not cause harmful inter-  
19   ference as a means of increasing commercial access.

20           “(b) REPORTS.—The Assistant Secretary and the  
21   Chairman of the Commission shall submit a joint annual  
22   report to the Committee on Energy and Commerce of the  
23   House of Representatives, the Committee on Commerce,  
24   Science, and Transportation of the Senate, the Secretary,  
25   and the Commission on the joint spectrum planning activi-



1 ties conducted under subsection (a) and recommendations  
2 for action developed pursuant to such activities.

3 “(c) REPORTING REQUIREMENTS.—The first annual  
4 report submitted after the date of the report by the advi-  
5 sory committee under section 113(d)(4) shall—

6 “(1) include an analysis of and response to that  
7 committee report; and

8 “(2) include an analysis of the effect on spec-  
9 trum efficiency and the cost of equipment to Federal  
10 spectrum users of maintaining separate allocations  
11 for Federal Government and non-Federal Govern-  
12 ment licensees for the same or similar services.

13 **“SEC. 113. IDENTIFICATION OF REALLOCABLE FRE-**  
14 **QUENCIES.**

15 “(a) IDENTIFICATION REQUIRED.—The Secretary  
16 shall, within 24 months after the date of the enactment  
17 of this part, prepare and submit to the President and the  
18 Congress a report identifying bands of frequencies that—

19 “(1) are allocated on a primary basis for Fed-  
20 eral Government use and eligible for licensing pursu-  
21 ant to section 305(a) of the Act (47 U.S.C. 305(a));

22 “(2) are not required for the present or identifi-  
23 able future needs of the Federal Government;

24 “(3) can feasibly be made available, as of the  
25 date of submission of the report or at any time dur-

1       ing the next 15 years, for use under the Act (other  
2       than for Federal Government stations under such  
3       section 305);

4           “(4) will not result in costs to the Federal Gov-  
5       ernment, or losses of services or benefits to the pub-  
6       lic, that are excessive in relation to the benefits that  
7       may be obtained by non-Federal licensees; and

8           “(5) are most likely to have the greatest poten-  
9       tial for productive uses and public benefits under the  
10      Act.

11      “(b) MINIMUM AMOUNT OF SPECTRUM REC-  
12      OMMENDED.—

13           “(1) IN GENERAL.—Based on the report re-  
14       quired by subsection (a), the Secretary shall rec-  
15       ommend for reallocation, for use other than by Fed-  
16       eral Government stations under section 305 of the  
17       Act (47 U.S.C. 305), bands of frequencies that span  
18       a total of not less than 200 megahertz, that are lo-  
19       cated below 6 gigahertz, and that meet the criteria  
20       specified in paragraphs (1) through (4) of subsection  
21       (a). The Secretary may not include, in such 200  
22       megahertz, bands of frequencies that span more  
23       than 20 megahertz and that are located between 5  
24       and 6 gigahertz. If the report identifies (as meeting  
25       such criteria) bands of frequencies spanning more

1       than 200 megahertz, the report shall identify and  
2       recommend for reallocation those bands (spanning  
3       not less than 200 megahertz) that meet the criteria  
4       specified in paragraph (5) of such subsection.

5               “(2) MIXED USES PERMITTED TO BE COUNT-  
6       ED.—Bands of frequencies which the Secretary’s re-  
7       port recommends be partially retained for use by  
8       Federal Government stations, but which are also  
9       recommended to be reallocated to be made available  
10      under the Act for use by non-Federal stations, may  
11      be counted toward the minimum spectrum required  
12      by paragraph (1) of this subsection, except that—

13              “(A) the bands of frequencies counted  
14      under this paragraph may not count toward  
15      more than one-half of the minimum required by  
16      paragraph (1) of this subsection;

17              “(B) a band of frequencies may not be  
18      counted under this paragraph unless the assign-  
19      ments of the band to Federal Government sta-  
20      tions under section 305 of the Act (47 U.S.C.  
21      305) are limited by geographic area, by time, or  
22      by other means so as to guarantee that the po-  
23      tential use to be made by such Federal Govern-  
24      ment stations is substantially less (as measured  
25      by geographic area, time, or otherwise) than the

1 potential use to be made by non-Federal  
2 stations; and

3 “(C) the operational sharing permitted  
4 under this paragraph shall be subject to coordi-  
5 nation procedures which the Commission shall  
6 establish and implement to ensure against  
7 harmful interference.

8 “(c) CRITERIA FOR IDENTIFICATION.—

9 “(1) NEEDS OF THE FEDERAL GOVERNMENT.—

10 In determining whether a band of frequencies meets  
11 the criteria specified in subsection (a)(2), the Sec-  
12 retary shall—

13 “(A) consider whether the band of fre-  
14 quencies is used to provide a communications  
15 service that is or could be available from a com-  
16 mercial carrier or other vendor;

17 “(B) seek to promote—

18 “(i) the maximum practicable reliance  
19 on commercially available substitutes;

20 “(ii) the sharing of frequencies (as  
21 permitted under subsection (b)(2));

22 “(iii) the development and use of new  
23 communications technologies; and

24 “(iv) the use of nonradiating commu-  
25 nications systems where practicable; and

1 “(C) seek to avoid—

2 “(i) serious degradation of Federal  
3 Government services and operations; and

4 “(ii) excessive costs to the Federal  
5 Government and users of Federal Govern-  
6 ment services.

7 “(2) FEASIBILITY OF USE.—In determining  
8 whether a frequency band meets the criteria speci-  
9 fied in subsection (a)(3), the Secretary shall—

10 “(A) assume such frequencies will be as-  
11 signed by the Commission under section 303 of  
12 the Act (47 U.S.C. 303) over the course of not  
13 less than 15 years;

14 “(B) assume reasonable rates of scientific  
15 progress and growth of demand for tele-  
16 communications services;

17 “(C) determine the extent to which the  
18 reallocation or reassignment will relieve actual  
19 or potential scarcity of frequencies available for  
20 licensing by the Commission for non-Federal  
21 use;

22 “(D) seek to include frequencies which can  
23 be used to stimulate the development of new  
24 technologies; and

1           “(E) consider the immediate and recurring  
2           costs to reestablish services displaced by the  
3           reallocation of spectrum.

4           “(3) ANALYSIS OF BENEFITS.—In determining  
5           whether a band of frequencies meets the criteria  
6           specified in subsection (a)(4), the Secretary shall  
7           consider—

8           “(A) the extent to which equipment is or  
9           will be available that is capable of utilizing the  
10          band;

11          “(B) the proximity of frequencies that are  
12          already assigned for commercial or other non-  
13          Federal use; and

14          “(C) the activities of foreign governments  
15          in making frequencies available for experimen-  
16          tation or commercial assignments in order to  
17          support their domestic manufacturers of equip-  
18          ment.

19          “(4) POWER AGENCY FREQUENCIES.—

20          “(A) ELIGIBLE FOR MIXED USE ONLY.—  
21          The frequencies assigned to any Federal power  
22          agency may only be eligible for mixed use under  
23          subsection (b)(2) in geographically separate  
24          areas and shall not be recommended for the  
25          purposes of withdrawing that assignment. In

1 any case where a frequency is to be shared by  
2 an affected Federal power agency and a non-  
3 Federal user, such use by the non-Federal user  
4 shall, consistent with the procedures established  
5 under subsection (b)(2)(C), not cause harmful  
6 interference to the affected Federal power agen-  
7 cy or adversely affect the reliability of its power  
8 system.

9 “(B) DEFINITION.—As used in this para-  
10 graph, the term ‘Federal power agency’ means  
11 the Tennessee Valley Authority, the Bonneville  
12 Power Administration, the Western Area Power  
13 Administration, or the Southwestern Power  
14 Administration.

15 “(d) PROCEDURE FOR IDENTIFICATION OF  
16 REALLOCABLE BANDS OF FREQUENCIES.—

17 “(1) SUBMISSION OF PRELIMINARY IDENTIFICA-  
18 TION TO CONGRESS.—Within 12 months after the  
19 date of the enactment of this part, the Secretary  
20 shall prepare and submit to the Congress a report  
21 which makes a preliminary identification of  
22 reallocable bands of frequencies which meet the cri-  
23 teria established by this section.

24 “(2) CONVENING OF ADVISORY COMMITTEE.—  
25 Not later than the date the Secretary submits the

1 report required by paragraph (1), the Secretary shall  
2 convene an advisory committee to—

3 “(A) review the bands of frequencies iden-  
4 tified in such report;

5 “(B) advise the Secretary with respect to  
6 (i) the bands of frequencies which should be in-  
7 cluded in the final report required by subsection  
8 (a), and (ii) the effective dates which should be  
9 established under subsection (e) with respect to  
10 such frequencies;

11 “(C) receive public comment on the Sec-  
12 retary’s report and on the final report; and

13 “(D) prepare and submit the report re-  
14 quired by paragraph (4).

15 The advisory committee shall meet at least monthly  
16 until each of the actions required by section 114(a)  
17 have taken place.

18 “(3) COMPOSITION OF COMMITTEE; CHAIR-  
19 MAN.—The advisory committee shall include—

20 “(A) the Chairman of the Commission and  
21 the Assistant Secretary, and one other rep-  
22 resentative of the Federal Government as des-  
23 ignated by the Secretary; and

24 “(B) representatives of—



1           “(i) United States manufacturers of  
2           spectrum-dependent telecommunications  
3           equipment;

4           “(ii) commercial carriers;

5           “(iii) other users of the electro-  
6           magnetic spectrum, including radio and  
7           television broadcast licensees, State and  
8           local public safety agencies, and the avia-  
9           tion industry; and

10           “(iv) other interested members of the  
11           public who are knowledgeable about the  
12           uses of the electromagnetic spectrum.

13       A majority of the members of the committee shall be  
14       members described in subparagraph (B), and one of  
15       such members shall be designated as chairman by  
16       the Secretary.

17           “(4) RECOMMENDATIONS ON SPECTRUM ALLO-  
18       CATION PROCEDURES.—The advisory committee  
19       shall, not later than 36 months after the date of the  
20       enactment of this part, submit to the Secretary, the  
21       Commission, the Committee on Energy and Com-  
22       merce of the House of Representatives, and the  
23       Committee on Commerce, Science, and Transpor-  
24       tation of the Senate, a report containing such rec-  
25       ommendations as the advisory committee considers

1 appropriate for the reform of the process of allocat-  
2 ing the electromagnetic spectrum between Federal  
3 and non-Federal use, and any dissenting views  
4 thereon.

5 “(e) TIMETABLE FOR REALLOCATION AND LIMITA-  
6 TION.—

7 “(1) TIMETABLE REQUIRED.—The Secretary  
8 shall, as part of the report required by subsection  
9 (a), include a timetable that recommends immediate  
10 and delayed effective dates by which the President  
11 shall withdraw or limit assignments on the fre-  
12 quencies specified in the report.

13 “(2) EXPEDITED REALLOCATION OF INITIAL 30  
14 MHZ PERMITTED.—The Secretary may prepare and  
15 submit to the President a report which specifically  
16 identifies an initial 30 megahertz of spectrum that  
17 meets the criteria described in subsection (a) and  
18 that can be made available for reallocation imme-  
19 diately upon issuance of the report required by this  
20 section.

21 “(3) DELAYED EFFECTIVE DATE.—The rec-  
22 ommended delayed effective dates shall—

23 “(A) permit the earliest possible  
24 reallocation of the frequency bands, taking into  
25 account the requirements of section 115(1);

1           “(B) be based on the useful remaining life  
2           of equipment that has been purchased or con-  
3           tracted for to operate on identified frequencies;

4           “(C) be based on the need to coordinate  
5           frequency use with other nations; and

6           “(D) take into account the relationship be-  
7           tween the costs to the Federal Government of  
8           changing to different frequencies and the bene-  
9           fits that may be obtained from commercial and  
10          other non-Federal uses of the reassigned fre-  
11          quencies.

12   **“SEC. 114. WITHDRAWAL OF ASSIGNMENT TO FEDERAL**  
13           **GOVERNMENT STATIONS.**

14          “(a) IN GENERAL.—The President shall—

15               “(1) within 6 months after receipt of the Sec-  
16               retary’s report under section 113(a), withdraw the  
17               assignment to a Federal Government station of any  
18               frequency which the report recommends for imme-  
19               diate reallocation;

20               “(2) within such 6-month period, limit the as-  
21               signment to a Federal Government station of any  
22               frequency which the report recommends be made im-  
23               mediately available for mixed use under section  
24               113(b)(2);

1           “(3) by the delayed effective date recommended  
2           by the Secretary under section 113(e) (except as  
3           provided in subsection (b)(4) of this section), with-  
4           draw or limit the assignment to a Federal Govern-  
5           ment station of any frequency which the report rec-  
6           ommends be reallocated or made available for mixed  
7           use on such delayed effective date;

8           “(4) assign or reassign other frequencies to  
9           Federal Government stations as necessary to adjust  
10          to such withdrawal or limitation of assignments; and

11          “(5) transmit a notice and description to the  
12          Commission and each House of Congress of the  
13          actions taken under this subsection.

14          “(b) EXCEPTIONS.—

15                 “(1) AUTHORITY TO SUBSTITUTE.—If the  
16                 President determines that a circumstance described  
17                 in paragraph (2) exists, the President—

18                         “(A) may substitute an alternative fre-  
19                         quency or band of frequencies for the frequency  
20                         or band that is subject to such determination  
21                         and withdraw (or limit) the assignment of that  
22                         alternative frequency or band in the manner re-  
23                         quired by subsection (a); and

24                         “(B) shall submit a statement of the rea-  
25                         sons for taking the action described in subpara-

1 graph (A) to the Committee on Energy and  
2 Commerce of the House of Representatives and  
3 the Committee on Commerce, Science, and  
4 Transportation of the Senate.

5 “(2) GROUNDS FOR SUBSTITUTION.—For pur-  
6 poses of paragraph (1), the following circumstances  
7 are described in this paragraph:

8 “(A) the reassignment would seriously  
9 jeopardize the national defense interests of the  
10 United States;

11 “(B) the frequency proposed for reassign-  
12 ment is uniquely suited to meeting important  
13 governmental needs;

14 “(C) the reassignment would seriously  
15 jeopardize public health or safety; or

16 “(D) the reassignment will result in costs  
17 to the Federal Government that are excessive in  
18 relation to the benefits that may be obtained  
19 from commercial or other non-Federal uses of  
20 the reassigned frequency.

21 “(3) CRITERIA FOR SUBSTITUTED FRE-  
22 QUENCIES.—For purposes of paragraph (1), a fre-  
23 quency may not be substituted for a frequency iden-  
24 tified by the report of the Secretary under section

1       113(a) unless the substituted frequency also meets  
2       each of the criteria specified by section 113(a).

3           “(4) DELAYS IN IMPLEMENTATION.—If the  
4       President determines that any action cannot be com-  
5       pleted by the delayed effective date recommended by  
6       the Secretary pursuant to section 113(e), or that  
7       such an action by such date would result in a fre-  
8       quency being unused as a consequence of the Com-  
9       mission’s plan under section 115, the President  
10      may—

11           “(A) withdraw or limit the assignment to  
12      Federal Government stations on a later date  
13      that is consistent with such plan, except that  
14      the President shall notify each committee speci-  
15      fied in paragraph (1)(B) and the Commission  
16      of the reason that withdrawal or limitation at  
17      a later date is required; or

18           “(B) substitute alternative frequencies pur-  
19      suant to the provisions of this subsection.

20           “(c) LIMITATION ON DELEGATION.—Notwithstand-  
21      ing any other provision of law, the authorities and duties  
22      established by this section may not be delegated.

1 **“SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COM-**  
2 **MISSION.**

3 “Not later than 1 year after the President notifies  
4 the Commission pursuant to section 114(a)(5), the Com-  
5 mission shall prepare, in consultation with the Assistant  
6 Secretary when necessary, and submit to the President  
7 and the Congress, a plan for the distribution under the  
8 Act of the frequency bands reallocated pursuant to the  
9 requirements of this part. Such plan shall—

10 “(1) not propose the immediate distribution of  
11 all such frequencies, but, taking into account the  
12 timetable recommended by the Secretary pursuant to  
13 section 113(e), shall propose—

14 “(A) gradually to distribute the frequencies  
15 remaining, after making the reservation re-  
16 quired by subparagraph (B), over the course of  
17 a period of not less than 10 years beginning on  
18 the date of submission of such plan; and

19 “(B) to reserve a significant portion of  
20 such frequencies for distribution beginning after  
21 the end of such 10-year period;

22 “(2) contain appropriate provisions to ensure—

23 “(A) the availability of frequencies for new  
24 technologies and services in accordance with the  
25 policies of section 7 of the Act (47 U.S.C. 157);  
26 and

1           “(B) the availability of frequencies to stim-  
2           ulate the development of such technologies;

3           “(3) address (A) the feasibility of reallocating  
4           spectrum from current commercial and other non-  
5           Federal uses to provide for more efficient use of the  
6           spectrum, and (B) innovation and marketplace de-  
7           velopments that may affect the relative efficiencies  
8           of different spectrum allocations; and

9           “(4) not prevent the Commission from allocat-  
10          ing bands of frequencies for specific uses in future  
11          rulemaking proceedings.

12   **“SEC. 116. AUTHORITY TO RECOVER REASSIGNED FRE-**  
13                   **QUENCIES.**

14          “(a) **AUTHORITY OF PRESIDENT.**—Subsequent to the  
15          withdrawal of assignment to Federal Government stations  
16          pursuant to section 114, the President may reclaim reas-  
17          signed frequencies for reassignment to Federal Govern-  
18          ment stations in accordance with this section.

19          “(b) **PROCEDURE FOR RECLAIMING FRE-**  
20          **QUENCIES.**—

21               “(1) **UNALLOCATED FREQUENCIES.**—If the fre-  
22          quencies to be reclaimed have not been allocated or  
23          assigned by the Commission pursuant to the Act,  
24          the President shall follow the procedures for substi-



1       tution of frequencies established by section 114(b) of  
2       this part.

3           “(2) ALLOCATED FREQUENCIES.—If the fre-  
4       quencies to be reclaimed have been allocated or as-  
5       signed by the Commission, the President shall follow  
6       the procedures for substitution of frequencies estab-  
7       lished by section 114(b) of this part, except that the  
8       notification required by section 114(b)(1)(A) shall  
9       include—

10           “(A) a timetable to accommodate an or-  
11       derly transition for licensees to obtain new fre-  
12       quencies and equipment necessary for its utili-  
13       zation; and

14           “(B) an estimate of the cost of displacing  
15       spectrum users licensed by the Commission.

16       “(c) COSTS OF RECLAIMING FREQUENCIES; APPRO-  
17       PRIATIONS AUTHORIZED.—The Federal Government shall  
18       bear all costs of reclaiming frequencies pursuant to this  
19       section, including the cost of equipment which is rendered  
20       unusable, the cost of relocating operations to a different  
21       frequency band, and any other costs that are directly at-  
22       tributable to the reclaiming of the frequency pursuant to  
23       this section. There are authorized to be appropriated such  
24       sums as may be necessary to carry out the purposes of  
25       this section.

1       “(d) EFFECTIVE DATE OF RECLAIMED FRE-  
2 QUENCIES.—The Commission shall not withdraw licenses  
3 for any reclaimed frequencies until the end of the fiscal  
4 year following the fiscal year in which the President’s noti-  
5 fication is received.

6       “(e) EFFECT ON OTHER LAW.—Nothing in this sec-  
7 tion shall be construed to limit or otherwise affect the au-  
8 thority of the President under sections 305 and 706 of  
9 the Act (47 U.S.C. 305, 606).

10 **“SEC. 117. DEFINITIONS.**

11       “As used in this part:

12               “(1) The term ‘allocation’ means an entry in  
13 the National Table of Frequency Allocations of a  
14 given frequency band for the purpose of its use by  
15 one or more radiocommunication services.

16               “(2) The term ‘assignment’ means an author-  
17 ization given to a station licensee to use specific fre-  
18 quencies or channels.

19               “(3) The term ‘commercial carrier’ means any  
20 entity that uses a facility licensed by the Federal  
21 Communications Commission pursuant to the Com-  
22 munications Act of 1934 for hire or for its own use,  
23 but does not include Federal Government stations  
24 licensed pursuant to section 305 of the Act (47  
25 U.S.C. 305).

1 “(4) The term ‘the Act’ means the Communica-  
2 tions Act of 1934 (47 U.S.C. 151 et seq.).”.

3 **CHAPTER 3—COMMUNICATIONS**  
4 **TECHNICAL AMENDMENTS**

5 **SEC. 5241. CLERICAL CORRECTIONS.**

6 (a) AMENDMENTS TO THE COMMUNICATIONS ACT OF  
7 1934.—The Communications Act of 1934 is amended—

8 (1) in section 4(f)(3), by striking “overtime ex-  
9 ceeds beyond” and inserting “overtime extends be-  
10 yond”;

11 (2) in section 5, by redesignating subsection (f)  
12 as subsection (e);

13 (3) in section 220(b), by striking “clasess” and  
14 inserting “classes”;

15 (4) in section 223(b)(3), by striking “defendant  
16 restrict access” and inserting “defendant restricted  
17 access”;

18 (5) in section 226(d), by striking paragraph (2)  
19 and redesignating paragraphs (3) and (4) as para-  
20 graphs (2) and (3), respectively;

21 (6) in section 227(e)(2), by striking “national  
22 database” and inserting “national database”;

23 (7) in section 228(c)(6)(D), by striking “con-  
24 servation” and inserting “conversation”;

1 (8) in section 308(c), by striking “May 24,  
2 1921” and inserting “May 27, 1921”;

3 (9) in section 331, by amending the heading of  
4 such section to read as follows:

5 “VERY HIGH FREQUENCY STATIONS AND AM RADIO  
6 STATIONS”;

7 (10) in section 358, by striking “(a)”;

8 (11) in part III of title III—

9 (A) by inserting before section 381 the fol-  
10 lowing heading:

11 “VESSELS TRANSPORTING MORE THAN SIX PASSENGERS  
12 FOR HIRE REQUIRED TO BE EQUIPPED WITH RADIO  
13 TELEPHONE”;

14 (B) by inserting before section 382 the fol-  
15 lowing heading:

16 “VESSELS EXCEPTED FROM RADIO TELEPHONE  
17 REQUIREMENT”;

18 (C) by inserting before section 383 the fol-  
19 lowing heading:

20 “EXEMPTIONS BY COMMISSION”;

21 (D) by inserting before section 384 the fol-  
22 lowing heading:

23 “AUTHORITY OF COMMISSION; OPERATIONS,  
24 INSTALLATIONS, AND ADDITIONAL EQUIPMENT”;

25 (E) by inserting before section 385 the fol-  
26 lowing heading:

1 “INSPECTIONS”; and

2 (F) by inserting before section 386 the fol-  
3 lowing heading:

4 “FORFEITURES”;

5 (12) in section 410(c), by striking “, as referred  
6 to in sections 202(b) and 205(f) of the Interstate  
7 Commerce Act,”;

8 (13) in section 705(e)(3)(A), by striking “para-  
9 graph (4) of subsection (d)” and inserting “para-  
10 graph (4) of this subsection”;

11 (14) in section 705, by redesignating sub-  
12 sections (f) and (g) (as added by Public Law 100-  
13 667) as subsections (g) and (h); and

14 (15) in section 705(h) (as so redesignated), by  
15 striking “subsection (f)” and inserting “subsection  
16 (g)”.

17 (b) AMENDMENTS TO THE COMMUNICATIONS SAT-  
18 ELLITE ACT OF 1962.—The Communications Satellite Act  
19 of 1962 is amended—

20 (1) in section 303(a)—

21 (A) by striking “section 27(d)” and insert-  
22 ing “section 327(d)”;

23 (B) by striking “sec. 29–911(d)” and in-  
24 serting “sec. 29–327(d)”;

25 (C) by striking “section 36” and inserting  
26 “section 336”; and

1 (D) by striking “sec. 29–916d” and insert-  
 2 ing “sec. 29–336(d)”;

3 (2) in section 304(d), by striking “paragraphs  
 4 (1), (2), (3), (4), and (5) of section 310(a)” and in-  
 5 serting “subsection (a) and paragraphs (1) through  
 6 (4) of subsection (b) of section 310”; and

7 (3) in section 304(e)—

8 (A) by striking “section 45(b)” and insert-  
 9 ing “section 345(b)”;

10 (B) by striking “sec. 29–920(b)” and in-  
 11 serting “sec. 29–345(b)”;

12 (4) in sections 502(b) and 503(a)(1), by strik-  
 13 ing “Communications Satellite Corporation” and in-  
 14 serting “communications satellite corporation estab-  
 15 lished pursuant to title III of this Act”.

16 (c) CONFORMING AMENDMENT.—Section 1253 of the  
 17 Omnibus Budget Reconciliation Act of 1981 is repealed.

18 **SEC. 5242. TRANSFER OF PROVISIONS OF LAW CONCERN-**  
 19 **ING PUBLIC TELECOMMUNICATIONS FACILI-**  
 20 **TIES, CHILDREN’S EDUCATIONAL TELE-**  
 21 **VISION, AND TELECOMMUNICATIONS DEM-**  
 22 **ONSTRATION PROGRAM.**

23 (a) AMENDMENTS.—The Communications Act of  
 24 1934 (hereinafter in this section referred to as “the 1934  
 25 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.



1 **SEC. 5243. ELIMINATION OF EXPIRED AND OUTDATED PRO-**  
2 **VISIONS.**

3 (a) AMENDMENTS TO THE COMMUNICATIONS ACT OF  
4 1934.—The Communications Act of 1934 is amended—

5 (1) in section 7(b), by striking “or twelve  
6 months after the date of the enactment of this sec-  
7 tion, if later” both places it appears;

8 (2) in section 212, by striking “After sixty days  
9 from the enactment of this Act it shall” and insert-  
10 ing “It shall”;

11 (3) in section 213, by striking subsection (g)  
12 and redesignating subsection (h) as subsection (g);

13 (4) in section 214(a), by striking “section 221  
14 or 222” and inserting “section 221”;

15 (5) in section 220(b), by striking “, as soon as  
16 practicable,”;

17 (6) in section 222—

18 (A) by striking paragraph (1) of subsection  
19 (a);

20 (B) by redesignating paragraphs (2) and  
21 (3) of such subsection as paragraphs (1) and  
22 (2), respectively;

23 (C) by striking paragraph (2) of subsection  
24 (b);

25 (D) by redesignating subsection (b)(1) as  
26 subsection (b); and

1 (E) by striking subsections (c), (d), and  
2 (e);

3 (7) in section 224(b)(2), by striking “Within  
4 180 days from the date of enactment of this section  
5 the Commission” and inserting “The Commission”;

6 (8) in 226(e)(1), by striking “, within 9 months  
7 after the date of enactment of this section,”;

8 (9) in section 309(i)(4)(A), by striking “The  
9 commission, not later than 180 days after the date  
10 of the enactment of the Communications Technical  
11 Amendments Act of 1982, shall,” and inserting  
12 “The Commission shall,”;

13 (10) by striking section 328;

14 (11) in section 331(b), by striking the last sen-  
15 tence;

16 (12) in section 413, by striking “, within sixty  
17 days after the taking effect of this Act,”;

18 (13) in section 624(d)(2)—

19 (A) by striking out “(A)”;

20 (B) by inserting “of” after “restrict the  
21 viewing”; and

22 (C) by striking subparagraph (B);

23 (14) by striking sections 702 and 703;

24 (15) in section 704—

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

3 (B) by redesignating subsection (c) as sub-  
4 section (b);

5 (16) in section 705(g) (as redesignated by sec-  
6 tion 5211(15)), by striking “Within 6 months after  
7 the date of enactment of the Satellite Home Viewer  
8 Act of 1988, the Federal Communications Commis-  
9 sion” and inserting “The Commission”;

10 (17) in section 710(f)—

11 (A) by striking the first and second sen-  
12 tences; and

13 (B) in the third sentence, by striking  
14 “Thereafter, the Commission” and inserting  
15 “The Commission”;

16 (18) in section 712(a), by striking “, within  
17 120 days after the effective date of the Satellite  
18 Home Viewer Act of 1988,”; and

19 (19) by striking section 713.

20 (b) AMENDMENTS TO THE COMMUNICATIONS SAT-  
21 ELLITE ACT OF 1962.—The Communications Satellite Act  
22 of 1962 is amended—

23 (1) in section 201(a)(1), by striking “as expedi-  
24 tiously as possible,”;

1 (2) by striking sections 301 and 302 and insert-  
2 ing the following:

3 **“SEC. 301. CREATION OF CORPORATION.**

4 “There is authorized to be created a communications  
5 satellite corporation for profit which will not be an agency  
6 or establishment of the United States Government.

7 **“SEC. 302. APPLICABLE LAWS.**

8 “The corporation shall be subject to the provisions  
9 of this Act and, to the extent consistent with this Act,  
10 to the District of Columbia Business Corporation Act. The  
11 right to repeal, alter, or amend this Act at any time is  
12 expressly reserved.”;

13 (3) in section 304(a), by striking “at a price  
14 not in excess of \$100 for each share and”;

15 (4) in section 404—

16 (A) by striking subsections (a) and (c);  
17 and

18 (B) by striking “(b)” at the beginning of  
19 subsection (b);

20 (5) in section 503—

21 (A) by striking paragraph (2) of subsection  
22 (a); and

23 (B) by redesignating paragraph (3) of sub-  
24 section (a) as paragraph (2) of such subsection;

25 (C) by striking subsection (b);

- 1 (D) in subsection (g)—  
2 (i) by striking “subsection (c)(3)” and  
3 inserting “subsection (b)(3)”; and  
4 (ii) by striking the last sentence; and  
5 (E) by redesignating subsections (c)  
6 through (h) as subsections (b) through (g),  
7 respectively;  
8 (5) by striking sections 505, 506, and 507; and  
9 (6) by redesignating section 508 as section 505.

10 **SEC. 5244. STYLISTIC CONSISTENCY.**

11 The Communications Act of 1934 and the Commu-  
12 nications Satellite Act of 1962 are amended so that the  
13 section designation and section heading of each section of  
14 such Acts shall be in the form and typeface of the section  
15 designation and heading of this section.

16 **Subtitle D—Energy Programs**

17 **SEC. 5301. NUCLEAR REGULATORY COMMISSION ANNUAL**  
18 **CHARGES.**

19 Section 6101(a)(3) of the Omnibus Budget Reconcili-  
20 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by  
21 striking “September 30, 1995” and inserting “September  
22 30, 1998”.

1           **TITLE VI—COMMITTEE ON**  
2                           **FOREIGN AFFAIRS**

3           In order to implement its reconciliation instructions,  
4 the Committee on Foreign Affairs recommends changes  
5 in law that are also recommended by the Committee on  
6 Post Office and Civil Service. These changes in law, which  
7 are contained in title X of this Act, would reduce direct  
8 spending under the Foreign Service Retirement and Dis-  
9 ability Fund and the Foreign Service Pension System by  
10 requiring a 3-month delay in cost-of-living adjustments in  
11 each of the fiscal years 1994, 1995, and 1996.

12           **TITLE VII—COMMITTEE ON THE**  
13                           **JUDICIARY**

14   **SEC. 7001. PATENT AND TRADEMARK FEES.**

15           Section 10101 of the Omnibus Budget Reconciliation  
16 Act of 1990 (35 U.S.C. 41 note) is amended—

17                   (1) in subsection (a) by striking “1995” and in-  
18                   serting “1998”;

19                   (2) in subsection (b)(2) by striking “1995” and  
20                   inserting “1998”; and

21                   (3) in subsection (c)—

22                           (A) by striking “through 1995” and insert-  
23                   ing “through 1998”; and

24                           (B) by adding at the end the following:

25                           “(6) \$111,000,000 in fiscal year 1996.

1 “(7) \$115,000,000 in fiscal year 1997.

2 “(8) \$119,000,000 in fiscal year 1998.”.

3 **TITLE VIII—COMMITTEE ON**  
4 **MERCHANT MARINE AND**  
5 **FISHERIES**

6 **SEC. 8001. EXTENSION OF VESSEL TONNAGE DUTIES.**

7 (a) EXTENSION OF DUTIES.—Section 36 of the Act  
8 of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121),  
9 is amended by—

10 (1) striking “and 1995,” each place it appears  
11 and inserting “1995, 1996, 1997, 1998,”;

12 (2) striking “place,” and inserting “place;”;  
13 and

14 (3) striking “port, not, however, to include ves-  
15 sels in distress or not engaged in trade” and insert-  
16 ing “port. However, neither duty shall be imposed  
17 on vessels in distress or not engaged in trade”.

18 (b) CONFORMING AMENDMENT.—The Act of March  
19 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended  
20 by striking “and 1995,” and inserting “1995, 1996, 1997,  
21 and 1998,”.

22 (c) TECHNICAL CORRECTION.—

23 (1) CORRECTION.—Section 10402(a) of the  
24 Omnibus Budget Reconciliation Act of 1990 (104

1 Stat. 1388–398) is amended by striking “in the sec-  
2 ond paragraph”.

3 (2) EFFECTIVE DATE.—The amendment made  
4 by paragraph (1) shall be effective on and after No-  
5 vember 5, 1990.

6 **SEC. 8002. SENSE OF THE CONGRESS ON THE INLAND WA-**  
7 **TERWAYS FUEL TAX.**

8 (a) FINDINGS.—The Congress finds the following:

9 (1) The Administration has proposed to in-  
10 crease the tax on inland barge fuels from \$0.19 to  
11 \$1.19 per gallon by 1997, which represents an in-  
12 crease of 525 percent.

13 (2) The General Accounting Office has recently  
14 identified 117 forms of Federal fees, taxes, and as-  
15 sessments, not including customs duties, which raise  
16 some \$2,000,000,000 in Federal revenues each year.

17 (3) Barge transportation is one of the most  
18 competitive, efficient, safe, and environmentally  
19 friendly modes of transportation.

20 (4) Barges transport 15 percent of our Nation’s  
21 commerce and provide jobs to some 180,000 Ameri-  
22 cans.

23 (5) The Administration’s proposed increase  
24 would add \$420,000,000 in new taxes for operators



1 on inland waterways, which is more than their  
2 pretax profits.

3 (6) This increase would cause barge rates to  
4 skyrocket, increasing costs to consumers and dev-  
5 astating industries dependent upon the commercial  
6 use of barges such as coal, agriculture, and petro-  
7 chemicals, and would add to our unfavorable balance  
8 of trade payments by hurting the competitiveness of  
9 United States exports.

10 (7) Because the price of certain agricultural  
11 commodities, such as grain, are set in the world  
12 marketplace, increased inland barge fuel taxes could  
13 not be passed on to consumers and would largely be  
14 borne by our Nation's farmers.

15 (8) The Senate on March 18, 1993, voted 88 to  
16 12 to reject any further increase in inland barge fuel  
17 taxes.

18 (9) This huge tax increase would cause many  
19 barge companies to go out of business, would result  
20 in thousands of lost American jobs, and would fur-  
21 ther burden the already beleaguered United States  
22 maritime industry.

23 (b) SENSE OF CONGRESS.—It is the sense of the  
24 Congress that the inland waterways fuel tax should not

1 be further increased beyond those increases already man-  
2 dated by law.

3       **TITLE IX—COMMITTEE ON**  
4       **NATURAL RESOURCES**

5       **SEC. 9001. ANNUAL DIRECT GRANT ASSISTANCE.**

6       (a) REPEAL.—Sections 3 and 4 of the Act of March  
7 24, 1976 entitled “a Joint Resolution to approve the ‘Cov-  
8 enant To Establish a Commonwealth of the Northern  
9 Mariana Islands in Political Union with the United States  
10 of America’, and for other purposes” (90 Stat. 263 and  
11 following; 48 U.S.C. 1681 note) are repealed, effective on  
12 October 1, 1993.

13       (b) DEFINITIONS.—As used in this section:

14           (1) COMMITTEES.—The term “committees”  
15 means the Committee on Natural Resources of the  
16 House of Representatives and the Committee on  
17 Energy and Natural Resources of the Senate.

18           (2) RECOMMENDATIONS.—The term “Rec-  
19 ommendations” means the document executed De-  
20 cember 17, 1992, between the special representative  
21 of the President of the United States and the special  
22 representatives of the Governor of the Common-  
23 wealth of the Northern Mariana Islands relating to  
24 future federal assistance for the Northern Mariana  
25 Islands.

1           (3) REPORTING DATE.—The term “reporting  
2       date” means the date on which the budget of the  
3       President for the fiscal year 1995 is required to be  
4       submitted to the Congress under section 1105 of  
5       title 31, United States Code.

6       (c) ASSISTANCE.—

7           (1) AMOUNTS.—Except as otherwise pro-  
8       vided under this section, enactment of this sec-  
9       tion shall constitute a commitment and pledge  
10      of the full faith and credit of the United States  
11      for the payment of the following amounts:

12           (A) In fulfillment of the United States  
13      obligation under P.L. 94–241 and the au-  
14      thorization in P.L. 95–348, \$3,000,000 for  
15      fiscal year 1994, which shall be available  
16      only for the American Memorial Park, lo-  
17      cated at Tanapag Harbor Reservation,  
18      Saipan, to be expended in accordance with  
19      section 5 of the Act entitled “An Act to  
20      authorize appropriations for certain insular  
21      areas of the United States, and for other  
22      purposes”, approved August 18, 1978 (92  
23      Stat. 492), for the primary purpose of con-  
24      structing an appropriate monument honor-

1 ing the dead in the World War II Mariana  
2 Islands campaign.

3 (B) \$19,000,000 for fiscal year 1994,  
4 to be held in trust in a special account by  
5 the Secretary of the Interior for American  
6 Samoa, the Commonwealth of the North-  
7 ern Mariana Islands, Guam, the Trust  
8 Territory of the Pacific Islands, and the  
9 Virgin Islands, and to be disbursed by the  
10 Secretary during fiscal year 1994 for es-  
11 sential capital improvement projects. Such  
12 disbursements shall be made by the Sec-  
13 retary for projects described in plans sub-  
14 mitted to the Secretary by the govern-  
15 ments of American Samoa, the Common-  
16 wealth of the Northern Mariana Islands,  
17 Guam, the Trust Territory of the Pacific  
18 Islands, and the Virgin Islands. No such  
19 disbursements shall be made pursuant to  
20 any such plan until after the expiration of  
21 a period of 60 days after such plan has  
22 been submitted to the committees. No such  
23 disbursements shall be made to the Com-  
24 monwealth of the Northern Mariana Is-  
25 lands during fiscal year 1994 pursuant to

1 any such plan until the committees have  
2 received the reports required under sub-  
3 section (d)(3) and a Joint Resolution has  
4 been adopted expressing the sense of Con-  
5 gress that disbursements are appropriate.  
6 The Inspector General of the Department  
7 of the Interior shall (i) monitor the ex-  
8 penditure of such funds to determine  
9 whether such funds are expended in ac-  
10 cordance with applicable law, and (ii) sub-  
11 mit a report of the findings to the commit-  
12 tees not later than January 1, 1995.

13 (C) Subject to paragraphs (2), (3),  
14 and (4) and subject to subsection (d), not  
15 more than \$98,000,000 for the 6-year pe-  
16 riod beginning October 1, 1994, for the  
17 government of the Commonwealth of the  
18 Northern Mariana Islands, for capital im-  
19 provement projects, at annual amounts  
20 that shall not exceed those specified for the  
21 Federal contribution within the general  
22 funding schedule contained in the Rec-  
23 ommendations.

1           (2) MATCHING RATIO AND INTEREST  
2 EARNINGS.—Nothing in this section shall be  
3 construed to—

4           (A) modify the matching ratio re-  
5 quirement specified in the funding schedule  
6 contained in the Recommendations; or

7           (B) modify the terms of the Rec-  
8 ommendations as to the availability of in-  
9 terest earnings on funds contributed under  
10 Public Law 99–396 upon meeting the  
11 terms of the grant pledge agreements en-  
12 tered into under Public Law 99–396.

13          (3) ROTA, TINIAN, AND SAIPAN.—No less  
14 than  $\frac{1}{8}$ th share of the funds made available  
15 under subsection (c)(1)(C) shall be expended in  
16 the islands of Rota and Tinian and no less than  
17  $\frac{1}{4}$ th share shall be expended in Saipan.

18          (4) APPLICABILITY OF GRANT REGULA-  
19 TIONS.—The Federal assistance provided under  
20 this section shall be subject to the applicable  
21 Federal grant regulations set forth in the Com-  
22 mon Rule (43 C.F.R. 12a, OMB Circular A-  
23 102, and OMB Circular A-128).

24          (d) CONDITION ON MULTI-YEAR ASSISTANCE.—

1           (1) JOINT RESOLUTION.—Amounts under sub-  
2           section (c)(1)(C) for fiscal years 1995 through 2000  
3           shall be as determined by the Congress by joint reso-  
4           lution. It is the intent of the Congress that the com-  
5           mittees report such a joint resolution after consider-  
6           ing the plan referred to in paragraph (2) and re-  
7           ports required by this subsection.

8           (2) CAPITAL IMPROVEMENT PROJECTS PLAN.—  
9           The plan referred to in paragraph (1) is a plan de-  
10          veloped and submitted by the Governor of the Com-  
11          monwealth of the Northern Mariana Islands to the  
12          Secretary of the Interior as approved by the legisla-  
13          ture of the Commonwealth for new and recon-  
14          structed capital infrastructure projects, indicating  
15          the order of priority, together with cost estimates for  
16          each project and identification of sources of financ-  
17          ing for each project. The Secretary of the Interior  
18          shall submit the plan, together with his rec-  
19          ommendations, to the committees not later than the  
20          reporting date.

21          (3) REPORTS.—Each of the following reports  
22          shall be submitted to the committees not later than  
23          the reporting date as follows:

24                 (A) REVENUE BURDEN.—The Comptroller  
25                 General of the United States, after consultation

1 with the government of the Northern Mariana  
2 Islands, shall submit a report describing the ef-  
3 fective revenue burden (including all taxes and  
4 fees) imposed by the government of the Com-  
5 monwealth of the Northern Mariana Islands.  
6 The report shall—

7 (i) address whether revenues raised  
8 are sufficient to meet the infrastructure  
9 needs of the Commonwealth; and

10 (ii) compare the revenue burden of the  
11 Commonwealth with that of Guam.

12 (B) COMPLIANCE WITH AUDIT REC-  
13 OMMENDATIONS.—The Inspector General of the  
14 Department of the Interior shall submit a re-  
15 port on (i) compliance by the government of the  
16 Commonwealth of the Northern Mariana Is-  
17 lands with recommendations made by the In-  
18 spector General pursuant to audits of the gov-  
19 ernment of the Commonwealth, and (ii) on all  
20 unfulfilled commitments made by the govern-  
21 ment of the Commonwealth in response to those  
22 recommendations.

23 (C) ASSESSMENT OF MINIMUM WAGE.—  
24 The Secretary of Labor, after consultation with  
25 the government of the Commonwealth of the



1 Northern Mariana Islands, shall submit a re-  
2 port which assesses whether—

3 (i) the minimum wage policies of the  
4 Commonwealth are sufficient for the main-  
5 tenance of the minimum standard of living  
6 necessary for health, efficiency, and gen-  
7 eral well-being of workers in the Common-  
8 wealth;

9 (ii) the prevailing wages paid in the  
10 Commonwealth are effectively reduced by  
11 the immigration policy of the Common-  
12 wealth; and

13 (iii) the wage rate in the Common-  
14 wealth gives industries in the Common-  
15 wealth a competitive advantage over indus-  
16 tries in the United States outside of the  
17 Commonwealth.

18 (D) IMMIGRATION POLICY AND BURDEN  
19 ON INFRASTRUCTURE.—(i) The Attorney Gen-  
20 eral of the United States, after consultation  
21 with the government of the Commonwealth of  
22 the Northern Mariana Islands, shall submit a  
23 report which assesses—

24 (I) whether the immigration laws of  
25 the Commonwealth are appropriate in light

1 of the social and economic situation in the  
2 Commonwealth;

3 (II) the extent to which the Common-  
4 wealth is relying on temporary alien work-  
5 ers to meet the Commonwealth's perma-  
6 nent labor needs;

7 (III) whether the Commonwealth has  
8 taken steps to reduce its dependence on  
9 temporary alien workers; and

10 (IV) the political and civil rights of  
11 the alien population as compared to the  
12 resident population.

13 (ii) The Comptroller General of the United  
14 States shall submit a report to the Congress  
15 which analyzes the socioeconomic impact of the  
16 immigration policy of the Commonwealth of the  
17 Northern Mariana Islands, including the finan-  
18 cial burden imposed by the alien population on  
19 the infrastructure.

20 (E) ENVIRONMENTAL LAWS.—The Sec-  
21 retary of the Interior and the Administrator of  
22 the Environmental Protection Agency shall each  
23 submit a report to the Congress on the compli-  
24 ance by the Commonwealth of the Northern  
25 Mariana Islands with United States environ-

1           mental laws, including (but not limited to) the  
2           National Environmental Policy Act of 1969, the  
3           Endangered Species Act of 1973, and the Fed-  
4           eral Water Pollution Control Act.

5   **SEC. 9002. NET RECEIPTS SHARING.**

6           Section 35 of the Mineral Leasing Act is amended  
7   as follows:

8           (1) Strike the last sentence.

9           (2) Insert “(a) IN GENERAL.—” after “SEC.  
10       35.”

11          (3) Insert “and, subject to subsection (b),” be-  
12       tween “United States;” and “50 percentum”.

13          (4) Add the following new subsection at the end  
14       thereof:

15       “(b) ADMINISTRATIVE COSTS.—(1) In calculating the  
16   amount to be paid to each State during any fiscal year  
17   under this section and under other provisions of law re-  
18   quiring payment to a State of any revenues derived from  
19   the leasing of any other onshore lands or interest in land  
20   owned by the United States for the production of the same  
21   types of minerals as are leasable under this Act or for  
22   the production of geothermal steam, prior to the division  
23   and distribution of such leasing receipts between the  
24   States and the United States, the Secretary shall deduct  
25   50 percent of the portion of the enacted appropriations

1 of the Department of the Interior and of other depart-  
2 ments and agencies of the United States for the preceding  
3 fiscal year allocable to the administration and enforcement  
4 of this Act and such other provisions of law. Such deduc-  
5 tion shall be in approximately equal amounts each month  
6 (subject to paragraph (3)).

7 “(2) The proportion of the deduction required under  
8 paragraph (1) which is allocable to each State shall be  
9 a percentage of the total deduction allocable to all States.  
10 The percentage shall be determined by dividing—

11 “(A) the monies disbursed to the State during  
12 the preceding fiscal year under the provisions of this  
13 section and the other provisions of law referred to in  
14 paragraph (1), by

15 “(B) the total money disbursed to all States  
16 during that fiscal year under such provisions.

17 “(3) If the amount otherwise deductible under this  
18 subsection in any month from the portion of revenues to  
19 be distributed to a State exceeds the amount payable to  
20 the State during that month, any amount exceeding the  
21 amount payable shall be carried forward and deducted  
22 from amounts payable to the State in subsequent months.

23 “(4) All amounts deducted under this subsection  
24 from monies otherwise payable to a State shall be credited  
25 to miscellaneous receipts in the Treasury.”.

1 **SEC. 9003. HARD ROCK MINING CLAIM MAINTENANCE AND**  
2 **LOCATION FEES.**

3 (a) CLAIM MAINTENANCE AND LOCATION FEES.—

4 (1) CLAIM MAINTENANCE FEES.—The holder  
5 of each unpatented mining claim, mill or tunnel site  
6 located pursuant to the Mining Laws of the United  
7 States (whether located before or after enactment of  
8 this Act) shall pay to the Secretary of the Interior  
9 or his designee for each assessment year a flat claim  
10 maintenance fee of not less than \$100 per claim.  
11 Such claim maintenance fee shall be in lieu of the  
12 assessment work requirement contained in the Min-  
13 ing Law of 1872 (30 U.S.C. 28–28e) and the related  
14 filing requirements contained in section 314 (a) and  
15 (c) of the Federal Land Policy and Management Act  
16 of 1976 (43 U.S.C. 1744 (a) and (c)).

17 (2) LOCATION FEE.—For each mining claim,  
18 mill or tunnel site located pursuant to the Mining  
19 Laws of the United States after the date of enact-  
20 ment of this Act, the claimant shall pay the Sec-  
21 retary a location fee of \$25.

22 (b) TIME OF PAYMENT.—The claim maintenance fee  
23 payable under subsection (a)(1) for any assessment year  
24 shall be paid before the commencement of the assessment  
25 year, except that for the initial assessment year in which  
26 the location is made, the locator shall pay the claim main-

1   tenance fee at the time the location notice is recorded with  
2   the Bureau of Land Management. The location fee im-  
3   posed under subsection (a)(2) shall be payable not later  
4   than 90 days after the date of location.

5       (c) DEPOSIT IN TREASURY.—The Secretary shall de-  
6   posit monies received under this Act as miscellaneous re-  
7   ceipts in the Treasury.

8       (d) CO-OWNERSHIP.—The co-ownership provisions of  
9   section 2324 of the Mining Law of 1872 (30 U.S.C. 28)  
10   shall remain in effect with respect to mining claims subject  
11   to such provisions except that the annual claim mainte-  
12   nance fee, where applicable, shall be paid in lieu of appli-  
13   cable assessment requirements and expenditures.

14       (e) FORFEITURE.—Failure to make the annual pay-  
15   ment of any claim maintenance or location fee required  
16   with respect to any unpatented mining claim, mill, or tun-  
17   nel site required by subsection (a) shall conclusively con-  
18   stitute a forfeiture by the holder of the unpatented mining  
19   claim, mill or tunnel site, effective at noon on the date  
20   the payment is due.

21       (f) FLPMA FILING REQUIREMENTS.—Nothing in  
22   this Act shall change or modify the requirements of section  
23   314(b) of the Federal Land Policy and Management Act  
24   of 1976 (43 U.S.C. 1744(b)) or the requirements of sec-  
25   tion 314(c) of the Federal Land Policy and Management

1 Act of 1976 (43 U.S.C. 1744(c)) related to filings required  
2 by such section 314(b). Such requirements shall remain  
3 in effect with respect to claims, and mill or tunnel sites  
4 for which fees are required to be paid under this section.

5 (g) RULES AND REGULATIONS.—The Secretary of  
6 the Interior shall promulgate rules and regulations to  
7 carry out the purposes of this section as soon as prac-  
8 ticable after the date of enactment of this Act.

9 (h) PURCHASING POWER ADJUSTMENT.—Every 5  
10 years following the date of enactment of this Act, or more  
11 frequently if the Secretary determines a more frequent ad-  
12 justment to be reasonable, the Secretary of the Interior  
13 shall adjust the fees specified in subsection (a) to reflect  
14 changes in the purchasing power of the dollar. The Sec-  
15 retary shall use the Consumer Price Index for all urban  
16 consumers published by the Department of Labor as the  
17 basis for adjustment, rounding according to the adjust-  
18 ment process of conditions of the Federal Civil Penalties  
19 Inflation Adjustment Act of 1990 (104 Stat. 890). The  
20 Secretary shall provide claimants notice of any adjustment  
21 made under this subsection not later than July 1 of any  
22 year in which the adjustment is made. A fee adjustment  
23 under this paragraph shall begin to apply the first assess-  
24 ment which begins after the adjustment is made.

1 (i) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—  
2 This section shall not apply to any oil shale claims for  
3 which a fee is required to be paid under section 2511(e)(2)  
4 of the Energy Policy Act of 1992 (Public Law 102-486;  
5 106 Stat. 3111; 30 U.S.C. 242).

6 (j) EXCEPTION FOR HOLDERS OF FEWER THAN 50  
7 CLAIMS.—

8 (1) ELIGIBILITY.—In accordance with paragraph (3), a claimant may be eligible for a waiver  
9 or reduction of the claim maintenance fees imposed  
10 under this section if the claimant certifies in writing  
11 to the Secretary that on the date the payment was  
12 due, the claimant and all related parties—

13 (A) held not more than 50 mining claims,  
14 mill sites, or tunnel sites, or any combination  
15 thereof, on public lands; and

16 (B) have performed assessment work sufficient to maintain the mining claims held by the  
17 claimant and such related parties for the assessment year ending on noon of September 1  
18 of the calendar year in which payment of the  
19 claim maintenance fee was due; except that  
20 such performance of assessment work shall not  
21 be required by reason of section 5 of Public  
22  
23  
24  
25



1 Law 94-429, commonly known as the Mining  
2 in the Parks Act, or such other laws that before  
3 the date of the enactment of this Act removed  
4 the applicability of the assessment work re-  
5 quirement of the general mining laws for any  
6 claim subject to such laws.

7 (2) HOLDER.—For purposes of paragraph (1),  
8 with respect to any claimant, the term “related par-  
9 ties” means—

10 (A) the spouse and dependent children (as  
11 defined in section 152 of the Internal Revenue  
12 Code of 1986), of the claimant; and

13 (B) a person affiliated with the claimant,  
14 including—

15 (i) a person controlled by, controlling,  
16 or under common control with the claim-  
17 ant; and

18 (ii) a subsidiary or parent company or  
19 corporation of the claimant.

20 (3) WAIVED OR REDUCED MAINTENANCE  
21 FEES.—

22 (A) 10 OR FEWER CLAIMS.—The Secretary  
23 of the Interior may waive the claim mainte-  
24 nance fee imposed under this section in its en-

1           turity for 10 or fewer claims held by a claimant  
2           eligible under paragraph (1).

3           (B) 11 OR MORE CLAIMS.—

4           (i) IN GENERAL.—Subject to clause  
5           (ii), for a claimant eligible under para-  
6           graph (1), the Secretary may reduce the  
7           claim maintenance fee imposed under this  
8           section to \$25 per claim for each claim in  
9           excess of 10.

10          (ii) LIMITATION.—The reduction pro-  
11          vided for in this subparagraph shall be  
12          available for no more than 50 claims held  
13          by a claimant who is eligible under para-  
14          graph (1).

15          (4) PAYMENT IN LIEU OF ANNUAL LABOR RE-  
16          QUIREMENTS.—The third sentence of section 2324  
17          of the Revised Statutes (30 U.S.C. 28) is amended  
18          by inserting after “On each claim located after the  
19          tenth day of May, eighteen hundred and seventy-  
20          two,” the following: “for which a waiver of the main-  
21          tenance fee, or a reduced maintenance fee, under  
22          section 9003 of the Omnibus Budget Reconciliation  
23          Act of 1993 has been granted under subsection (j)  
24          of that section,”.

1           (5) FILING REQUIREMENTS.—The holder of any  
2           unpatented mining claim for which a waiver of the  
3           maintenance fee, or a reduced maintenance fee, has  
4           been granted pursuant to this subsection shall con-  
5           tinue to be subject to the filing requirements con-  
6           tained in sections 314(a) and (c) of the Federal  
7           Land Policy Management Act of 1976 (43 U.S.C.  
8           1744(a) and (c)).

9           (k) EFFECTIVE DATE.—This section shall take effect  
10          with respect to assessment years beginning after August  
11          31, 1994.

12       **SEC. 9004. FEDERAL IRRIGATION WATER SURCHARGE.**

13          (a) FINDINGS AND PURPOSES.—

14               (1) FINDINGS.—The Congress finds that—

15                       (A) the construction and operation of Fed-  
16                       eral reclamation projects have contributed to  
17                       the depletion of streams, the alteration of ripar-  
18                       ian habitat, and the degradation of water qual-  
19                       ity;

20                       (B) such impacts have had adverse impacts  
21                       on fish and wildlife resources; and

22                       (C) the restoration of fish and wildlife and  
23                       related habitat affected by the construction or  
24                       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

1 projects or project facilities constructed by the Sec-  
2 retary of the Army that meet the conditions speci-  
3 fied in paragraph (1) or (2) of section 212(a) of the  
4 Reclamation Reform Act of 1982 (Public Law 97-  
5 293, 43 U.S.C. 390ll), except for facilities of the  
6 Central Valley Project, California (as that project is  
7 defined by title XXXIV of Public Law 102-575),  
8 shall, pursuant to such terms, conditions, and proce-  
9 dures as the Secretary of the Interior may prescribe,  
10 pay to the United States an operation and mainte-  
11 nance charge sufficient to yield at least \$10,000,000  
12 (January 1993 price levels) annually in the years  
13 1994, 1995, and 1996 and at least \$15,000,000  
14 (January 1993 price levels) annually in 1997 and  
15 each year thereafter.

16 (2) PAYMENTS.—Payments required by para-  
17 graph (1) shall be made without reduction or defer-  
18 ral by the Secretary under any provision of reclama-  
19 tion law and without regard to whether an individual  
20 or entity has discharged its repayment obligation  
21 within the meaning of the first section of the Act of  
22 July 2, 1956 (70 Stat. 483; 43 U.S.C. 485h-1), sec-  
23 tion 213 of the Reclamation Reform Act of 1982  
24 (Public Law 97-293, 43 U.S.C. 390mm), or any  
25 other provision of Federal Reclamation law. The

1        payments shall be in addition to any other repay-  
2        ments owed or made to the United States and shall  
3        not be applied or credited to an individual's or enti-  
4        ty's repayment of project construction costs, pay-  
5        ment of other annual project operation and mainte-  
6        nance costs, payment of interest, or reduction of any  
7        contractual obligation the individual or entity may  
8        have with the United States.

9        (c) NATURAL RESOURCES RESTORATION FUND.—  
10      There is hereby established in the Treasury of the United  
11      States a fund to be known as the “Natural Resources Res-  
12      toration Fund” (hereafter in this section referred to as  
13      the “Fund”). All payments of the operation and mainte-  
14      nance charges authorized in subsection (b) shall be depos-  
15      ited in the Fund, and shall be available in the fiscal year  
16      following deposit and thereafter, to such extent or in such  
17      amounts as are provided in advance in appropriation Acts,  
18      for expenditures by the Secretary of the Interior for the  
19      benefit of fish and wildlife resources, including habitat, af-  
20      fected by construction or operation of the projects referred  
21      to in this section.

22      (d) INDIAN LAND OWNERS.—For the purposes of  
23      this section, Indian tribes or individual Indian beneficial  
24      owners of land held in trust by the United States or sub-

1 ject to a restriction against alienation by the United States  
2 shall be considered to be Federal entities.

3 (e) FEDERAL RECLAMATION LAW.—This section  
4 shall constitute an amendment of and a supplement to the  
5 Federal Reclamation laws (the Reclamation Act of 1902,  
6 32 Stat. 388, and Acts amendatory thereof and supple-  
7 mentary thereto).

8 **SEC. 9005. RECREATION USER FEES.**

9 (a) LAND AND WATER CONSERVATION FUND ACT OF  
10 1965.—

11 (1) IN GENERAL.—The first sentence of section  
12 4(b) of the Land and Water Conservation Fund Act  
13 of 1965 (relating to recreation use fees) is amended  
14 by striking out “picnic tables, or boat ramps” and  
15 all that follows down through the period at the end  
16 thereof and inserting the following: “or picnic tables,  
17 and in no event shall there be any charge for the use  
18 of any campground not having a majority of the fol-  
19 lowing: tent or trailer spaces, drinking water, access  
20 road, refuse containers, toilet facilities, fee collection  
21 by an employee or agent of the Federal agency oper-  
22 ating the facility, reasonable visitor protection, and  
23 simple devices for containing a campfire (where  
24 campfires are permitted). For purposes of this sub-  
25 section, the term ‘specialized outdoor recreation site’

1 includes but shall not be limited to campgrounds,  
2 swimming sites, boat launch facilities, and managed  
3 parking lots.”. The second sentence of such section  
4 4(b) is hereby repealed.

5 (2) CONFORMING AMENDMENT.—Section 210  
6 of Public Law 90–483 (82 Stat. 746; 16 U.S.C.  
7 460d–3) is repealed.

8 (b) COSTS OF COLLECTION.—Section 4(i) of the  
9 Land and Water Conservation Fund Act of 1965 (relating  
10 to special accounts for fees collected) is amended by insert-  
11 ing “(A)” after “(1)” and by adding the following at the  
12 end of paragraph (1):

13 “(B) Notwithstanding subparagraph (A), in any fis-  
14 cal year, the Secretary of Agriculture and the Secretary  
15 of the Interior may withhold from the special account es-  
16 tablished under subparagraph (A) such portion of all re-  
17 ceipts the fees collected in that fiscal year under this sec-  
18 tion as such Secretary determines to be equal to the addi-  
19 tional fee collection costs for that fiscal year. The amounts  
20 so withheld shall be retained by the Secretary of Agri-  
21 culture or the Secretary of the Interior and shall be avail-  
22 able, without further appropriation, for expenditure by the  
23 Secretary concerned in the fiscal year in which collected  
24 to cover such additional fee collection costs. The Secretary  
25 concerned shall deposit in the special account established



1 pursuant to subparagraph (A) any amounts so retained  
2 which remain unexpended and unobligated at the end of  
3 such fiscal year. For the purposes of this subparagraph,  
4 for any fiscal year, the term ‘additional fee collection costs’  
5 means those costs for personnel and infrastructure di-  
6 rectly associated with the collection of fees imposed under  
7 this section which exceed the costs for personnel and infra-  
8 structure directly associated with the collection of such  
9 fees during fiscal year 1993.”.

10 (c) GOLDEN AGE PASSPORT.—The second sentence  
11 of section 4(a)(4) of the Land and Water Conservation  
12 Fund Act of 1965 (relating to Golden Age Passports) is  
13 amended to read as follows: “Such permit shall be  
14 nontransferable, shall be issued for a charge of \$10, and  
15 shall entitle the permittee and the permittee’s spouse ac-  
16 companying the permittee to general admission into any  
17 area designated pursuant to this section.”.

18 (d) USER FEES FOR RIGHTS-OF-WAY.—In each fis-  
19 cal year after the enactment of this Act, the Secretary of  
20 the Interior shall impose and collect an annual fee for the  
21 use and occupancy of any right-of-way through any na-  
22 tional park system unit for which a permit has been issued  
23 by the Secretary pursuant to any general or specific statu-  
24 tory right-of-way authority (whether issued before or after  
25 the enactment of this Act) or for any other right-of-way

1 allowed as of the date of the enactment of this Act. The  
2 amount of such annual fee shall be equal to the fair mar-  
3 ket rental value, as determined by the Secretary, of such  
4 use and occupancy for the fiscal year concerned. The fair  
5 market value shall be reviewed (and revised if necessary)  
6 not less frequently than every 3 years. The Secretary shall  
7 deposit all fees collected under this subsection in the spe-  
8 cial account established under section 4(i) of the Land and  
9 Water Conservation Fund Act of 1965.

10 (e) COMMERCIAL TOUR USE FEES.—(1) In the case  
11 of each unit of the National Park System for which an  
12 admission fee is charged under section 4 of the Land and  
13 Water Conservation Fund Act of 1965 (16 U.S.C. 460l–  
14 4), the Secretary of the Interior shall establish, by October  
15 1, 1993, a commercial tour use fee to be imposed on each  
16 vehicle or aircraft entering the unit (or the airspace of  
17 the unit) for the purpose of providing commercial tour  
18 services within (or within the air space of) the unit. Fee  
19 revenue derived from such commercial tour use fees shall  
20 be deposited into the special account established under  
21 section 4(i) of the Land and Water Conservation Fund  
22 Act of 1965.

23 (2) The Secretary shall establish the amount of fee  
24 to be imposed under this subsection per entry. The fee  
25 shall not be less than—

1 (A) \$25 per vehicle or aircraft with a passenger  
2 capacity of 25 persons or less,

3 (B) \$50 per vehicle or aircraft with a passenger  
4 capacity of 26 to 99 persons, and

5 (C) \$100 per vehicle or aircraft with a pas-  
6 senger capacity of 100 to 299 persons.

7 The Secretary may periodically increase the fee imposed  
8 under this subsection as he deems necessary and justifi-  
9 able.

10 (3) The commercial tour use fee imposed under this  
11 subsection shall not apply to either of the following:

12 (A) Any vehicle or aircraft transporting orga-  
13 nized school groups or outings conducted for edu-  
14 cational purposes by schools or other bona fide edu-  
15 cational institutions.

16 (B) Any vehicle or aircraft entering a park sys-  
17 tem unit pursuant to a contract issued under the  
18 Act of October 9, 1965 (16 U.S.C. 20–20g) entitled  
19 “An Act relating to the establishment of concession  
20 policies in the areas administered by the National  
21 Park Service and for other purposes”.

22 (f) FAIR MARKET VALUE FOR COMMUNICATION SITE  
23 FEES.—No permit or other authorization for the use of  
24 any area of the public lands of the United States for pur-  
25 poses of commercial telephone transmission facilities shall

1 remain in force and effect after January 1, 1994 unless,  
2 before that date, and before January 1 of each year there-  
3 after, the holder of such permit or other authorization  
4 pays to Secretary of the Department having administra-  
5 tive jurisdiction over such lands an amount equal to the  
6 fair market value, as determined by such Secretary, of the  
7 right to use and occupy such area for such purposes. For  
8 purposes of this subsection, the term “public lands of the  
9 United States” means lands owned by the United States  
10 and administered by the Secretary of the Interior (other  
11 than lands held for the benefit of Indians, Aleuts, and Es-  
12 kimos) and lands within the National Forest System.

13 **SEC. 9006. NUCLEAR REGULATORY COMMISSION ANNUAL**  
14 **CHARGES.**

15 Section 6101(a)(3) of the Omnibus Budget Reconcili-  
16 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by  
17 striking “September 30, 1995” and inserting “September  
18 30, 1998”.

19 **SEC. 9007. RECOVERING THE COST FOR GOVERNMENT**  
20 **SERVICES.**

21 (a) REPORT.—Not later than January 1, 1994, the  
22 Secretary of the Interior and the Secretary of Energy shall  
23 each submit a report identifying fees, penalties, and other  
24 charges to the Committee on Natural Resources of the

1 House of Representatives and the Committee on Energy  
2 and Natural Resources of the Senate. Each report shall—

3 (1) identify all fees, penalties, and other  
4 charges imposed by the respective Secretary for the  
5 provision of services;

6 (2) include the procedures for adjusting such  
7 fees to recover the cost of providing those services;  
8 and

9 (3) identify those services for which no fee is  
10 currently charged and make recommendations for a  
11 fee appropriate to cover the cost of providing each  
12 service.

13 (b) ADJUSTMENT OF FEES.—Except as provided in  
14 subsection (d), for fiscal year 1995 and each fiscal year  
15 thereafter, the Secretary of the Interior and the Secretary  
16 of Energy shall adjust each fee, penalty, and other charge  
17 for the provision of services identified pursuant to sub-  
18 section (a)(1). Each such fee, penalty, and charge shall  
19 be adjusted in accordance with the procedures identified  
20 pursuant to subsection (a)(2).

21 (c) IMPLEMENTATION OF FEES FOR SERVICES NOT  
22 COVERED.—Beginning with fiscal year 1995, the Sec-  
23 retary of the Interior and the Secretary of Energy shall  
24 charge fees for each of the services identified pursuant to  
25 subsection (a)(3) in an amount sufficient to recover the

1 cost of providing the service. For each fiscal year there-  
2 after, the fee shall be adjusted in the same manner as  
3 adjustments are made pursuant to subsection (b), using  
4 fiscal year 1995 as the base year.

5 (d) CERTAIN FEES, PENALTIES AND CHARGES NOT  
6 COVERED.—Subsection (b) shall not apply to any fee, pen-  
7 alty, or charge the amount of which is expressly specified  
8 in any statute or contract.

9 **SEC. 9008. UNFUNDED LIABILITIES OF THE FEDERAL GOV-**  
10 **ERNMENT.**

11 Section 1105 of title 31, United States Code, is  
12 amended by adding the following subsection at the end  
13 thereof:

14 “(g) The President shall transmit with materials re-  
15 lated to each budget an estimate of unfunded future liabil-  
16 ities of the Federal Government that are not accounted  
17 for in the budget itself. Such estimate shall include (but  
18 not be limited to) liabilities for future remediation of envi-  
19 ronmental and natural resources damage, and cleaning up  
20 waste sites, on Federal lands. Sources of liabilities shall  
21 include (but not be limited to) active, inactive, or aban-  
22 doned mines or oil or gas wells, irrigation waste water im-  
23 pacts, decommissioning of nuclear power plants, and ura-  
24 nium mining and processing activities (without regard to  
25 the location of such mining or processing activities) affect-

1 ing the health of Native Americans and carried out pursu-  
 2 ant to a program administered by the United States.”.

3 **TITLE X—COMMITTEE ON POST**  
 4 **OFFICE AND CIVIL SERVICE**  
 5 **Subtitle A—Civil Service**

6 **SEC. 10001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN**  
 7 **FEDERAL EMPLOYEE RETIREMENT BENEFITS**  
 8 **DURING FISCAL YEARS 1994, 1995, AND 1996.**

9 (a) **APPLICABILITY.**—This section shall apply with  
 10 respect to any cost-of-living increase scheduled to take  
 11 effect, during fiscal year 1994, 1995, or 1996, under—

12 (1) section 8340(b) or 8462(b) of title 5, Unit-  
 13 ed States Code;

14 (2) section 826 or 858 of the Foreign Service  
 15 Act of 1980; or

16 (3) section 291 of the Central Intelligence  
 17 Agency Retirement Act (50 U.S.C. 2131), as set  
 18 forth in section 802 of the CIARDS Technical Cor-  
 19 rections Act of 1992 (Public Law 102–496; 106  
 20 Stat. 3196).

21 (b) **DELAY IN EFFECTIVE DATE OF ADJUST-**  
 22 **MENTS.**—A cost-of-living increase described in subsection  
 23 (a) shall not take effect until the first day of the third  
 24 calendar month after the date such increase would other-  
 25 wise take effect.

1 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
2 tion shall be considered to affect any determination relat-  
3 ing to eligibility for an annuity increase or the amount  
4 of the first increase in an annuity under section 8340(b)  
5 or (c) or section 8462(b) or (c) of title 5, United States  
6 Code, or comparable provisions of law.

7 **SEC. 10002. PERMANENT ELIMINATION OF THE ALTER-**  
8 **NATIVE-FORM-OF-ANNUITY OPTION EXCEPT**  
9 **FOR INDIVIDUALS WITH A CRITICAL MEDI-**  
10 **CAL CONDITION.**

11 (a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL  
12 EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and  
13 8420a of title 5, United States Code, are each amended—

14 (1) in subsection (a) by striking “an employee  
15 or Member may,” and inserting “any employee or  
16 Member who has a life-threatening affliction or  
17 other critical medical condition may,”; and

18 (2) by striking subsection (f).

19 (b) FOREIGN SERVICE RETIREMENT AND DISABIL-  
20 ITY SYSTEM.—Section 807(e)(1) of the Foreign Service  
21 Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by strik-  
22 ing “a participant may,” and inserting “any participant  
23 who has a life-threatening affliction or other critical medi-  
24 cal condition may,”.



1 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT  
2 AND DISABILITY SYSTEM.—Section 294(a) of the Central  
3 Intelligence Agency Retirement Act (50 U.S.C. 2143(a)),  
4 as set forth in section 802 of the CIARDS Technical Cor-  
5 rections Act of 1992 (Public Law 102–496; 106 Stat.  
6 3196), is amended by striking “a participant may,” and  
7 inserting “any participant who has a life-threatening  
8 affliction or other critical medical condition may,”.

9 (d) EFFECTIVE DATE.—The amendments made by  
10 this section shall become effective on January 1, 1994,  
11 and shall apply with respect to any annuity commencing  
12 on or after that date.

13 **SEC. 10003. PAY LIMITATIONS.**

14 (a) ELIMINATION OF THE 1994 ANNUAL PAY AD-  
15 JUSTMENT.—

16 (1) STATUTORY PAY SYSTEMS.—Notwithstand-  
17 ing section 633 of the Treasury, Postal Service  
18 and General Government Appropriations Act,  
19 1991 (5 U.S.C. 5303 note) or any other provision  
20 of law, the adjustment in rates of basic pay that is  
21 scheduled to take effect in 1994 under section 5303  
22 of title 5, United States Code, shall not take effect.

23 (2) OTHER PAY SYSTEMS.—

24 (A) IN GENERAL.—Notwithstanding any  
25 other provision of law, any general pay adjust-

1           ment, similar to the adjustment referred to in  
2           paragraph (1), which is scheduled to take effect  
3           in 1994 with respect to any civilian officers or  
4           employees in the executive branch (other than  
5           those affected by paragraph (1)) shall not take  
6           effect.

7           (B) EXCEPTIONS.—Subparagraph (A)  
8           shall not apply with respect to—

9                   (i) any pay adjustment required under  
10                   the terms of a contract, as in effect before  
11                   the date of the enactment of this Act; or

12                   (ii) any alien or noncitizen of the  
13                   United States who occupies a position out-  
14                   side the United States.

15           (C) REGULATIONS.—The Office of Person-  
16           nel Management may prescribe any regulations  
17           it considers necessary for the administration of  
18           this paragraph.

19           (b) MODIFICATION IN FORMULA FOR COMPUTING  
20           ANNUAL PAY ADJUSTMENTS FOR 1995, 1996, AND  
21           1997.—

22                   (1) STATUTORY PAY SYSTEMS.—Section  
23           5303(a) of title 5, United States Code, is amend-  
24           ed—

1 (A) by striking “(a)” and inserting  
2 “(a)(1)”; and

3 (B) by adding at the end the following:

4 “(2) Notwithstanding section 633 of the Treasury,  
5 Postal Service and General Government Appropriations  
6 Act, 1991 or any other provision of law, for purposes of  
7 any adjustment scheduled to take effect under this section  
8 in 1995, 1996, or 1997, paragraph (1) shall be deemed  
9 to be amended by striking ‘equal to’ through ‘less than’  
10 and inserting ‘equal to one and one-half percentage points  
11 less than’.”.

12 (2) OTHER PAY SYSTEMS.—Section 704(a)(1)  
13 of the Ethics Reform Act of 1989 (5 U.S.C. 5318  
14 note) is amended by adding at the end the following:

15 “(C) SPECIAL RULE.—For purposes of any  
16 pay adjustment scheduled to take effect in  
17 1995, 1996, or 1997, subparagraph (B) shall  
18 be deemed to be amended by striking ‘one-half  
19 of 1 percent’ and inserting ‘one and one-half  
20 percent’.”.

21 **SEC. 10004. PROVISIONS RELATING TO LOCALITY-BASED**  
22 **COMPARABILITY PAYMENTS.**

23 (a) LOCALITY-BASED COMPARABILITY PAYMENTS.—

24 (1) CHANGE IN EFFECTIVE DATE OF PAY-  
25 MENTS.—Section 5304(d)(2) of title 5, United

1 States Code, is amended by striking “January 1”  
2 and inserting “July 1”.

3 (2) LIMITATION RELATING TO AGGREGATE  
4 AMOUNT PAYABLE DURING CERTAIN PERIODS.—Sec-  
5 tion 5304 of title 5, United States Code, is amend-  
6 ed—

7 (A) by redesignating subsection (i) as sub-  
8 section (j); and

9 (B) by inserting after subsection (h) the  
10 following:

11 “(i)(1) Notwithstanding any other provision of this  
12 section, comparability payments may not be established or  
13 adjusted under this section in a manner that would cause  
14 the resulting estimated total amount payable under this  
15 section during the period which—

16 “(A) begins on July 1, 1994, and ends on June  
17 30, 1995, to exceed \$1,800,000,000;

18 “(B) begins on July 1, 1995, and ends on June  
19 30, 1996, to exceed \$2,500,000,000;

20 “(C) begins on July 1, 1996, and ends on June  
21 30, 1997, to exceed \$3,300,000,000;

22 “(D) begins on July 1, 1997, and ends on June  
23 30, 1998, to exceed \$4,200,000,000; or

24 “(E) begins on July 1, 1998, and ends on Sep-  
25 tember 30, 1998, to exceed \$1,747,000,000.

1       “(2) If necessary in order to achieve compliance with  
2 any of the respective limitations under paragraph (1), the  
3 President may, in carrying out subsection (d)(2), specify  
4 levels of comparability payments less than the minimum  
5 which would otherwise be required under subsection  
6 (a)(3).

7       “(3) The pay agent shall develop and include in the  
8 appropriate reports under subsection (d)(1) the methodol-  
9 ogy for making any estimates under this subsection, and  
10 any such estimate shall be made in accordance with the  
11 methodology so included in the then most recent report.

12       “(4) Whenever any authority under this subsection  
13 is exercised, the President shall so indicate in his next re-  
14 port under subsection (d)(3), including specific informa-  
15 tion as to how such authority was exercised and the rea-  
16 sons why it was so exercised.”.

17       (b) TEMPORARY CHANGE IN EFFECTIVE DATE OF  
18 ANNUAL PAY ADJUSTMENTS UNDER SECTION 5303 OF  
19 TITLE 5, UNITED STATES CODE.—Section 5303(a) of  
20 title 5, United States Code (as amended by section  
21 10003(b)(1)), is further amended by adding after para-  
22 graph (2) of such section 5303(a) (as so amended) the  
23 following:

24       “(3) Effective for the period beginning on January  
25 1, 1995, and ending on December 31, 2003, paragraph

1 (1) shall be deemed to be amended by striking ‘January  
2 1’ and inserting ‘July 1’.’.

3 (c) REPEAL OF THE PROVISION EXCLUDING SENIOR  
4 EXECUTIVES FROM THE LIMITATION GENERALLY APPLI-  
5 CABLE ON THE ACCUMULATION OF ANNUAL LEAVE.—

6 (1) IN GENERAL.—Section 6304(f) of title 5,  
7 United States Code, is repealed, effective as of Jan-  
8 uary 1, 1994.

9 (2) SAVINGS PROVISION.—

10 (A) APPLICABILITY.—This paragraph shall  
11 apply with respect to an individual—

12 (i) who, as of December 31, 1993, has  
13 more than 30 days of annual leave to such  
14 individual’s credit (or more than 45 days,  
15 if the individual would be subject to section  
16 6304(b) of such title) which were accrued  
17 in any position described in section 6304(f)  
18 of title 5, United States Code (as in effect  
19 on the date of the enactment of this Act);  
20 and

21 (ii) only for so long as such individual  
22 remains continuously employed in any such  
23 position (disregarding any break in service  
24 of 3 days or less).

1 (B) STATEMENT OF THE RULE.—For pur-  
2 poses of administering section 6304 of title 5,  
3 United States Code, with respect to any individ-  
4 ual to whom this paragraph applies—

5 (i) subsection (a) of such section shall  
6 be deemed amended by striking “30” and  
7 inserting the number corresponding to the  
8 number of days determined for such indi-  
9 vidual under subparagraph (A)(i); and

10 (ii) subsection (b) of such section shall  
11 be deemed amended by striking “45” and  
12 inserting the number corresponding to the  
13 number of days determined for such indi-  
14 vidual under subparagraph (A)(i).

15 (3) CONFORMING AMENDMENT.—Section  
16 6304(a) of title 5, United States Code, is amended  
17 by striking “(d), (e), (f), and (g)” and inserting “(d)  
18 and (e)”.

19 (d) NO CASH AWARDS BETWEEN FISCAL YEARS  
20 1994 THROUGH 1998.—

21 (1) DEFINITION.—For the purpose of this sub-  
22 section, the term “cash award” means any cash  
23 award, performance award, rank, or other form of  
24 recognition entitling the recipient to any monetary  
25 payment under subchapter I of chapter 45 of title 5,

1 United States Code, or section 5384, 5406, or 5407  
2 of such title.

3 (2) RESTRICTION.—Notwithstanding any other  
4 provision of law, no cash award may be awarded  
5 during the period beginning on October 1, 1993, and  
6 ending on September 30, 1998.

7 (e) REDUCTION OF FEDERAL WORKFORCE BY  
8 150,000.—

9 (1) DEFINITION.—For the purpose of this sub-  
10 section, the term “civilian employees in the executive  
11 branch” means all civilian employees within the ex-  
12 ecutive branch of the Government (other than in the  
13 United States Postal Service or the Postal Rate  
14 Commission).

15 (2) LIMITATIONS.—The average total number  
16 of civilian employees in the executive branch may  
17 not exceed—

18 (A) 2,095,200 in fiscal year 1994;

19 (B) 2,044,100 in fiscal year 1995;

20 (C) 2,010,100 in fiscal year 1996;

21 (D) 1,998,500 in fiscal year 1997; or

22 (E) 1,996,700 in fiscal year 1998.

23 (3) AVERAGING.—The average total number of  
24 civilian employees in the executive branch in a fiscal  
25 year shall, for purposes of this subsection, be the av-



1        erage number in such fiscal year, as determined  
2        under regulations prescribed under paragraph (5).  
3        Any such average shall be determined on a “full-  
4        time equivalent” basis.

5            (4) VOLUNTARY MEASURES.—To the extent  
6        practicable, any reductions necessary to achieve com-  
7        pliance with any limitation under paragraph (2)  
8        shall be effected through attrition or other voluntary  
9        measures.

10           (5) REGULATIONS.—The President shall pre-  
11        scribe regulations to carry out this subsection.

12           (f) PAY-LIMITATION PROVISIONS MADE APPLICABLE  
13        TO CERTAIN EMPLOYEES IN THE JUDICIAL BRANCH.—  
14        The Director of the Administrative Office of the United  
15        States Courts shall take such measures as may be nec-  
16        essary to ensure that the purposes of subsections (a) and  
17        (b) of section 10003 and subsections (a)(1) (if applicable)  
18        and (b) of this section are carried out with respect to em-  
19        ployees who are subject to the personnel management sys-  
20        tem established by the Director under section 3 of Public  
21        Law 101–474 (28 U.S.C. 602 note).

1 **SEC. 10005. APPLICATION OF MEDICARE PART B LIMITS TO**  
2 **PHYSICIANS' SERVICES FURNISHED TO FED-**  
3 **ERAL EMPLOYEE HEALTH BENEFITS EN-**  
4 **ROLLEES AGE 65 OR OLDER.**

5 (a) IN GENERAL.—Section 8904(b) of title 5, United  
6 States Code, is amended—

7 (1) in paragraph (1) by inserting “(A)” after  
8 “(b)(1)” and by adding at the end the following:

9 “(B)(i) A plan, other than a prepayment plan de-  
10 scribed in section 8903(4), may not provide benefits, in  
11 the case of any retired enrolled individual who is age 65  
12 or older and is not entitled to Medicare supplementary  
13 medical insurance benefits under part B of title XVIII of  
14 the Social Security Act (42 U.S.C. 1395j et seq.), to pay  
15 a charge imposed for physicians’ services (as defined in  
16 section 1848(j) of such Act, 42 U.S.C. 1395w–4(j)) which  
17 are covered for purposes of benefit payments under this  
18 chapter and under such part, to the extent that such  
19 charge exceeds the fee schedule amount under section  
20 1848(a) of such Act (42 U.S.C. 1395w–4(a)).

21 “(ii) Physicians and suppliers who have in force par-  
22 ticipation agreements with the Secretary of Health and  
23 Human Services consistent with section 1842(h)(1) of  
24 such Act (42 U.S.C. 1395u(h)(1)), whereby the participat-  
25 ing provider accepts Medicare benefits (including allowable  
26 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

1 shall enforce a corresponding exclusion of such provider  
2 for purposes of this chapter.”;

3 (2) in paragraph (3)(B)—

4 (A) by inserting “(i)” after “includes”; and

5 (B) by inserting before the period at the  
6 end the following: “, and (ii) the fee schedule  
7 amounts and limiting charges for physicians’  
8 services established under section 1848 of such  
9 Act (42 U.S.C. 1395w–4) and the identity of  
10 participating physicians and suppliers who have  
11 in force agreements with such Secretary under  
12 section 1842(h) of such Act (42 U.S.C.  
13 1395u(h))”; and

14 (3) by adding at the end the following:

15 “(4) The Director of the Office of Personnel Manage-  
16 ment shall certify, before the first day of the fifth month  
17 that begins before each contract year, that there is in ef-  
18 fect an arrangement with the Secretary of Health and  
19 Human Services under which, before the beginning of the  
20 contract year—

21 “(A) physicians and suppliers (whether or not  
22 participating) under the Medicare program will be  
23 notified of the requirements of paragraph (1)(B);

24 “(B) enforcement procedures will be in place to  
25 carry out such paragraph (including enforcement of

1       protections against overcharging of beneficiaries);  
 2       and

3               “(C) Medicare program information described  
 4       in paragraph (3)(B)(ii) will be supplied to carriers  
 5       under paragraph (3)(A).”.

6       (b) EFFECTIVE DATE.—The amendments made by  
 7       subsection (a) shall apply with respect to contract years  
 8       beginning on or after January 1, 1995.

9       **SEC. 10006. TEMPORARY EXTENSION OF METHOD FOR DE-**  
 10               **TERMINING GOVERNMENT CONTRIBUTIONS**  
 11               **UNDER FEHBP IN THE ABSENCE OF A GOV-**  
 12               **ERNMENT-WIDE INDEMNITY BENEFIT PLAN.**

13       (a) IN GENERAL.—Public Law 101–76 (5 U.S.C.  
 14       8906 note) is amended in subsection (a)(1) by striking  
 15       “1993” and inserting “1998”.

16       (b) SENSE OF CONGRESS.—It is the sense of the  
 17       Congress that nothing in this section should be considered  
 18       to reflect any view on the appropriateness, merits, or tim-  
 19       ing, or any other aspect of any comprehensive health care  
 20       reform legislation.

21               **Subtitle B—Postal Service**

22       **SEC. 10101. PAYMENTS TO BE MADE BY THE UNITED**  
 23               **STATES POSTAL SERVICE.**

24       (a) RELATING TO CORRECTED CALCULATIONS FOR  
 25       PAST RETIREMENT COLAs.—In addition to any other

1 payments required under section 8348(m) of title 5, Unit-  
2 ed States Code, or any other provision of law, the United  
3 States Postal Service shall pay into the Civil Service Re-  
4 tirement and Disability Fund a total of \$693,000,000, of  
5 which—

6 (1) at least one-third shall be paid not later  
7 than September 30, 1995;

8 (2) at least two-thirds shall be paid not later  
9 than September 30, 1996; and

10 (3) any remaining balance shall be paid not  
11 later than September 30, 1997.

12 (b) RELATING TO CORRECTED CALCULATIONS FOR  
13 PAST HEALTH BENEFITS.—In addition to any other pay-  
14 ments required under section 8906(g)(2) of title 5, United  
15 States Code, or any other provision of law, the United  
16 States Postal Service shall pay into the Employees Health  
17 Benefits Fund a total of \$348,000,000, of which—

18 (1) at least one-third shall be paid not later  
19 than September 30, 1995;

20 (2) at least two-thirds shall be paid not later  
21 than September 30, 1996; and

22 (3) any remaining balance shall be paid not  
23 later than September 30, 1997.

# 1       **Subtitle C—Revenue Forgone** 2                               **Reform**

## 3   **SEC. 10201. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This subtitle may be cited as the  
 5   “Revenue Forgone Reform Act”.

6       (b) TABLE OF CONTENTS.—The table of contents for  
 7   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.

## 8   **SEC. 10202. REFERENCES.**

9       Except as otherwise expressly provided, whenever in  
 10   this subtitle an amendment or repeal is expressed in terms  
 11   of an amendment to, or a repeal of, a section or other  
 12   provision, the reference shall be considered to be made to  
 13   a section or other provision of title 39, United States  
 14   Code.

## 15   **SEC. 10203. REPEAL OF AUTHORIZATION OF APPROPRIA-** 16                               **TIONS FOR MAIL SENT AT REDUCED RATES** 17                               **OF POSTAGE.**

18       (a) IN GENERAL.—Section 2401(c) is amended—

19               (1) in the first sentence—

20                       (A) by striking “if sections” through “had  
 21                       not been enacted” and inserting “if sections

1           3217 and 3403–3406 had not been enacted”;  
2           and

3           (B) by striking “such sections and Acts.”  
4           and inserting “such sections.”; and  
5           (2) in the second sentence—

6           (A) by striking “(i)”;

7           (B) by striking “volume;” through “sched-  
8           ules.” and inserting “volume.”.

9           (b) APPLICABILITY.—The amendments made by sub-  
10          section (a) shall apply with respect to appropriations for  
11          fiscal years beginning after September 30, 1993.

12       **SEC. 10204. ESTABLISHING REDUCED RATES OF POSTAGE.**

13          (a) RATES.—

14               (1) IN GENERAL.—Section 3626(a) is amended  
15          to read as follows:

16          “(a)(1) For the purpose of this subsection—

17               “(A) the term ‘costs attributable’, as used with  
18          respect to a class of mail or kind of mailer, means  
19          the direct and indirect postal costs attributable to  
20          such class of mail or kind of mailer (excluding any  
21          other costs of the Postal Service);

22               “(B) the term ‘regular-rate category’ means  
23          any class of mail or kind of mailer, other than a  
24          class or kind referred to in paragraph (2)(A) or sec-  
25          tion 2401(c); and



1           “(C) the term ‘institutional-costs contribution’,  
2       as used with respect to a class of mail or kind of  
3       mailer, means that portion of the estimated revenues  
4       to the Postal Service from such class of mail or kind  
5       of mailer which remains after subtracting an amount  
6       equal to the estimated costs attributable to such  
7       class of mail or kind of mailer.

8           “(2)(A) Except as provided in paragraph (3) or (4),  
9       rates of postage for a class of mail or kind of mailer under  
10      former section 4358, 4452(b), 4452(c), 4554(b), or  
11      4554(c) of this title shall be established in a manner such  
12      that the estimated revenues to be received by the Postal  
13      Service from such class of mail or kind of mailer shall  
14      be equal to the sum of—

15           “(i) the estimated costs attributable to such  
16      class of mail or kind of mailer; and

17           “(ii) the product derived by multiplying the es-  
18      timated costs referred to in clause (i) by the applica-  
19      ble percentage under subparagraph (B).

20           “(B) The applicable percentage for any class of mail  
21      or kind of mailer referred to in subparagraph (A) shall  
22      be the product derived by multiplying—

23           “(i) the percentage which, for the most closely  
24      corresponding regular-rate category, the institu-  
25      tional-costs contribution for such category represents

1 relative to the estimated costs attributable to such  
2 category of mail, times

3 “(ii) (I) one-twelfth, for fiscal year 1994;

4 “(II) one-sixth, for fiscal year 1995;

5 “(III) one-fourth, for fiscal year 1996;

6 “(IV) one-third, for fiscal year 1997;

7 “(V) five-twelfths, for fiscal year 1998; and

8 “(VI) one-half, for any fiscal year after fiscal  
9 year 1998.

10 “(C) For temporary special authority to permit the  
11 timely implementation of the preceding provisions of this  
12 paragraph, see section 3642.

13 “(D) For purposes of establishing rates of postage  
14 under this subchapter for any of the classes of mail or  
15 kinds of mailers referred to in subparagraph (A),  
16 subclauses (I) through (V) of subparagraph (B)(ii) shall  
17 be deemed amended by striking the fraction specified in  
18 each such subclause and inserting ‘one-half’.

19 “(3) The rates for the advertising portion of any mail  
20 matter under former section 4358(d) or 4358(e) of this  
21 title shall be equal to the rates for the advertising portion  
22 of the most closely corresponding regular-rate category of  
23 mail, except that if the advertising portion does not exceed  
24 10 percent of the issue of the publication involved, the ad-

1 vertising portion shall be subject to the same rates as  
2 apply to the nonadvertising portion.

3 “(4) The rates for any advertising under former sec-  
4 tion 4358(f) of this title shall be equal to 75 percent of  
5 the rates for advertising contained in the most closely cor-  
6 responding regular-rate category of mail.”.

7 (2) SPECIAL AUTHORITY.—Subchapter III of  
8 chapter 36 is amended by adding at the end the fol-  
9 lowing:

10 **“§ 3642. Special authority relating to reduced-rate**  
11 **categories of mail**

12 “(a) In order to permit the timely implementation of  
13 section 3626(a)(2), the Postal Service may establish tem-  
14 porary rates of postage for any class of mail or kind of  
15 mailer referred to in section 3626(a)(2)(A).

16 “(b) Any exercise of authority under this section shall  
17 be in conformance with the requirements of section  
18 3626(a), subject to the following:

19 “(1) All ‘attributable costs’ and ‘institutional-  
20 costs contributions’ assumed shall be the same as  
21 those which were assumed for purposes of the then  
22 most recent proceedings under subchapter II pursu-  
23 ant to which rates of postage for the class of mail  
24 or kind of mailer involved were last adjusted.

1           “(2) Any temporary rate established under this  
2           section shall take effect upon such date as the  
3           Postal Service may determine, except that—

4                   “(A) such a rate may take effect only after  
5                   10 days’ notice in the Federal Register; and

6                   “(B) no such rate may take effect after  
7                   September 30, 1998.

8           “(3) A temporary rate under this section may  
9           remain in effect no longer than the last day of the  
10          fiscal year in which it first takes effect.

11          “(4) Authority under this section may not be  
12          exercised in a manner that would result in more  
13          than 1 change taking effect under this section, dur-  
14          ing the same fiscal year, in the rates of postage for  
15          a particular class of mail or kind of mailer, except  
16          as provided in paragraph (5).

17          “(5) Nothing in paragraph (4) shall prevent an  
18          adjustment under this section in rates for a class of  
19          mail or kind of mailer with respect to which any  
20          rates took effect under this section earlier in the  
21          same fiscal year if—

22                   “(A) the rates established for such class of  
23                   mail or kind of mailer by the earlier adjustment  
24                   are superseded by new rates established under  
25                   subchapter II; and

1           “(B) authority under this paragraph has  
2           not previously been exercised with respect to  
3           such class of mail or kind of mailer based on  
4           the new rates referred to in subparagraph (A).

5           “(c) The Postal Service may prescribe any regula-  
6           tions which may be necessary to carry out this section,  
7           including provisions governing the coordination of adjust-  
8           ments under this section with any other adjustments  
9           under this title.”.

10           (3) TECHNICAL AND CONFORMING AMEND-  
11           MENTS.—

12           (A) SECTION 3626.—Section 3626(i) is re-  
13           pealed.

14           (B) SECTION 3627.—

15           (i) IN GENERAL.—Section 3627 is  
16           amended—

17                   (I) by striking “sent at a free or  
18                   reduced rate under section 3217,  
19                   3403–3406, or 3626 of this title,”  
20                   and inserting “sent free of postage  
21                   under section 3217 or 3403–3406”;  
22                   and

23                   (II) in the section heading by  
24                   striking “**and reduced**”.

1 (ii) TABLE OF CONTENTS.—The table  
2 of contents for chapter 36 is amended—

3 (I) by striking the item relating  
4 to section 3627 and inserting the  
5 following:

“3627. Adjusting free rates.”;

6 and

7 (II) by inserting after the item  
8 relating to section 3641 the following:

“3642. Special authority relating to reduced-rate categories of mail.”.

9 (b) AUTHORIZATION.—

10 (1) IN GENERAL.—Section 2401 is amended—

11 (A) by striking subsections (d) through (f);

12 (B) by redesignating subsections (g)  
13 through (i) as subsections (e) through (g), re-  
14 spectively;

15 (C) in subsection (f) (as so redesignated by  
16 subparagraph (B)) by striking the second sen-  
17 tence;

18 (D) in subsection (g) (as so redesignated  
19 by subparagraph (B)) by striking “subsections  
20 (b) and (d) of this section” and inserting “sub-  
21 section (b)”;

22 (E) by inserting after subsection (c) the  
23 following:

1       “(d) As reimbursement to the Postal Service for  
2 losses which it incurred as a result of insufficient amounts  
3 appropriated under section 2401(c) for fiscal years 1991  
4 through 1993, and to compensate for the additional reve-  
5 nues it is estimated the Postal Service would have received  
6 under the provisions of section 3626(a), for the period be-  
7 ginning on October 1, 1993, and ending on September 30,  
8 1998, if the fraction specified in subclause (VI) of section  
9 3626(a)(2)(B)(ii) were applied with respect to such period  
10 (instead of the respective fractions specified in subclauses  
11 (I) through (V) thereof), there are authorized to be appro-  
12 priated to the Postal Service \$29,000,000 for each of  
13 fiscal years 1994 through 2035.”.

14           (2) RATEMAKING LIMITATIONS.—

15           (A) IN GENERAL.—Except as provided in  
16 subparagraph (B), rates of postage may not be  
17 established, under subchapter II of chapter 36  
18 of title 39, United States Code, in a manner de-  
19 signed to allow the United States Postal Service  
20 to receive through revenues any portion of the  
21 additional revenues (referred to in section  
22 2401(d) of such title, as amended by paragraph  
23 (1)(E)) for which amounts are authorized to be  
24 appropriated under such section 2401(d).

1 (B) EXCEPTION.—If Congress fails to ap-  
 2 propriate an amount authorized under section  
 3 2401(d) of title 39, United States Code (as  
 4 amended by paragraph (1)(E)), rates for the  
 5 various classes of mail may be adjusted in ac-  
 6 cordance with the provisions of subchapter II of  
 7 chapter 36 of such title (excluding section 3627  
 8 thereof) such that the resulting increase in rev-  
 9 enues will equal the amount that Congress so  
 10 failed to appropriate.

11 (c) APPLICABILITY.—

12 (1) RATES.—The amendments made by sub-  
 13 section (a) shall apply with respect to rates for mail  
 14 sent after September 30, 1993.

15 (2) AUTHORIZATION.—The amendments made  
 16 by subsection (b) shall apply with respect to appro-  
 17 priations for fiscal years beginning after September  
 18 30, 1993.

19 **SEC. 10205. ELIGIBILITY OF CERTAIN MAILINGS FOR RE-**  
 20 **DUCE RATES OF POSTAGE.**

21 (a) ADVERTISING.—Section 3626(j)(1) is amended—

22 (1) in subparagraph (B) by striking “or” after  
 23 the semicolon;

24 (2) in subparagraph (C) by striking the period  
 25 and inserting “; or”; and



1 (3) by adding at the end the following:

2 “(D) any product or service (other than any to  
3 which subparagraph (A), (B), or (C) relates), if—

4 “(i) the sale of such product or the provid-  
5 ing of such service is not substantially related  
6 (aside from the need, on the part of the organi-  
7 zation promoting such product or service, for  
8 income or funds or the use it makes of the prof-  
9 its derived) to the exercise or performance by  
10 the organization of one or more of the purposes  
11 constituting the basis for the organization’s au-  
12 thorization to mail at such rates; or

13 “(ii) the mail matter involved is part of a  
14 cooperative mailing (as defined under regula-  
15 tions of the Postal Service) with any person or  
16 organization not authorized to mail at the rates  
17 for mail under former section 4452(b) or  
18 4452(c) of this title;

19 except that—

20 “(I) any determination under clause (i)  
21 that a product or service is not substantially re-  
22 lated to a particular purpose shall be made  
23 under regulations which shall be prescribed by  
24 the Postal Service based on subsections (a) and

1 (c) of section 513 of the Internal Revenue Code  
2 of 1986; and

3 “(II) clause (i) shall not apply if the prod-  
4 uct involved is a periodical publication described  
5 in subsection (m)(2) (including a subscription  
6 to receive any such publication).”.

7 (b) PRODUCTS.—Section 3626 is amended by adding  
8 at the end the following:

9 “(m)(1) In the administration of this section, the  
10 rates for mail under former section 4452(b) or 4452(c)  
11 of this title shall not apply to mail consisting of products,  
12 unless such products—

13 “(A) were received by the organization as gifts  
14 or contributions; or

15 “(B) are low cost articles (as defined by section  
16 513(h)(2) of the Internal Revenue Code of 1986).

17 “(2) Paragraph (1) shall not apply with respect to  
18 a periodical publication of a qualified nonprofit organiza-  
19 tion.”.

20 (c) CERTIFICATION; VERIFICATION.—Section  
21 3626(j)(3) is amended—

22 (1) by striking “(3)” and inserting “(3)(A)”;

23 and

24 (2) by adding at the end the following:

1       “(B) The Postal Service shall establish procedures to  
2 carry out this paragraph, including procedures for mailer  
3 certification of compliance with the conditions specified in  
4 paragraph (1)(D) or subsection (m), as applicable, and  
5 verification of such compliance.”.

6       (d) APPLICABILITY.—The amendments made by this  
7 section shall apply with respect to mail sent, and the rates  
8 for mail sent, after September 30, 1993.

9       **SEC. 10206. PROVISIONS RELATING TO RATES FOR BOOKS**  
10                               **AND CERTAIN OTHER MATERIALS.**

11       (a) IN GENERAL.—Section 3683(b) is amended to  
12 read as follows:

13       “(b) The rates of postage under former section  
14 4554(b)(1) of this title shall not be effective except with  
15 respect to mailings which—

16               “(1) constitute materials specified in former  
17 section 4554(b)(2) of this title; and

18               “(2) are sent between—

19                       “(A) an institution, organization, or asso-  
20 ciation listed in subparagraph (A) or (B) of  
21 such former section 4554(b)(1) and any other  
22 such institution, organization, or association;

23                       “(B) an institution, organization, or asso-  
24 ciation referred to in subparagraph (A) and any  
25 individual (other than an individual having a fi-

1           nancial interest in the sale, promotion, or dis-  
2           tribution of the materials involved); or

3           “(C) an institution, organization, or asso-  
4           ciation referred to in subparagraph (A) and a  
5           qualified nonprofit organization (as defined in  
6           former section 4452(d) of this title) that is not  
7           such an institution, organization, or associa-  
8           tion.”.

9           (b) APPLICABILITY.—The amendment made by sub-  
10          section (a) shall apply with respect to mail sent after Sep-  
11          tember 30, 1993.

12       **SEC. 10207. SENSE OF CONGRESS.**

13          It is the sense of the Congress that any legislation,  
14          enacted after September 30, 1994, which would have the  
15          effect of expanding the classes of mail or kinds of mailers  
16          eligible for reduced rates of postage should provide for suf-  
17          ficient funding to ensure that neither any losses to the  
18          United States Postal Service nor any increase in the rates  
19          of postage for any of the other classes of mail or kinds  
20          of mailers will result.

21       **SEC. 10208. TECHNICAL CORRECTIONS.**

22          (a) SECTION 410.—Section 410(b) is amended—

23               (1) in paragraph (8) by striking “and” after  
24          the semicolon;

1           (2) in the first paragraph (9) by striking  
2           “Chapter” and inserting “chapter”, and by striking  
3           the period and inserting “; and”; and

4           (3) by designating the second paragraph (9) as  
5           paragraph (10).

6           (b) SECTION 3202.—Section 3202(a) is amended—

7           (1) in paragraph (3) by adding “and” after the  
8           semicolon; and

9           (2) in paragraph (4) by striking “; and” and  
10          inserting a period.

11          (c) SECTION 3210.—The provisions of section 318(3)  
12 of Public Law 101–163 (103 Stat. 1068), which amended  
13 section 3210 of title 39, United States Code, shall be  
14 treated as if, as enacted, the reference in such provisions  
15 to “subparagraph (c)” had instead read “subparagraph  
16 (C)”.

17          (d) SECTION 3601.—Section 3601(a) is amended by  
18 striking “concent” and inserting “consent”.

19          (e) SECTION 3625.—Section 3625(d) is amended by  
20 striking “section 3268” and inserting “section 3628”.

21          (f) SECTION 3626.—Section 3626 is amended by re-  
22 designating the second subsection (k) as subsection (l).

1 **TITLE XI—COMMITTEE ON PUB-**  
 2 **LIC WORKS AND TRANSPOR-**  
 3 **TATION**

4 **SEC. 11001. AVIATION FEES FOR SERVICES.**

5 (a) IN GENERAL.—Section 313(f) of the Federal  
 6 Aviation Act of 1958 (49 U.S.C. App. 1354(f)) is amended  
 7 to read as follows:

8 “(f) FEES FOR SERVICES.—

9 “(1) IMPOSITION AND COLLECTION.—The fol-  
 10 lowing fees are imposed and shall be collected for  
 11 services rendered:

12 “(A) AIRCRAFT REGISTRATION FEES.—

13 “(i) GENERAL RULE.—For registra-  
 14 tion of an aircraft, the fee to be collected  
 15 from the owner of the aircraft in each fis-  
 16 cal year beginning after September 30,  
 17 1993, shall be determined under the fol-  
 18 lowing table:

19

**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. |

20 If the ownership of the aircraft is also trans-  
 21 ferred in such fiscal year, the fee to be collected

1 for registration of the aircraft in such fiscal  
2 year under this subparagraph, as determined  
3 from the table, shall be increased by such  
4 amount as the Administrator shall determine so  
5 that the average amount of the increase for all  
6 aircraft collected under this sentence in such  
7 fiscal year will be approximately \$200.00.

8 “(ii) EXEMPTIONS.—No fee shall be col-  
9 lected under this subparagraph for registration  
10 of an aircraft in a fiscal year if the aircraft—

11 “(I) is owned or operated by an air  
12 carrier exclusively to provide air transpor-  
13 tation;

14 “(II) is owned by, or operated exclu-  
15 sively by or for, the United States Govern-  
16 ment;

17 “(III) is registered under a dealer’s  
18 aircraft registration certificate issued  
19 under section 505 of this Act;

20 “(IV) is not originally certificated  
21 with an engine driven electrical system or  
22 has not subsequently been certified by the  
23 Administrator with such a system in-  
24 stalled; or

25 “(V) is a balloon or glider.

1           “(B) DESIGNATION AS AVIATION MEDICAL  
2           EXAMINERS.—For designation of a person as  
3           an aviation medical examiner, the fee to be col-  
4           lected from such person in each fiscal year be-  
5           ginning after September 30, 1993, shall be  
6           \$500.

7           “(C) ISSUANCE OF CERTIFICATES TO PI-  
8           LOTS.—After September 30, 1993, the fee to be  
9           collected for issuance or renewal of an airman’s  
10          certificate to a pilot shall be \$12. The fee shall  
11          be collected from each pilot at least once every  
12          3 fiscal years.

13          “(2) CONTINUATION OF FEE FOR PROCESSING  
14          OF FORMS FOR MAJOR FUEL TANK ALTERATIONS.—

15          “(A) ESTABLISHMENT AND COLLEC-  
16          TION.—The Administrator may establish such  
17          fees as may be necessary to cover the costs as-  
18          sociated with processing of forms for major re-  
19          pairs and alterations of fuel tanks and fuel  
20          systems of aircraft.

21          “(B) MAXIMUM AMOUNT.—The amount of  
22          any fee under this subsection with respect to  
23          processing of a form for a major repair or alter-  
24          nation of a fuel tank or fuel system of an air-  
25          craft may not exceed \$7.50. Such maximum



1 amount shall be adjusted annually by the Ad-  
 2 ministrator for changes in the Consumer Price  
 3 Index of All Urban Consumers published by the  
 4 Bureau of Labor Statistics of the Department  
 5 of Labor.

6 “(3) COLLECTION AND DEPOSIT IN TRUST  
 7 FUND.—The amounts of all fees established by or  
 8 under this subsection shall be collected by the Ad-  
 9 ministrator, or the Secretary of the Treasury for the  
 10 Administrator, and shall be deposited in the Airport  
 11 and Airway Trust Fund.”.

12 (b) CONFORMING AMENDMENT.—The portion of the  
 13 table of contents contained in the first section of such Act  
 14 relating to section 313 is amended by striking

“(f) Processing fees.”.

15 and inserting

“(f) Fees for services.”.

16 **SEC. 11002. RECREATIONAL USER FEES.**

17 (a) IN GENERAL.—Section 210 of the Flood Control  
 18 Act of 1968 (16 U.S.C. 460d–3) is amended—

19 (1) by striking “SEC. 210. No entrance” and  
 20 inserting the following:

21 **“SEC. 210. RECREATIONAL USER FEES.**

22 “(a) PROHIBITION ON ADMISSIONS FEES.—No en-  
 23 trance”;

24 (2) by striking the second sentence; and

1           (3) by adding at the end the following new sub-  
2       section:

3       “(b) FEES FOR USE OF DEVELOPED RECREATION  
4       SITES AND FACILITIES.—

5           “(1) ESTABLISHMENT AND COLLECTION.—Not-  
6       withstanding section 4(b) of the Land and Water  
7       Conservation Fund Act of 1965 (16 U.S.C. 460l-  
8       6a(b)), the Secretary of the Army is authorized, sub-  
9       ject to paragraphs (2) and (3), to establish and col-  
10      lect fees for the use of developed recreation sites and  
11      facilities, including campsites, swimming beaches,  
12      and boat launching ramps.

13          “(2) EXEMPTION OF CERTAIN FACILITIES.—  
14      The Secretary shall not establish or collect fees  
15      under this subsection for the use or provision of  
16      drinking water, wayside exhibits, general purpose  
17      roads, overlook sites, picnic tables, toilet facilities,  
18      surface water areas, undeveloped or lightly developed  
19      shoreland, or general visitor information.

20          “(3) PER VEHICLE LIMIT.—The fee under this  
21      subsection for use of a site or facility (other than an  
22      overnight camping site or facility or any other site  
23      or facility at which a fee is charged for use of the  
24      site or facility as of the date of the enactment of this  
25      paragraph) for persons entering the site or facility

1 by private, noncommercial vehicle shall not exceed  
2 \$3 per day per vehicle. Such maximum amount may  
3 be adjusted annually by the Secretary for changes in  
4 the Consumer Price Index of All Urban Consumers  
5 published by the Bureau of Labor Statistics of the  
6 Department of Labor.

7 “(4) DEPOSIT INTO TREASURY ACCOUNT.—All  
8 fees collected under this subsection shall be depos-  
9 ited into the Treasury account for the Corps of En-  
10 gineers established by section 4(i) of the Land and  
11 Water Conservation Fund Act of 1965 (16 U.S.C.  
12 460l–6a(i)).”.

13 (b) CONFORMING AMENDMENT FOR CAMPSITES.—  
14 Section 4(b) of the Land and Water Conservation Fund  
15 Act of 1965 (16 U.S.C. 460l–6a(b)) is amended by strik-  
16 ing the next to the last sentence.

17 **TITLE XII—COMMITTEE ON**  
18 **VETERANS AFFAIRS**

19 **SEC. 12001. SHORT TITLE.**

20 This title may be cited as the “Veterans Reconcili-  
21 ation Act of 1993”.

1 **SEC. 12002. EXTENSION OF AUTHORITY TO REQUIRE THAT**  
2 **CERTAIN VETERANS AGREE TO MAKE**  
3 **COPAYMENTS IN EXCHANGE FOR RECEIVING**  
4 **HEALTH-CARE BENEFITS.**

5 (a) HOSPITAL AND MEDICAL CARE.—Section  
6 8013(e) of the Omnibus Budget Reconciliation Act of  
7 1990 (Public Law 101–508; 38 U.S.C. 1710 note) is  
8 amended—

9 (1) by striking out “September 30, 1992” in  
10 the first sentence and inserting in lieu thereof “Sep-  
11 tember 30, 1998”; and

12 (2) by striking out the second sentence.

13 (b) OUTPATIENT MEDICATIONS.—Section 1722A(c)  
14 of title 38, United States Code, is amended—

15 (1) by striking out “September 30, 1992” in  
16 the first sentence and inserting in lieu thereof “Sep-  
17 tember 30, 1998”; and

18 (2) by striking out the second sentence.

19 **SEC. 12003. EXTENSION OF AUTHORITY FOR MEDICAL CARE**  
20 **COST RECOVERY.**

21 (a) IN GENERAL.—Section 1729(a) of title 38, Unit-  
22 ed States Code, is amended—

23 (1) in paragraph (1), by striking out “non-  
24 service-connected”; and

25 (2) in paragraph (2)—

1 (A) by inserting “disability and, during the  
2 period before October 1, 1998, to a service-con-  
3 nected” after “non-service-connected” in the  
4 matter preceding subparagraph (A); and

5 (B) by striking out “before August 1,  
6 1994,” in subparagraph (E) and inserting in  
7 lieu thereof “before October 1, 1998,”.

8 (b) EFFECTIVE DATE.—The amendments made by  
9 subsection (a) shall apply with respect to care and services  
10 furnished under chapter 17 of title 38, United States  
11 Code, after September 30, 1993.

12 **SEC. 12004. EXTENSION OF AUTHORITY FOR CERTAIN IN-**  
13 **COME VERIFICATION PROVISIONS UNDER**  
14 **THE OMNIBUS BUDGET RECONCILIATION**  
15 **ACT OF 1990.**

16 (a) AUTHORITY FOR SECRETARY OF VETERANS AF-  
17 FAIRS TO OBTAIN INFORMATION.—Section 5317(g) of  
18 title 38, United States Code, is amended by striking out  
19 “September 30, 1997” and inserting in lieu thereof “Sep-  
20 tember 30, 1998”.

21 (b) AUTHORITY FOR SECRETARY OF TREASURY TO  
22 PROVIDE INFORMATION.—Subparagraph (D) of section  
23 6103(l)(7) of the Internal Revenue Code of 1986 is  
24 amended by striking out “September 30, 1997” in the last

1 sentence and inserting in lieu thereof “September 30,  
2 1998”.

3 **SEC. 12005. EXTENSION OF LIMITATION ON PENSION FOR**  
4 **CERTAIN RECIPIENTS OF MEDICAID-COV-**  
5 **ERED NURSING HOME CARE.**

6 Section 5503(f)(7) of title 38, United States Code,  
7 is amended by striking out “September 30, 1997” and in-  
8 serting in lieu thereof “September 30, 1998”.

9 **SEC. 12006. DENIAL OF FISCAL YEAR 1994 COST-OF-LIVING**  
10 **ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.**

11 During fiscal year 1994, no increase may be provided  
12 in the rates of dependency and indemnity compensation  
13 in effect under section 1311(a)(3) of title 38, United  
14 States Code.

15 **SEC. 12007. EXTENSION OF PROCEDURES APPLICABLE TO**  
16 **LIQUIDATION SALES ON DEFAULTED HOME**  
17 **LOANS GUARANTEED BY THE DEPARTMENT**  
18 **OF VETERANS AFFAIRS.**

19 (a) INCLUSION OF LOSSES.—Section 3732(c) of title  
20 38, United States Code, is amended—

21 (1) in paragraph (1)(C), by striking out “re-  
22 sale,” and inserting in lieu thereof “resale (including  
23 losses sustained on the resale of the property),”; and

1           (2) in paragraph (11), by striking out “Decem-  
 2       ber 31, 1992” and inserting in lieu thereof “Septem-  
 3       ber 30, 1998”.

4       (b) EFFECTIVE DATE.—The amendment made by  
 5       subsection (a)(1) shall apply to all liquidation sales occur-  
 6       ring on or after October 1, 1993.

7       **SEC. 12008. INCREASE IN HOME LOAN FEES.**

8       Paragraph (6) of section 3729(a) of title 38, United  
 9       States Code, is amended to read as follows:

10      “(6) With respect to a loan closed after September  
 11     30, 1993, and before October 1, 1998, for which a fee  
 12     is collected under paragraph (1), the amount of such fee,  
 13     as computed under paragraph (2), shall be increased by  
 14     0.75 percent of the total loan amount other than in the  
 15     case of a loan described in subparagraph (A), (D)(ii), or  
 16     (E) of paragraph (2).”.

17       **SEC. 12009. REDUCTION OF FISCAL YEAR 1994 COST-OF-LIV-**  
 18                           **ING ADJUSTMENT FOR MONTGOMERY GI**  
 19                           **BILL BENEFITS.**

20      (a) BENEFITS PAYABLE UNDER CHAPTER 30.—Sec-  
 21     tion 3015(g)(1) of title 38, United States Code, is amend-  
 22     ed by inserting “less one percentage point” after “June  
 23     30, 1993,”.

24      (b) BENEFITS PAYABLE UNDER SELECTED RE-  
 25     SERVE PROGRAM.—Section 2131(b)(2)(A) of title 10,

1 United States Code, is amended by inserting “less one per-  
2 centage point” after “June 30, 1993,”.

3 (c) TECHNICAL AMENDMENTS.—(1) Section 301(c)  
4 of Public Law 102–568 (106 Stat. 4326) is amended by  
5 striking out “Section 3015(f)” and inserting in lieu there-  
6 of “Section 3015(g) (as redesignated by section  
7 307(a)(1))”.

8 (2) Section 307(a) of such Public Law (106 Stat.  
9 4328) is amended by striking out “(as amended by section  
10 301)”.

11 (3) The amendments made by paragraphs (1) and (2)  
12 shall apply as if included in the enactment of Public Law  
13 102–568.

14 **SEC. 12010. LIMITATION ON CHILDREN ELIGIBLE FOR SUR-**  
15 **VIVORS’ AND DEPENDENTS’ EDUCATIONAL**  
16 **ASSISTANCE.**

17 (a) REVISION IN DEFINITION OF CHILDREN ELIGI-  
18 BLE.—Section 3501(a)(2) of title 38, United States Code,  
19 is amended by inserting “, but does not include an individ-  
20 ual who is not the natural or legally adopted child of the  
21 parent from whom eligibility under this chapter is de-  
22 rived” before the period at the end.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) does not apply with respect to any individ-  
25 ual 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**  
 5       **Subtitle A—Old-Age, Survivors, and**  
 6       **Disability Insurance Program**

TABLE OF CONTENTS OF SUBTITLE

- Sec. 13001. Explicit requirements for maintenance of telephone access to local offices of the Social Security Administration.
- Sec. 13002. Expansion of State option to exclude service of election officials or election workers from coverage.
- Sec. 13003. Use of social security numbers by States and local governments and Federal district courts for jury selection purposes.
- Sec. 13004. Authorization for all States to extend coverage to State and local policemen and firemen under existing coverage agreements.
- Sec. 13005. Limited exemption for Canadian ministers from certain self-employment tax liability.
- Sec. 13006. Exclusion of totalization benefits from the application of the windfall elimination provision.
- Sec. 13007. Exclusion of military reservists from application of the government pension offset and windfall elimination provisions.
- Sec. 13008. Repeal of the facility-of-payment provision.
- Sec. 13009. Maximum family benefits in guarantee cases.
- 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.
- Sec. 13011. Improvement and clarification of provisions prohibiting misuse of symbols, emblems, or names in reference to social security programs and agencies.
- Sec. 13012. Increased penalties for unauthorized disclosure of social security information.
- Sec. 13013. Simplification of employment taxes on domestic services.
- Sec. 13014. Increase in authorized period for extension of time to file annual earnings report.
- Sec. 13015. Allocations to Federal Disability Insurance Trust Fund.
- Sec. 13016. Extension of disability insurance program demonstration project authority.
- Sec. 13017. Technical and clerical amendments.
- Sec. 13018. Cross-matching of social security account number information and employer identification number information maintained by the Department of Agriculture.
- Sec. 13019. Prohibition of misuse of Department of the Treasury names, symbols, etc.
- Sec. 13020. Availability and use of death information under the old-age, survivors, and disability insurance program.

1 **SEC. 13001. EXPLICIT REQUIREMENTS FOR MAINTENANCE**  
2 **OF TELEPHONE ACCESS TO LOCAL OFFICES**  
3 **OF THE SOCIAL SECURITY ADMINISTRATION.**

4 (a) MAINTENANCE OF SERVICE TO LOCAL OF-  
5 FICES.—

6 (1) IN GENERAL.—Section 5110(a) of the Om-  
7 nibus Budget Reconciliation Act of 1990 (104 Stat.  
8 1388-272) is amended by adding at the end the fol-  
9 lowing new sentence: “In carrying out the require-  
10 ments of the preceding sentence, the Secretary shall  
11 reestablish and maintain in service at least the same  
12 number of telephone lines to each such local office  
13 as was in place as of such date, including telephone  
14 sets for connections to such lines.”.

15 (2) EFFECTIVE DATE.—The Secretary of  
16 Health and Human Services shall ensure that the  
17 requirements of the amendment made by paragraph  
18 (1) are carried out no later than 90 days after the  
19 date of the enactment of this Act.

20 (3) GAO REPORT.—The Comptroller General of  
21 the United States shall make an independent deter-  
22 mination of the number of telephone lines to each  
23 local office of the Social Security Administration  
24 which are in place as of 90 days after the enactment  
25 of this Act and shall report his findings to the Com-  
26 mittee on Ways and Means of the House of Rep-

1        representatives and the Committee on Finance of the  
2        Senate no later than 150 days after the date of the  
3        enactment of this Act.

4        (b) MAINTENANCE OF TOLL-FREE TELEPHONE  
5        NUMBER SERVICE.—The Secretary of Health and Human  
6        Services shall ensure that toll-free telephone service pro-  
7        vided by the Social Security Administration is maintained  
8        at a level which is at least equal to that in effect on the  
9        date of the enactment of this Act.

10    **SEC. 13002. EXPANSION OF STATE OPTION TO EXCLUDE**  
11                            **SERVICE OF ELECTION OFFICIALS OR ELEC-**  
12                            **TION WORKERS FROM COVERAGE.**

13        (a) LIMITATION ON MANDATORY COVERAGE OF  
14        STATE ELECTION OFFICIALS AND ELECTION WORKERS  
15        WITHOUT STATE RETIREMENT SYSTEM.—

16            (1) AMENDMENT TO SOCIAL SECURITY ACT.—  
17        Section 210(a)(7)(F)(iv) of the Social Security Act  
18        (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section  
19        11332(a) of the Omnibus Budget Reconciliation Act  
20        of 1990) is amended by striking “\$100” and insert-  
21        ing “\$1,000 with respect to service performed dur-  
22        ing 1994, and the adjusted amount determined  
23        under section 218(c)(8)(B) for any subsequent year  
24        with respect to service performed during such subse-  
25        quent year”.

1           (2)     AMENDMENT     TO     FICA.—Section  
2     3121(b)(7)(F)(iv) of the Internal Revenue Code of  
3     1986 (as amended by section 11332(b) of the Omni-  
4     bus Budget Reconciliation Act of 1990) is amended  
5     by striking “\$100” and inserting “\$1,000 with re-  
6     spect to service performed during 1994, and the  
7     adjusted amount determined under section  
8     218(c)(8)(B) of the Social Security Act for any sub-  
9     sequent year with respect to service performed dur-  
10    ing such subsequent year”.

11    (b) CONFORMING AMENDMENTS RELATING TO MED-  
12 ICARE QUALIFIED GOVERNMENT EMPLOYMENT.—

13           (1) AMENDMENT TO SOCIAL SECURITY ACT.—  
14    Section 210(p)(2)(E) of the Social Security Act (42  
15    U.S.C. 410(p)(2)(E)) is amended by striking  
16    “\$100” and inserting “\$1,000 with respect to serv-  
17    ice performed during 1994, and the adjusted amount  
18    determined under section 218(c)(8)(B) for any sub-  
19    sequent year with respect to service performed dur-  
20    ing such subsequent year”.

21           (2)     AMENDMENT     TO     FICA.—Section  
22     3121(u)(2)(B)(ii)(V) of the Internal Revenue Code  
23     of 1986 is amended by striking “\$100” and insert-  
24     ing “\$1,000 with respect to service performed dur-  
25     ing 1994, and the adjusted amount determined

1 under section 218(c)(8)(B) of the Social Security  
2 Act for any subsequent year with respect to service  
3 performed during such subsequent year”.

4 (c) AUTHORITY FOR STATES TO MODIFY COVERAGE  
5 AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS  
6 AND ELECTION WORKERS.—Section 218(c)(8) of the So-  
7 cial Security Act (42 U.S.C. 418(c)(8)) is amended—

8 (1) by striking “on or after January 1, 1968,”  
9 and inserting “at any time”;

10 (2) by striking “\$100” and inserting “\$1,000  
11 with respect to service performed during 1994, and  
12 the adjusted amount determined under subpara-  
13 graph (B) for any subsequent year with respect to  
14 service performed during such subsequent year”;  
15 and

16 (3) by striking the last sentence and inserting  
17 the following new sentence: “Any modification of an  
18 agreement pursuant to this paragraph shall be effec-  
19 tive with respect to services performed in and after  
20 the calendar year in which the modification is mailed  
21 or delivered by other means to the Secretary.”.

22 (d) INDEXATION OF EXEMPT AMOUNT.—Section  
23 218(c)(8) of such Act (as amended by subsection (c)) is  
24 further amended—

25 (1) by inserting “(A)” after “(8)”; and

1           (2) by adding at the end the following new sub-  
2       paragraph:

3       “(B) For each year after 1994, the Secretary shall  
4       adjust the amount referred to in subparagraph (A) at the  
5       same time and in the same manner as is provided under  
6       section 215(a)(1)(B)(ii) with respect to the amounts re-  
7       ferred to in section 215(a)(1)(B)(i), except that—

8           “(i) for purposes of this subparagraph, 1992  
9       shall be substituted for the calendar year referred to  
10      in section 215(a)(1)(B)(ii)(II), and

11          “(ii) such amount as so adjusted, if not a mul-  
12      tiple of \$100, shall be rounded to the next higher  
13      multiple of \$100 where such amount is a multiple of  
14      \$50 and to the nearest multiple of \$100 in any other  
15      case.

16      The Secretary shall determine and publish in the Federal  
17      Register each adjusted amount determined under this sub-  
18      paragraph not later than November 1 preceding the year  
19      for which the adjustment is made.”.

20      (e) EFFECTIVE DATE.—The amendments made by  
21      subsections (a), (b), and (c) shall apply with respect to  
22      service performed on or after January 1, 1994.

1 **SEC. 13003. USE OF SOCIAL SECURITY NUMBERS BY STATES**  
2 **AND LOCAL GOVERNMENTS AND FEDERAL**  
3 **DISTRICT COURTS FOR JURY SELECTION**  
4 **PURPOSES.**

5 (a) IN GENERAL.—Section 205(c)(2) of the Social  
6 Security Act (42 U.S.C. 405(c)(2)) is amended—

7 (1) in subparagraph (B)(i), by striking “(E)” in  
8 the matter preceding subclause (I) and inserting  
9 “(F)”;

10 (2) by redesignating subparagraphs (E) and  
11 (F) as subparagraphs (F) and (G), respectively; and

12 (3) by inserting after subparagraph (D) the fol-  
13 lowing:

14 “(E)(i) It is the policy of the United States that—

15 “(I) any State (or any political subdivision of a  
16 State) may utilize the social security account num-  
17 bers issued by the Secretary for the additional pur-  
18 poses described in clause (ii) if such numbers have  
19 been collected and are otherwise utilized by such  
20 State (or political subdivision) in accordance with  
21 applicable law, and

22 “(II) any district court of the United States  
23 may use, for such additional purposes, any such so-  
24 cial security account numbers which have been so  
25 collected and are so utilized by any State.

1       “(ii) The additional purposes described in this clause  
2 are the following:

3               “(I) identifying duplicate names of individuals  
4 on master lists used for jury selection purposes, and

5               “(II) identifying on such master lists those indi-  
6 viduals who are ineligible to serve on a jury by rea-  
7 son of their conviction of a felony.

8       “(iii) To the extent that any provision of Federal law  
9 enacted before the date of the enactment of this subpara-  
10 graph is inconsistent with the policy set forth in clause  
11 (i), such provision shall, on and after that date, be null,  
12 void, and of no effect.

13       “(iv) For purposes of this subparagraph, the term  
14 ‘State’ has the meaning such term has in subparagraph  
15 (D).”.

16       (b) EFFECTIVE DATE.—The amendments made by  
17 subsection (a) shall take effect on the date of the enact-  
18 ment of this Act.

19 **SEC. 13004. AUTHORIZATION FOR ALL STATES TO EXTEND**  
20 **COVERAGE TO STATE AND LOCAL POLICE-**  
21 **MEN AND FIREMEN UNDER EXISTING COV-**  
22 **ERAGE AGREEMENTS.**

23       (a) IN GENERAL.—Section 218(l) of the Social Secu-  
24 rity Act (42 U.S.C. 418(l)) is amended—



1           (1) in paragraph (1), by striking “(1)” after  
2           “(l)”, and by striking “the State of” and all that fol-  
3           lows through “prior to the date of enactment of this  
4           subsection” and inserting “a State entered into pur-  
5           suant to this section”; and

6           (2) by striking paragraph (2).

7           (b) CONFORMING AMENDMENT.—Section  
8           218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is  
9           amended by striking “agreements with the States named  
10          in” and inserting “State agreements modified as provided  
11          in”.

12          (c) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply with respect to modifications filed  
14          by States after the date of the enactment of this Act.

15   **SEC. 13005. LIMITED EXEMPTION FOR CANADIAN MIN-**  
16                           **ISTERS FROM CERTAIN SELF-EMPLOYMENT**  
17                           **TAX LIABILITY.**

18          (a) IN GENERAL.—Notwithstanding any other provi-  
19          sion of law, if—

20               (1) an individual performed services described  
21               in section 1402(c)(4) of the Internal Revenue Code  
22               of 1986 which are subject to tax under section 1401  
23               of such Code,

24               (2) such services were performed in Canada at  
25               a time when no agreement between the United

1 States and Canada pursuant to section 233 of the  
2 Social Security Act was in effect, and

3 (3) such individual was required to pay con-  
4 tributions on the earnings from such services under  
5 the social insurance system of Canada,  
6 then such individual may file a certificate under this sec-  
7 tion in such form and manner, and with such official, as  
8 may be prescribed in regulations issued under chapter 2  
9 of such Code. Upon the filing of such certificate, notwith-  
10 standing any judgment which has been entered to the con-  
11 trary, such individual shall be exempt from payment of  
12 such tax with respect to services described in paragraphs  
13 (1) and (2) and from any penalties or interest for failure  
14 to pay such tax or to file a self-employment tax return  
15 as required under section 6017 of such Code.

16 (b) PERIOD FOR FILING.—A certificate referred to  
17 in subsection (a) may be filed only during the 180-day  
18 period commencing with the date on which the regulations  
19 referred to in subsection (a) are issued.

20 (c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—  
21 A certificate referred to in subsection (a) shall be effective  
22 for taxable years ending after December 31, 1978, and  
23 before January 1, 1985.

24 (d) RESTRICTION ON CREDITING OF EXEMPT SELF-  
25 EMPLOYMENT INCOME.—In any case in which an individ-

1 ual is exempt under this section from paying a tax im-  
2 posed under section 1401 of the Internal Revenue Code  
3 of 1986, any income on which such tax would have been  
4 imposed but for such exemption shall not constitute self-  
5 employment income under section 211(b) of the Social Se-  
6 curity Act (42 U.S.C. 411(b)), and, if such individual's  
7 primary insurance amount has been determined under sec-  
8 tion 215 of such Act (42 U.S.C. 415), notwithstanding  
9 section 215(f)(1) of such Act, the Secretary of Health and  
10 Human Services shall recompute such primary insurance  
11 amount so as to take into account the provisions of this  
12 subsection. The recomputation under this subsection shall  
13 be effective with respect to benefits for months following  
14 approval of the certificate of exemption.

15 **SEC. 13006. EXCLUSION OF TOTALIZATION BENEFITS FROM**  
16 **THE APPLICATION OF THE WINDFALL ELIMI-**  
17 **NATION PROVISION.**

18 (a) IN GENERAL.—Section 215(a)(7) of the Social  
19 Security Act (42 U.S.C. 415(a)(7)) is amended—

20 (1) in subparagraph (A), by striking “but ex-  
21 cluding” and all that follows through “1937” and  
22 inserting “but excluding (I) a payment under the  
23 Railroad Retirement Act of 1974 or 1937, and (II)  
24 a payment by a social security system of a foreign  
25 country based on an agreement concluded between

1 the United States and such foreign country pursuant  
2 to section 233”; and

3 (2) in subparagraph (E), by inserting after “in  
4 the case of an individual” the following: “whose eli-  
5 gibility for old-age or disability insurance benefits is  
6 based on an agreement concluded pursuant to sec-  
7 tion 233 or an individual”.

8 (b) CONFORMING AMENDMENT RELATING TO BENE-  
9 FITS UNDER 1939 ACT.—Section 215(d)(3) of such Act  
10 (42 U.S.C. 415(d)(3)) is amended by striking “but exclud-  
11 ing” and all that follows through “1937” and inserting  
12 “but excluding (I) a payment under the Railroad Retire-  
13 ment Act of 1974 or 1937, and (II) a payment by a social  
14 security system of a foreign country based on an agree-  
15 ment concluded between the United States and such for-  
16 eign country pursuant to section 233”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply (notwithstanding section 215(f)(1)  
19 of the Social Security Act (42 U.S.C. 415(f)(1))) with re-  
20 spect to benefits payable for months after October 1993.

1 **SEC. 13007. EXCLUSION OF MILITARY RESERVISTS FROM**  
2 **APPLICATION OF THE GOVERNMENT PEN-**  
3 **SION OFFSET AND WINDFALL ELIMINATION**  
4 **PROVISIONS.**

5 (a) EXCLUSION FROM GOVERNMENT PENSION OFF-  
6 SET PROVISIONS.—Subsections (b)(4), (c)(2), (e)(7),  
7 (f)(2), and (g)(4) of section 202 of the Social Security Act  
8 (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4))  
9 are each amended—

10 (1) in subparagraph (A)(ii), by striking “unless  
11 subparagraph (B) applies.”;

12 (2) in subparagraph (A), by striking “The” in  
13 the matter following clause (ii) and inserting “unless  
14 subparagraph (B) applies. The”; and

15 (3) in subparagraph (B), by redesignating the  
16 existing matter as clause (ii), and by inserting before  
17 such clause (ii) (as so redesignated) the following:

18 “(B)(i) Subparagraph (A)(i) shall not apply with re-  
19 spect to monthly periodic benefits based wholly on service  
20 as a member of a uniformed service (as defined in section  
21 210(m)).”.

22 (b) EXCLUSION FROM WINDFALL ELIMINATION  
23 PROVISIONS.—Section 215(a)(7)(A) of such Act (as  
24 amended by section 13006(a) of this Act) and section  
25 215(d)(3) of such Act (as amended by section 13006(b)  
26 of this Act) are each further amended—

1 (1) by striking “and” before “(II)”; and

2 (2) by striking “section 233” and inserting  
3 “section 233, and (III) a payment based wholly on  
4 service as a member of a uniformed service (as de-  
5 fined in section 210(m))”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply (notwithstanding section 215(f) of  
8 the Social Security Act) with respect to benefits payable  
9 for months after October 1993.

10 **SEC. 13008. REPEAL OF THE FACILITY-OF-PAYMENT PROVI-**  
11 **SION.**

12 (a) REPEAL OF RULE PRECLUDING REDISTRIBUTION  
13 UNDER FAMILY MAXIMUM.—Section 203(i) of the Social  
14 Security Act (42 U.S.C. 403(i)) is repealed.

15 (b) COORDINATION UNDER FAMILY MAXIMUM OF  
16 REDUCTION IN BENEFICIARY’S AUXILIARY BENEFITS  
17 WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER  
18 BENEFICIARY UNDER EARNINGS TEST.—Section  
19 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended  
20 by striking “section 222(b). Whenever” and inserting the  
21 following: “section 222(b). Notwithstanding the preceding  
22 sentence, any reduction under this subsection in the case  
23 of an individual who is entitled to a benefit under sub-  
24 section (b), (c), (d), (e), (f), (g), or (h) of section 202 for

1 any month on the basis of the same wages and self-em-  
2 ployment income as another person—

3 “(A) who also is entitled to a benefit under sub-  
4 section (b), (c), (d), (e), (f), (g), or (h) of section  
5 202 for such month,

6 “(B) who does not live in the same household  
7 as such individual, and

8 “(C) whose benefit for such month is suspended  
9 (in whole or in part) pursuant to subsection (h)(3)  
10 of this section,

11 shall be made before the suspension under subsection  
12 (h)(3). Whenever”.

13 (c) CONFORMING AMENDMENT APPLYING EARNINGS  
14 REPORTING REQUIREMENT DESPITE SUSPENSION OF  
15 BENEFITS.—The third sentence of section 203(h)(1)(A)  
16 of such Act (42 U.S.C. 403(h)(1)(A)) is amended by strik-  
17 ing “Such report need not be made” and all that follows  
18 through “The Secretary may grant” and inserting the fol-  
19 lowing: “Such report need not be made for any taxable  
20 year—

21 “(i) beginning with or after the month in which  
22 such individual attained age 70, or

23 “(ii) if benefit payments for all months (in such  
24 taxable year) in which such individual is under age  
25 70 have been suspended under the provisions of the

1 first sentence of paragraph (3) of this subsection,  
2 unless—

3 “(I) such individual is entitled to benefits  
4 under subsection (b), (c), (d), (e), (f), (g), or  
5 (h) of section 202,

6 “(II) such benefits are reduced under sub-  
7 section (a) of this section for any month in such  
8 taxable year, and

9 “(III) in any such month there is another  
10 person who also is entitled to benefits under  
11 subsection (b), (c), (d), (e), (f), (g), or (h) of  
12 section 202 on the basis of the same wages and  
13 self-employment income and who does not live  
14 in the same household as such individual.

15 The Secretary may grant”.

16 (d) CONFORMING AMENDMENT DELETING SPECIAL  
17 INCOME TAX TREATMENT OF BENEFITS NO LONGER RE-  
18 QUIRED BY REASON OF REPEAL.—Section 86(d)(1) of the  
19 Internal Revenue Code of 1986 (relating to income tax  
20 on social security benefits) is amended by striking the last  
21 sentence.

22 (e) EFFECTIVE DATES.—

23 (1) The amendments made by subsections (a),  
24 (b), and (c) shall apply with respect to benefits pay-  
25 able for months after December 1994.



1           (2) The amendment made by subsection (d)  
2       shall apply with respect to benefits received after  
3       December 31, 1994, in taxable years ending after  
4       such date.

5   **SEC. 13009. MAXIMUM FAMILY BENEFITS IN GUARANTEE**  
6                           **CASES.**

7       (a) IN GENERAL.—Section 203(a) of the Social Secu-  
8   rity Act (42 U.S.C. 403(a)) is amended by adding at the  
9   end the following new paragraph:

10       “(10)(A) Subject to subparagraphs (B) and (C)—  
11           “(i) the total monthly benefits to which bene-  
12       ficiaries may be entitled under sections 202 and 223  
13       for a month on the basis of the wages and self-  
14       employment income of an individual whose primary  
15       insurance amount is computed under section  
16       215(a)(2)(B)(i) shall equal the total monthly bene-  
17       fits which were authorized by this section with re-  
18       spect to such individual’s primary insurance amount  
19       for the last month of his prior entitlement to disabil-  
20       ity insurance benefits, increased for this purpose by  
21       the general benefit increases and other increases  
22       under section 215(i) that would have applied to such  
23       total monthly benefits had the individual remained  
24       entitled to disability insurance benefits until the  
25       month in which he became entitled to old-age insur-

1       ance benefits or reentitled to disability insurance  
2       benefits or died, and

3               “(ii) the total monthly benefits to which bene-  
4       ficiaries may be entitled under sections 202 and 223  
5       for a month on the basis of the wages and self-  
6       employment income of an individual whose primary  
7       insurance amount is computed under section  
8       215(a)(2)(C) shall equal the total monthly benefits  
9       which were authorized by this section with respect to  
10      such individual’s primary insurance amount for the  
11      last month of his prior entitlement to disability in-  
12      surance benefits.

13      “(B) In any case in which—

14              “(i) the total monthly benefits with respect to  
15      such individual’s primary insurance amount for the  
16      last month of his prior entitlement to disability in-  
17      surance benefits was computed under paragraph (6),  
18      and

19              “(ii) the individual’s primary insurance amount  
20      is computed under subparagraph (B)(i) or (C) of  
21      section 215(a)(2) by reason of the individual’s enti-  
22      tlement to old-age insurance benefits or death,  
23      the total monthly benefits shall equal the total monthly  
24      benefits that would have been authorized with respect to  
25      the primary insurance amount for the last month of his

1 prior entitlement to disability insurance benefits if such  
2 total monthly benefits had been computed without regard  
3 to paragraph (6).

4 “(C) This paragraph shall apply before the applica-  
5 tion of paragraph (3)(A), and before the application of  
6 section 203(a)(1) of this Act as in effect in December  
7 1978.”.

8 (b) CONFORMING AMENDMENT.—Section 203(a)(8)  
9 of such Act (42 U.S.C. 403(a)(8)) is amended by striking  
10 “Subject to paragraph (7),” and inserting “Subject to  
11 paragraph (7) and except as otherwise provided in para-  
12 graph (10)(C),”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply for the purpose of determining the  
15 total monthly benefits to which beneficiaries may be enti-  
16 tled under sections 202 and 223 of the Social Security  
17 Act based on the wages and self-employment income of  
18 an individual who—

19 (1) becomes entitled to an old-age insurance  
20 benefit under section 202(a) of such Act,

21 (2) becomes reentitled to a disability insurance  
22 benefit under section 223 of such Act, or

23 (3) dies,

24 after October 1993.

1 **SEC. 13010. AUTHORIZATION FOR DISCLOSURE BY THE SEC-**  
2 **RETARY OF HEALTH AND HUMAN SERVICES**  
3 **OF INFORMATION FOR PURPOSES OF PUBLIC**  
4 **OR PRIVATE EPIDEMIOLOGICAL AND SIMI-**  
5 **LAR RESEARCH.**

6 (a) IN GENERAL.—Section 1106 of the Social Secu-  
7 rity Act (42 U.S.C. 1306) is amended—

8 (1) by redesignating subsections (d) and (e) as  
9 subsections (e) and (f), respectively;

10 (2) in subsection (f) (as so redesignated), by  
11 striking “subsection (d)” and inserting “subsection  
12 (e)”; and

13 (3) by inserting after subsection (c) the follow-  
14 ing new subsection:

15 “(d) Notwithstanding any other provision of this sec-  
16 tion, in any case in which—

17 “(1) information regarding whether an individ-  
18 ual is shown on the records of the Secretary as  
19 being alive or deceased is requested from the Sec-  
20 retary for purposes of epidemiological or similar re-  
21 search which the Secretary finds may reasonably be  
22 expected to contribute to a national health interest,  
23 and

24 “(2) the requester agrees to reimburse the Sec-  
25 retary for providing such information and to comply  
26 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-

1           ical and similar research in accordance with  
2           section 1106(d) of the Social Security Act.”.

3           (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply with respect to requests for infor-  
5 mation made after the date of the enactment of this Act.

6 **SEC. 13011. IMPROVEMENT AND CLARIFICATION OF PROVI-**  
7 **SIONS PROHIBITING MISUSE OF SYMBOLS,**  
8 **EMBLEMS, OR NAMES IN REFERENCE TO SO-**  
9 **CIAL SECURITY PROGRAMS AND AGENCIES.**

10          (a) PROHIBITION OF UNAUTHORIZED REPRODUC-  
11 TION, REPRINTING, OR DISTRIBUTION FOR FEE OF CER-  
12 TAIN OFFICIAL PUBLICATIONS.—Section 1140(a) of the  
13 Social Security Act (42 U.S.C. 1320b–10(a)) is amend-  
14 ed—

15           (1) by redesignating paragraphs (1) and (2) as  
16 subparagraphs (A) and (B), respectively;

17           (2) by inserting “(1)” after “(a)”; and

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

20          “(2) No person may, for a fee, reproduce, reprint,  
21 or distribute any item consisting of a form, application,  
22 or other publication of the Social Security Administration  
23 unless such person has obtained specific, written author-  
24 ization for such activity in accordance with regulations  
25 which the Secretary shall prescribe.”.

1 (b) ADDITION TO PROHIBITED WORDS, LETTERS,  
2 SYMBOLS, AND EMBLEMS.—Paragraph (1) of section  
3 1140(a) of such Act (as redesignated by subsection (a))  
4 is further amended—

5 (1) in subparagraph (A) (as redesignated), by  
6 striking “Administration”, the letters ‘SSA’ or  
7 ‘HCFA’,” and inserting “Administration”, ‘Depart-  
8 ment of Health and Human Services’, ‘Health and  
9 Human Services’, ‘Supplemental Security Income  
10 Program’, or ‘Medicaid’, the letters ‘SSA’, ‘HCFA’,  
11 ‘DHHS’, ‘HHS’, or ‘SSI’,”; and

12 (2) in subparagraph (B) (as redesignated), by  
13 striking “Social Security Administration” each place  
14 it appears and inserting “Social Security Adminis-  
15 tration, Health Care Financing Administration, or  
16 Department of Health and Human Services”, and  
17 by striking “or of the Health Care Financing Ad-  
18 ministration”.

19 (c) EXEMPTION FOR USE OF WORDS, LETTERS,  
20 SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOV-  
21 ERNMENT AGENCIES BY SUCH AGENCIES.—Paragraph  
22 (1) of section 1140(a) of such Act (as redesignated by sub-  
23 section (a)) is further amended by adding at the end the  
24 following new sentence: “The preceding provisions of this  
25 subsection shall not apply with respect to the use by any

1 agency or instrumentality of a State or political subdivi-  
2 sion of a State of any words or letters which identify an  
3 agency or instrumentality of such State or of a political  
4 subdivision of such State or the use by any such agency  
5 or instrumentality of any symbol or emblem of an agency  
6 or instrumentality of such State or a political subdivision  
7 of such State.”.

8 (d) INCLUSION OF REASONABLENESS STANDARD.—  
9 Section 1140(a)(1) of such Act (as amended by the pre-  
10 ceding provisions of this section) is further amended, in  
11 the matter following subparagraph (B) (as redesignated),  
12 by striking “convey” and inserting “convey, or in a man-  
13 ner which reasonably could be interpreted or construed as  
14 conveying,”.

15 (e) INEFFECTIVENESS OF DISCLAIMERS.—Sub-  
16 section (a) of section 1140 of such Act (as amended by  
17 the preceding provisions of this section) is further amend-  
18 ed by adding at the end the following new paragraph:

19 “(3) Any determination of whether the use of one or  
20 more words, letters, symbols, or emblems (or any combina-  
21 tion or variation thereof) in connection with an item de-  
22 scribed in paragraph (1) or the reproduction, reprinting,  
23 or distribution of an item described in paragraph (2) is  
24 a violation of this subsection shall be made without regard  
25 to any inclusion in such item (or any so reproduced, re-



1 printed, or distributed copy thereof) of a disclaimer of af-  
2 filiation with the United States Government or any par-  
3 ticular agency or instrumentality thereof.”.

4 (f) VIOLATIONS WITH RESPECT TO INDIVIDUAL  
5 ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C.  
6 1320b–10(b)(1)) is amended by adding at the end the fol-  
7 lowing new sentence: “In the case of any items referred  
8 to in subsection (a)(1) consisting of pieces of mail, each  
9 such piece of mail which contains one or more words, let-  
10 ters, symbols, or emblems in violation of subsection (a)  
11 shall represent a separate violation. In the case of any  
12 item referred to in subsection (a)(2), the reproduction, re-  
13 printing, or distribution of such item shall be treated as  
14 a separate violation with respect to each copy thereof so  
15 reproduced, reprinted, or distributed.”.

16 (g) ELIMINATION OF CAP ON AGGREGATE LIABILITY  
17 AMOUNT.—

18 (1) REPEAL.—Paragraph (2) of section 1140(b)  
19 of such Act (42 U.S.C. 1320b–10(b)(2)) is repealed.

20 (2) CONFORMING AMENDMENTS.—Section  
21 1140(b) of such Act is further amended—

22 (A) by striking “(1) Subject to paragraph  
23 (2), the” and inserting “The”;

1 (B) by redesignating subparagraphs (A)  
2 and (B) as paragraphs (1) and (2), respectively;  
3 and

4 (C) in paragraph (1) (as redesignated), by  
5 striking “subparagraph (B)” and inserting  
6 “paragraph (2)”.

7 (h) REMOVAL OF FORMAL DECLINATION REQUIRE-  
8 MENT.—Section 1140(c)(1) of such Act (42 U.S.C.  
9 1320b–10(c)(1)) is amended by inserting “and the first  
10 sentence of subsection (c)” after “and (i)”.

11 (i) PENALTIES RELATING TO SOCIAL SECURITY AD-  
12 MINISTRATION DEPOSITED IN OASI TRUST FUND.—Sec-  
13 tion 1140(c)(2) of such Act (42 U.S.C. 1320b–10(c)(2))  
14 is amended in the second sentence by striking “United  
15 States.” and inserting “United States, except that, to the  
16 extent that such amounts are recovered under this section  
17 as penalties imposed for misuse of words, letters, symbols,  
18 or emblems relating to the Social Security Administration,  
19 such amounts shall be deposited into the Federal Old-Age  
20 and Survivor’s Insurance Trust Fund.”.

21 (j) ENFORCEMENT.—Section 1140 of such Act (42  
22 U.S.C. 1320b–10) is amended by adding at the end the  
23 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,

1           “(4) the number of investigations of violations  
2           of this section undertaken by the Inspector General  
3           during the year,

4           “(5) the number of cases in which a demand  
5           letter was sent during the year assessing a civil  
6           money penalty under this section,

7           “(6) the total amount of civil money penalties  
8           assessed under this section during the year,

9           “(7) the number of requests for hearings filed  
10          during the year pursuant to subsection (c)(1) of this  
11          section and section 1128A(c)(2),

12          “(8) the disposition during such year of hear-  
13          ings filed pursuant to sections 1140(c)(1) and  
14          1128A(c)(2), and

15          “(9) the total amount of civil money penalties  
16          under this section deposited into the Federal Old-  
17          Age and Survivors Insurance Trust Fund during the  
18          year.”.

19          (l) EFFECTIVE DATE.—The amendments made by  
20          this section shall apply with respect to violations occurring  
21          after the date of the enactment of this Act.

1 **SEC. 13012. INCREASED PENALTIES FOR UNAUTHORIZED**  
2 **DISCLOSURE OF SOCIAL SECURITY INFORMA-**  
3 **TION.**

4 (a) UNAUTHORIZED DISCLOSURE.—Section 1106(a)  
5 of the Social Security Act (42 U.S.C. 1306(a)) is amend-  
6 ed—

7 (1) by striking “misdemeanor” and inserting  
8 “felony”;

9 (2) by striking “\$1,000” and inserting  
10 “\$10,000 for each occurrence of a violation”; and

11 (3) by striking “one year” and inserting “5  
12 years”.

13 (b) UNAUTHORIZED DISCLOSURE BY FRAUD.—Sec-  
14 tion 1107(b) of such Act (42 U.S.C. 1307(b)) is amend-  
15 ed—

16 (1) by inserting “social security account num-  
17 ber,” after “information as to the”;

18 (2) by striking “misdemeanor” and inserting  
19 “felony”;

20 (3) by striking “\$1,000” and inserting  
21 “\$10,000 for each occurrence of a violation”; and

22 (4) by striking “one year” and inserting “5  
23 years”.

24 (c) EFFECTIVE DATE.—The amendments made by  
25 this section shall apply to violations occurring on or after  
26 the date of the enactment of this Act.

1 **SEC. 13013. SIMPLIFICATION OF EMPLOYMENT TAXES ON**  
2 **DOMESTIC SERVICES.**

3 (a) COORDINATION OF COLLECTION OF DOMESTIC  
4 SERVICE EMPLOYMENT WITH COLLECTION OF INCOME  
5 TAXES.—

6 (1) IN GENERAL.—Chapter 25 of the Internal  
7 Revenue Code of 1986 (relating to general provi-  
8 sions relating to employment taxes) is amended by  
9 adding at the end thereof the following new section:

10 **“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC**  
11 **SERVICE EMPLOYMENT TAXES WITH COLLEC-**  
12 **TION OF INCOME TAXES.**

13 “(a) GENERAL RULE.—Except as otherwise provided  
14 in this section—

15 “(1) returns with respect to domestic service  
16 employment taxes shall be made on a calendar year  
17 basis,

18 “(2) any such return for any calendar year  
19 shall be filed on or before the 15th day of the fourth  
20 month following the close of the employer’s taxable  
21 year which begins in such calendar year, and

22 “(3) no requirement to make deposits (or to  
23 pay installments under section 6157) shall apply  
24 with respect to such taxes.

25 “(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUB-  
26 JECT TO ESTIMATED TAX PROVISIONS.—

1           “(1) IN GENERAL.—Solely for purposes of sec-  
2           tion 6654, domestic service employment taxes im-  
3           posed with respect to any calendar year shall be  
4           treated as a tax imposed by chapter 2 for the tax-  
5           able year of the employer which begins in such cal-  
6           endar year.

7           “(2) ANNUALIZATION.—Under regulations pre-  
8           scribed by the Secretary, appropriate adjustments  
9           shall be made in the application of section  
10          6654(d)(2) in respect of the amount treated as tax  
11          under paragraph (1).

12          “(3) TRANSITIONAL RULE.—For purposes of  
13          applying section 6654 to a taxable year beginning in  
14          1993, the amount referred to in clause (ii) of section  
15          6654(d)(1)(B) shall be increased by 90 percent of  
16          the amount treated as tax under paragraph (1) for  
17          such taxable year.

18          “(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—  
19          For purposes of this section, the term ‘domestic service  
20          employment taxes’ means—

21                 “(1) any taxes imposed by chapter 21 or 23 on  
22                 remuneration paid for domestic service in a private  
23                 home of the employer, and

1           “(2) any amount withheld from such remunera-  
2           tion pursuant to an agreement under section  
3           3402(p).

4   For purposes of this subsection, the term ‘domestic service  
5   in a private home of the employer’ does not include service  
6   described in section 3121(g)(5).

7           “(d) EXCEPTION WHERE EMPLOYER LIABLE FOR  
8   OTHER EMPLOYMENT TAXES.—To the extent provided in  
9   regulations prescribed by the Secretary, this section shall  
10   not apply to any employer for any calendar year if such  
11   employer is liable for any tax under this subtitle with re-  
12   spect to remuneration for services other than domestic  
13   service in a private home of the employer.

14          “(e) GENERAL REGULATORY AUTHORITY.—The Sec-  
15   retary shall prescribe such regulations as may be nec-  
16   essary or appropriate to carry out the purposes of this  
17   section. Such regulations may treat domestic service em-  
18   ployment taxes as taxes imposed by chapter 1 for purposes  
19   of coordinating the assessment and collection of such em-  
20   ployment taxes with the assessment and collection of do-  
21   mestic employers’ income taxes.

22          “(f) AUTHORITY TO ENTER INTO AGREEMENTS TO  
23   COLLECT STATE UNEMPLOYMENT TAXES.—

24               “(1) IN GENERAL.—The Secretary is hereby  
25               authorized to enter into an agreement with any



1 State to collect, as the agent of such State, such  
2 State's unemployment taxes imposed on remunera-  
3 tion paid for domestic service in a private home of  
4 the employer. Any taxes to be collected by the Sec-  
5 retary pursuant to such an agreement shall be treat-  
6 ed as domestic service employment taxes for pur-  
7 poses of this section.

8 “(2) TRANSFERS TO STATE ACCOUNT.—Any  
9 amount collected under an agreement referred to in  
10 paragraph (1) shall be transferred by the Secretary  
11 to the account of the State in the Unemployment  
12 Trust Fund.

13 “(3) SUBTITLE F MADE APPLICABLE.—For  
14 purposes of subtitle F, any amount required to be  
15 collected under an agreement under paragraph (1)  
16 shall be treated as a tax imposed by chapter 23.

17 “(4) STATE.—For purposes of this subsection,  
18 the term ‘State’ has the meaning given such term by  
19 section 3306(j)(1).”

20 (2) CLERICAL AMENDMENT.—The table of sec-  
21 tions for chapter 25 of such Code is amended by  
22 adding at the end thereof the following:

“Sec. 3510. Coordination of collection of domestic service employ-  
ment taxes with collection of income taxes.”

23 (3) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall apply to remuneration paid

1 in calendar years beginning after December 31,  
2 1993.

3 (4) EXPANDED INFORMATION TO EMPLOY-  
4 ERS.—The Secretary of the Treasury or his delegate  
5 shall prepare and make available information on the  
6 Federal tax obligations of employers with respect to  
7 employees performing domestic service in a private  
8 home of the employer. Such information shall also  
9 include a statement that such employers may have  
10 obligations with respect to such employees under  
11 State laws relating to unemployment insurance and  
12 workers compensation.

13 (b) THRESHOLD REQUIREMENT FOR SOCIAL SECU-  
14 RITY TAXES.—

15 (1) AMENDMENTS OF INTERNAL REVENUE  
16 CODE.—

17 (A) Subparagraph (B) of section  
18 3121(a)(7) of the Internal Revenue Code of  
19 1986 (defining wages) is amended to read as  
20 follows:

21 “(B) cash remuneration paid by an em-  
22 ployer in any calendar year to an employee for  
23 domestic service in a private home of the em-  
24 ployer (within the meaning of subsection (y)), if  
25 the cash remuneration paid in such year by the

1 employer to the employee for such service is less  
2 than the applicable dollar threshold (as defined  
3 in subsection (y)) for such year;”.

4 (B) Section 3121 of such Code is amended  
5 by adding at the end thereof the following new  
6 subsection:

7 “(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For  
8 purposes of subsection (a)(7)(B)—

9 “(1) EXCLUSION FOR CERTAIN FARM SERV-  
10 ICE.—The term ‘domestic service in a private home  
11 of the employer’ does not include service described  
12 in subsection (g)(5).

13 “(2) APPLICABLE DOLLAR THRESHOLD.—The  
14 term ‘applicable dollar threshold’ means \$1,800. In  
15 the case of calendar years after 1994, the Secretary  
16 of Health and Human Services shall adjust such  
17 \$1,800 amount at the same time and in the same  
18 manner as under section 215(a)(1)(B)(ii) of the So-  
19 cial Security Act with respect to the amounts re-  
20 ferred to in section 215(a)(1)(B)(i) of such Act, ex-  
21 cept that, for purposes of this subparagraph, 1992  
22 shall be substituted for the calendar year referred to  
23 in section 215(a)(1)(B)(ii)(II) of such Act. If the  
24 amount determined under the preceding sentence is

1 not a multiple of \$50, such amount shall be rounded  
2 to the nearest multiple of \$50.”

3 (C) The second sentence of section 3102(a)  
4 of such Code is amended—

5 (i) by striking “calendar quarter”  
6 each place it appears and inserting “cal-  
7 endar year”, and

8 (ii) by striking “\$50” and inserting  
9 “the applicable dollar threshold (as defined  
10 in section 3121(y)(2)) for such year”.

11 (2) AMENDMENT OF SOCIAL SECURITY ACT.—  
12 Subparagraph (B) of section 209(a)(6) of the Social  
13 Security Act (42 U.S.C. 409(a)(6)(B)) is amended  
14 to read as follows:

15 “(B) Cash remuneration paid by an employer in  
16 any calendar year to an employee for domestic serv-  
17 ice in a private home of the employer, if the cash re-  
18 muneration paid in such year by the employer to the  
19 employee for such service is less than the applicable  
20 dollar threshold (as defined in section 3121(y)(2) of  
21 the Internal Revenue Code of 1986) for such year.  
22 As used in this subparagraph, the term ‘domestic  
23 service in a private home of the employer’ does not  
24 include service described in section 210(f)(5).”

1           (3) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall apply to remuneration paid  
3       in calendar years beginning after December 31,  
4       1993.

5           (4) RELIEF FROM LIABILITY FOR CERTAIN  
6       UNDERPAYMENT AMOUNTS.—

7           (A) IN GENERAL.—On and after the date  
8       of the enactment of this Act, an underpayment  
9       to which this paragraph applies (and any pen-  
10      alty, addition to tax, and interest with respect  
11      to such underpayment) shall not be assessed  
12      (or, if assessed, shall not be collected).

13          (B) UNDERPAYMENTS TO WHICH PARA-  
14      GRAPH APPLIES.—This paragraph shall apply  
15      to an underpayment to the extent of the  
16      amount thereof which would not be an  
17      underpayment if—

18              (i) the amendments made by para-  
19              graph (1) had applied to all calendar years  
20              after 1950 and before 1994, and

21              (ii) the applicable dollar threshold for  
22              any such calendar year were the amount  
23              determined under the following table:

| <b>In the case of</b><br><b>calendar year:</b> | <b>The applicable</b><br><b>dollar threshold is:</b> |
|--|--|
| 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 |

1 **SEC. 13014. INCREASE IN AUTHORIZED PERIOD FOR EXTEN-**  
2 **SION OF TIME TO FILE ANNUAL EARNINGS**  
3 **REPORT.**

4 (a) IN GENERAL.—Section 203(h)(1)(A) of the Social  
5 Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the  
6 last sentence by striking “three months” and inserting  
7 “four months”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 subsection (a) shall apply with respect to reports of earn-  
10 ings for taxable years ending on or after December 31,  
11 1993.

1 **SEC. 13015. ALLOCATIONS TO FEDERAL DISABILITY INSUR-**  
2 **ANCE TRUST FUND.**

3 (a) ALLOCATION WITH RESPECT TO WAGES.—Sec-  
4 tion 201(b)(1) of the Social Security Act (42 U.S.C.  
5 401(b)(1)) is amended to read as follows:

6 “(1) 1.75 percent of the wages (as defined in  
7 section 3121 of the Internal Revenue Code of 1986)  
8 paid after December 31, 1992, and reported to the  
9 Secretary of the Treasury or his delegate pursuant  
10 to subtitle F of the Internal Revenue Code of 1986,  
11 which wages shall be certified by the Secretary of  
12 Health and Human Services on the basis of the  
13 records of wages established and maintained by such  
14 Secretary in accordance with such reports; and”.

15 (b) ALLOCATION WITH RESPECT TO SELF-EMPLOY-  
16 MENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C.  
17 401(b)(2)) is amended to read as follows:

18 “(2) 1.75 percent of the self-employment in-  
19 come (as defined in section 1402 of the Internal  
20 Revenue Code of 1986) reported to the Secretary of  
21 the Treasury or his delegate on tax returns under  
22 subtitle F of the Internal Revenue Code of 1986 for  
23 any taxable year beginning after December 31,  
24 1992, which self-employment income shall be cer-  
25 tified by the Secretary of Health and Human Serv-  
26 ices on the basis of the records of self-employment

1 income established and maintained by the Secretary  
2 of Health and Human Services in accordance with  
3 such returns.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply with respect to wages paid after  
6 December 31, 1992, and self-employment income for tax-  
7 able years beginning after such date.

8 (d) STUDY ON RISING COSTS OF DISABILITY BENE-  
9 FITS.—

10 (1) IN GENERAL.—As soon as practicable after  
11 the date of the enactment of this Act, the Secretary  
12 of Health and Human Services shall conduct a com-  
13 prehensive study of the reasons for rising costs pay-  
14 able from the Federal Disability Insurance Trust  
15 Fund.

16 (2) MATTERS TO BE INCLUDED IN STUDY.—In  
17 conducting the study under this subsection, the Sec-  
18 retary shall—

19 (A) determine the relative importance of  
20 the following factors in increasing the costs  
21 payable from the Trust Fund:

22 (i) increased numbers of applications  
23 for benefits;

24 (ii) higher rates of benefit allowances;

25 and



1 (iii) decreased rates of benefit termi-  
2 nations; and

3 (B) identify, to the extent possible, under-  
4 lying social, economic, demographic, pro-  
5 grammatic, and other trends responsible for  
6 changes in disability benefit applications, allow-  
7 ances, and terminations.

8 (3) REPORT.—Not later than December 31,  
9 1995, the Secretary shall transmit a report to the  
10 Committee on Ways and Means of the House of  
11 Representatives and the Committee on Finance of  
12 the Senate setting forth the results of the study con-  
13 ducted under this subsection, together with any rec-  
14 ommendations for legislative changes which the  
15 Secretary determines appropriate.

16 **SEC. 13016. EXTENSION OF DISABILITY INSURANCE PRO-**  
17 **GRAM DEMONSTRATION PROJECT AUTHOR-**  
18 **ITY.**

19 (a) IN GENERAL.—Section 505 of the Social Security  
20 Disability Amendments of 1980 (Public Law 96–265), as  
21 amended by section 12101 of the Consolidated Omnibus  
22 Budget Reconciliation Act of 1985 (Public Law 99–272),  
23 section 10103 of the Omnibus Budget Reconciliation Act  
24 of 1989 (Public Law 101–239), and section 5120 of the

1 Omnibus Budget Reconciliation Act of 1990 (Public Law  
2 101–508) is further amended—

3 (1) in paragraph (3) of subsection (a), by strik-  
4 ing “June 10, 1993” and inserting “June 10,  
5 1996”;

6 (2) in paragraph (4) of subsection (a), by strik-  
7 ing “1992” and inserting “1995”; and

8 (3) in subsection (c), by striking “October 1,  
9 1993” and inserting “June 9, 1996”.

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

13 **SEC. 13017. TECHNICAL AND CLERICAL AMENDMENTS.**

14 (a) AMENDMENTS TO TITLE II OF THE SOCIAL SE-  
15 CURITY ACT.—

16 (1) Section 201(a) of the Social Security Act  
17 (42 U.S.C. 401(a)) is amended, in the matter follow-  
18 ing clause (4), by striking “and and” and inserting  
19 “and”.

20 (2) Section 202(d)(8)(D)(ii) of such Act (42  
21 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a pe-  
22 riod at the end and by adjusting the left hand  
23 margination thereof so as to align with section  
24 202(d)(8)(D)(i) of such Act.

1           (3) Section 202(q)(1)(A) of such Act (42  
2           U.S.C. 402(q)(1)(A)) is amended by striking the  
3           dash at the end.

4           (4) Section 202(q)(9) of such Act (42 U.S.C.  
5           402(q)(9)) is amended, in the matter preceding sub-  
6           paragraph (A), by striking “parargaph” and insert-  
7           ing “paragraph”.

8           (5) Section 202(t)(4)(D) of such Act (42  
9           U.S.C. 402(t)(4)(D)) is amended by inserting “if  
10          the” before “Secretary” the second and third places  
11          it appears.

12          (6) Clauses (i) and (ii) of section 203(f)(5)(C)  
13          of such Act (42 U.S.C. 403(f)(5)(C)) are amended  
14          by adjusting the left-hand margination thereof so as  
15          to align with clauses (i) and (ii) of section  
16          203(f)(5)(B) of such Act.

17          (7) Paragraph (3)(A) and paragraph (3)(B) of  
18          section 205(b) of such Act (42 U.S.C. 405(b)) are  
19          amended by adjusting the left-hand margination  
20          thereof so as to align with the matter following  
21          section 205(b)(2)(C) of such Act.

22          (8) Section 205(c)(2)(B)(iii) of such Act (42  
23          U.S.C. 405(c)(2)(B)(iii)) is amended by striking  
24          “non-public” and inserting “nonpublic”.

1           (9) Section 205(c)(2)(C) of such Act (42 U.S.C.  
2       405(c)(2)(C)) is amended—

3           (A) by striking the clause (vii) added by  
4       section 2201(c) of Public Law 101–624; and

5           (B) by redesignating the clause (iii) added  
6       by section 2201(b)(3) of Public Law 101–624,  
7       clause (iv), clause (v), clause (vi), and the  
8       clause (vii) added by section 1735(b) of Public  
9       Law 101–624 as clause (iv), clause (v), clause  
10      (vi), clause (vii), and clause (viii), respectively;

11          (C) in clause (v) (as redesignated), by  
12      striking “subclause (I) of”, and by striking  
13      “subclause (II) of clause (i)” and inserting  
14      “clause (ii)”; and

15          (D) in clause (viii)(IV) (as redesignated),  
16      by inserting “a social security account number  
17      or” before “a request for”.

18          (10) The heading for section 205(j) of such Act  
19      (42 U.S.C. 405(j)) is amended to read as follows:

20              “Representative Payees”.

21          (11) The heading for section 205(s) of such Act  
22      (42 U.S.C. 405(s)) is amended to read as follows:

1 “Notice Requirements”.

2 (12) Section 208(c) of such Act (42 U.S.C.  
3 408(c)) is amended by striking “subsection (g)” and  
4 inserting “subsection (a)(7)”.

5 (13) Section 210(a)(5)(B)(i)(V) of such Act (42  
6 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking  
7 “section 105(e)(2)” and inserting “section  
8 104(e)(2)”.

9 (14) Section 211(a) of such Act (42 U.S.C.  
10 411(a)) is amended—

11 (A) in paragraph (13), by striking “and”  
12 at the end; and

13 (B) in paragraph (14), by striking the pe-  
14 riod and inserting “; and”.

15 (15) Section 213(c) of such Act (42 U.S.C.  
16 413(c)) is amended by striking “section” the first  
17 place it appears and inserting “sections”.

18 (16) Section 215(a)(5)(B)(i) of such Act (42  
19 U.S.C. 415(a)(5)(B)(i)) is amended by striking  
20 “subsection” the second place it appears and insert-  
21 ing “subsections”.

22 (17) Section 215(f)(7) of such Act (42 U.S.C.  
23 415(f)(7)) is amended by inserting a period after  
24 “1990”.

1           (18) Subparagraph (F) of section 218(c)(6) of  
2           such Act (42 U.S.C. 418(c)(6)) is amended by ad-  
3           justing the left-hand margination thereof so as to  
4           align with section 218(c)(6)(E) of such Act.

5           (19) Section 223(i) of such Act (42 U.S.C.  
6           423(i)) is amended by adding at the beginning the  
7           following heading:

8           “Limitation on Payments to Prisoners”.

9           (b) RELATED AMENDMENTS.—

10           (1) Section 603(b)(5)(A) of Public Law 101–  
11           649 (amending section 202(n)(1) of the Social Secu-  
12           rity Act) (104 Stat. 5085) is amended by inserting  
13           “under” before “paragraph (1),” and by striking  
14           “(17), or (18)” and inserting “(17), (18), or (19)”,  
15           effective as if this paragraph were included in such  
16           section 603(b)(5)(A).

17           (2) Section 10208(b)(1) of Public Law 101–  
18           239 (amending section 230(b)(2)(A) of the Social  
19           Security Act) (103 Stat. 2477) is amended by strik-  
20           ing “230(b)(2)(A)” and “430(b)(2)(A)” and insert-  
21           ing “230(b)(2)” and “430(b)(2)”, respectively, effec-  
22           tive as if this paragraph were included in such sec-  
23           tion 10208(b)(1).

24           (c) CONFORMING, CLERICAL AMENDMENTS UPDAT-  
25           ING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN

1 TITLE II OF THE SOCIAL SECURITY ACT TO THE INTER-  
2 NAL REVENUE CODE.—

3 (1)(A) Section 201(a) of such Act (42 U.S.C.  
4 401(a)) is amended—

5 (i) by striking clauses (1) and (2);

6 (ii) in clause (3), by striking “(3) the taxes  
7 imposed” and all that follows through “Decem-  
8 ber 31, 1954,” and inserting “(1) the taxes im-  
9 posed by chapter 21 (other than sections  
10 3101(b) and 3111(b)) of the Internal Revenue  
11 Code of 1986 with respect to wages (as defined  
12 in section 3121 of such Code) reported to the  
13 Secretary of the Treasury or his delegate pur-  
14 suant to subtitle F of such Code,” and by  
15 striking “subchapter or”;

16 (iii) in clause (4), by striking “(4) the  
17 taxes imposed” and all that follows through  
18 “such Code,” and inserting “(2) the taxes im-  
19 posed by chapter 2 (other than section 1401(b))  
20 of the Internal Revenue Code of 1986 with re-  
21 spect to self-employment income (as defined in  
22 section 1402 of such Code) reported to the Sec-  
23 retary of the Treasury or his delegate on tax re-  
24 turns under subtitle F of such Code,” and by

1 striking “subchapter or chapter” and inserting  
2 “chapter”; and

3 (iv) in the matter following the clauses  
4 amended by this subparagraph, by striking  
5 “clauses (3) and (4)” each place it appears and  
6 inserting “clauses (1) and (2)”.

7 (B) The amendments made by subparagraph  
8 (A) shall apply only with respect to taxes imposed  
9 with respect to wages paid on or after January 1,  
10 1993, or with respect to self-employment income for  
11 taxable years beginning on or after such date.

12 (2)(A)(i) Section 201(g)(1) of such Act (42  
13 U.S.C. 401(g)(1)) is amended—

14 (I) in subparagraph (A)(i), by striking  
15 “and subchapter E” and all that follows  
16 through “1954” and inserting “and chapters 2  
17 and 21 of the Internal Revenue Code of 1986”;

18 (II) in subparagraph (A)(ii), by striking  
19 “1954” and inserting “1986”;

20 (III) in the matter in subparagraph (A)  
21 following clause (ii), by striking “subchapter E”  
22 and all that follows through “1954.” and in-  
23 serting “chapters 2 and 21 of the Internal Rev-  
24 enue Code of 1986.”, and by striking “1954  
25 other” and inserting “1986 other”; and



1 (IV) in subparagraph (B), by striking  
2 “1954” each place it appears and inserting  
3 “1986”.

4 (ii) The amendments made by clause (i) shall  
5 apply only with respect to periods beginning on or  
6 after the date of the enactment of this Act.

7 (B)(i) Section 201(g)(2) of such Act (42 U.S.C.  
8 401(g)(2)) is amended by striking “section 3101(a)”  
9 and all that follows through “1950.” and inserting  
10 “section 3101(a) of the Internal Revenue Code of  
11 1986 which are subject to refund under section  
12 6413(c) of such Code with respect to wages (as de-  
13 fined in section 3121 of such Code).”, and by strik-  
14 ing “wages reported” and all that follows through  
15 “1954,” and inserting “wages reported to the Sec-  
16 retary of the Treasury or his delegate pursuant to  
17 subtitle F of such Code,”.

18 (ii) The amendments made by clause (i) shall  
19 apply only with respect to wages paid on or after  
20 January 1, 1993.

21 (C) Section 201(g)(4) of such Act (42 U.S.C.  
22 401(g)(4)) is amended—

23 (i) by striking “The Board of Trustees  
24 shall prescribe before January 1, 1981, the  
25 method” and inserting “If at any time or times

1 the Boards of Trustees of such Trust Funds  
2 deem such action advisable, they may modify  
3 the method prescribed by such Boards”;

4 (ii) by striking “1954” and inserting  
5 “1986”; and

6 (iii) by striking the last sentence.

7 (3) Section 202(v) of such Act (42 U.S.C.  
8 402(v)) is amended—

9 (A) in paragraph (1), by striking “1954”  
10 and inserting “1986”; and

11 (B) in paragraph (3)(A), by inserting “of  
12 the Internal Revenue Code of 1986” after  
13 “3127”.

14 (4) Section 205(c)(5)(F)(i) of such Act (42  
15 U.S.C. 405(c)(5)(F)(i)) is amended by inserting “or  
16 the Internal Revenue Code of 1986” after “1954”.

17 (5)(A) Section 208(a)(1) of such Act (42  
18 U.S.C. 408(a)(1)) is amended—

19 (i) in the matter preceding subparagraph  
20 (A), by striking “subchapter E” and all that  
21 follows through “1954” and inserting “chapter  
22 2 or 21 or subtitle F of the Internal Revenue  
23 Code of 1986”;

24 (ii) in subparagraph (A), by inserting “of  
25 1986” after “Internal Revenue Code”; and

1 (iii) in subparagraph (B), by inserting “of  
2 1986” after “Internal Revenue Code”.

3 (B) The amendments made by subparagraph  
4 (A) shall apply only with respect to violations occur-  
5 ring on or after the date of the enactment of this  
6 Act.

7 (6)(A) Section 209(a)(4)(A) of such Act (42  
8 U.S.C. 409(a)(4)(A)) is amended by inserting “or  
9 the Internal Revenue Code of 1986” after “Internal  
10 Revenue Code of 1954”.

11 (B) Section 209(a) of such Act (42 U.S.C.  
12 409(a)) is amended—

13 (i) in subparagraphs (C) and (E) of para-  
14 graph (4),

15 (ii) in paragraph (5)(A),

16 (iii) in subparagraphs (A) and (B) of para-  
17 graph (14),

18 (iv) in paragraph (15),

19 (v) in paragraph (16), and

20 (vi) in paragraph (17),

21 by striking “1954” each place it appears and insert-  
22 ing “1986”.

23 (C) Subsections (b), (f), (g), (i)(1), and (j) of  
24 section 209 of such Act (42 U.S.C. 409) are amend-

1 ed by striking “1954” each place it appears and  
2 inserting “1986”.

3 (7) Section 211(a)(15) of such Act (42 U.S.C.  
4 411(a)(15)) is amended by inserting “of the Internal  
5 Revenue Code of 1986” after “section 162(m)”.

6 (8) Title II of such Act is further amended—

7 (A) in subsections (f)(5)(B)(ii) and (k) of  
8 section 203 (42 U.S.C. 403),

9 (B) in section 205(c)(1)(D)(i) (42 U.S.C.  
10 405(c)(1)(D)(i)),

11 (C) in the matter in section 210(a) (42  
12 U.S.C. 410(a)) preceding paragraph (1) and in  
13 paragraphs (8), (9), and (10) of section 210(a),

14 (D) in subsections (p)(4) and (q) of section  
15 210 (42 U.S.C. 410),

16 (E) in the matter in section 211(a) (42  
17 U.S.C. 411(a)) preceding paragraph (1) and in  
18 paragraphs (3), (4), (6), (10), (11), and (12)  
19 and clauses (iii) and (iv) of section 211(a),

20 (F) in the matter in section 211(c) (42  
21 U.S.C. 411(c)) preceding paragraph (1), in  
22 paragraphs (3) and (6) of section 211(c), and  
23 in the matter following paragraph (6) of section  
24 211(c),

1 (G) in subsections (d), (e), and (h)(1)(B)  
2 of section 211 (42 U.S.C. 411),

3 (H) in section 216(j) (42 U.S.C. 416(j)),

4 (I) in section 218(e)(3) (42 U.S.C.  
5 418(e)(3)),

6 (J) in section 229(b) (42 U.S.C. 429(b)),

7 (K) in section 230(c) (42 U.S.C. 430(c)),

8 and

9 (L) in section 232 (42 U.S.C. 432),

10 by striking “1954” each place it appears and insert-  
11 ing “1986”.

12 (d) RULES OF CONSTRUCTION.—

13 (1) The preceding provisions of this section  
14 shall be construed only as technical and clerical cor-  
15 rections and as reflecting the original intent of the  
16 provisions amended thereby.

17 (2) Any reference in title II of the Social Secu-  
18 rity Act to the Internal Revenue Code of 1986 shall  
19 be construed to include a reference to the Internal  
20 Revenue Code of 1954 to the extent necessary to  
21 carry out the provisions of paragraph (1).

22 (e) UTILIZATION OF NATIONAL AVERAGE WAGE

23 INDEX FOR WAGE-BASED ADJUSTMENTS.—

1           (1) DEFINITION OF NATIONAL AVERAGE WAGE  
2       INDEX.—Section 209(k) of the Social Security Act  
3       (42 U.S.C. 409(k)) is amended—

4           (A) by redesignating paragraph (2) as  
5       paragraph (3);

6           (B) in paragraph (3) (as redesignated), by  
7       striking “paragraph (1)” and inserting “this  
8       subsection”; and

9           (C) by striking paragraph (1) and insert-  
10      ing the following new paragraphs:

11      “(k)(1) For purposes of sections 203(f)(8)(B)(ii),  
12      213(d)(2)(B),      215(a)(1)(B)(ii),      215(a)(1)(C)(ii),  
13      215(a)(1)(D),      215(b)(3)(A)(ii),      215(i)(1)(E),  
14      215(i)(2)(C)(ii),   224(f)(2)(B),   and   230(b)(2) (and  
15      230(b)(2) as in effect immediately prior to the enactment  
16      of the Social Security Amendments of 1977), the term ‘na-  
17      tional average wage index’ for any particular calendar year  
18      means, subject to regulations of the Secretary under para-  
19      graph (2), the average of the total wages for such particu-  
20      lar calendar year.

21      “(2) The Secretary shall prescribe regulations under  
22      which the national average wage index for any calendar  
23      year shall be computed—

1           “(A) on the basis of amounts reported to the  
2       Secretary of the Treasury or his delegate for such  
3       year,

4           “(B) by disregarding the limitation on wages  
5       specified in subsection (a)(1),

6           “(C) with respect to calendar years after 1990,  
7       by incorporating deferred compensation amounts  
8       and factoring in for such years the rate of change  
9       from year to year in such amounts, in a manner  
10      consistent with the requirements of section 10208 of  
11      the Omnibus Budget Reconciliation Act of 1989,  
12      and

13          “(D) with respect to calendar years before  
14      1978, in a manner consistent with the manner in  
15      which the average of the total wages for each of  
16      such calendar years was determined as provided by  
17      applicable law as in effect for such years.”.

18           (2) CONFORMING AMENDMENTS.—

19           (A) Section 203(f)(8)(B)(ii) of such Act  
20           (42 U.S.C. 403(f)(8)(B)(ii)) is amended by  
21           striking “deemed average total wages” each  
22           place it appears and inserting “national average  
23           wage index”.

24           (B) Section 213(d)(2)(B) of such Act (42  
25           U.S.C. 413(d)(2)(B)) is amended by striking

1 “deemed average total wages” and inserting  
2 “national average wage index”, and by striking  
3 “the average of the total wages” and all that  
4 follows and inserting “the national average  
5 wage index (as so defined) for 1976,”.

6 (C) Section 215(a)(1)(B)(ii) of such Act  
7 (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

8 (i) in subclause (I), by striking  
9 “deemed average total wages” and insert-  
10 ing “national average wage index”; and

11 (ii) in subclause (II), by striking “the  
12 average of the total wages” and all that  
13 follows and inserting “the national average  
14 wage index (as so defined) for 1977.”.

15 (D) Section 215(a)(1)(C)(ii) of such Act  
16 (42 U.S.C. 415(a)(1)(C)(ii)) is amended by  
17 striking “deemed average total wages” and  
18 inserting “national average wage index”.

19 (E) Section 215(a)(1)(D) of such Act (42  
20 U.S.C. 415(a)(1)(D)) is amended—

21 (i) by striking “after 1978”;

22 (ii) by striking “and the average of  
23 the total wages (as described in subpara-  
24 graph (B)(ii)(I))” and inserting “and the



1 national average wage index (as defined in  
2 section 209(k)(1))”; and

3 (iii) by striking the last sentence.

4 (F) Section 215(b)(3)(A)(ii) of such Act  
5 (42 U.S.C. 415(b)(3)(A)(ii)) is amended by  
6 striking “deemed average total wages” each  
7 place it appears and inserting “national average  
8 wage index”.

9 (G) Section 215(i)(1) of such Act (42  
10 U.S.C. 415(i)(1)) is amended—

11 (i) in subparagraph (E), by striking  
12 “SSA average wage index” and inserting  
13 “national average wage index (as defined  
14 in section 209(k)(1))”; and

15 (ii) by striking subparagraph (G) and  
16 redesignating subparagraph (H) as sub-  
17 paragraph (G).

18 (H) Section 215(i)(2)(C)(ii) of such Act  
19 (42 U.S.C. 415(i)(1)(C)(ii)) is amended to read  
20 as follows:

21 “(ii) The Secretary shall determine and promulgate  
22 the OASDI fund ratio for the current calendar year on  
23 or before November 1 of the current calendar year, based  
24 upon the most recent data then available. The Secretary  
25 shall include a statement of the fund ratio and the na-

1 tional average wage index (as defined in section 209(k)(1))  
2 and a statement of the effect such ratio and the level of  
3 such index may have upon benefit increases under this  
4 subsection in any notification made under clause (i) and  
5 any determination published under subparagraph (D).”.

6 (I) Section 224(f)(2) of such Act (42  
7 U.S.C. 424a(f)(2)) is amended—

8 (i) in subparagraph (A), by adding  
9 “and” at the end;

10 (ii) by striking subparagraph (C); and

11 (iii) by striking subparagraph (B) and  
12 inserting the following:

13 “(B) the ratio of (i) the national average wage  
14 index (as defined in section 209(k)(1)) for the cal-  
15 endar year before the year in which such redeter-  
16 mination is made to (ii) the national average wage  
17 index (as so defined) for the calendar year before  
18 the year in which the reduction was first computed  
19 (but not counting any reduction made in benefits for  
20 a previous period of disability).”.

21 (J) Section 230(b)(2) of such Act (42  
22 U.S.C. 430(b)(2)) is amended by striking  
23 “deemed average total wages” each place it ap-  
24 pears and inserting “national average wage  
25 index”.

1 (K) Section 230(d) of such Act (42 U.S.C.  
 2 430(d)) is amended by striking “deemed aver-  
 3 age total wage” and inserting “national average  
 4 wage index”.

5 **SEC. 13018. CROSS-MATCHING OF SOCIAL SECURITY AC-**  
 6 **COUNT NUMBER INFORMATION AND EM-**  
 7 **PLOYER IDENTIFICATION NUMBER INFORMA-**  
 8 **TION MAINTAINED BY THE DEPARTMENT OF**  
 9 **AGRICULTURE.**

10 (a) SOCIAL SECURITY ACCOUNT NUMBER INFORMA-  
 11 TION.—Clause (iii) of section 205(c)(2)(C) of the Social  
 12 Security Act (42 U.S.C. 405(c)(2)(C)) (as added by sec-  
 13 tion 1735(a)(3) of the Food, Agriculture, Conservation,  
 14 and Trade Act of 1990 (Public Law 101–624; 104 Stat.  
 15 3791)) is amended—

16 (1) by inserting “(I)” after “(iii)”;

17 (2) by striking “The Secretary of Agriculture  
 18 shall restrict” and all that follows and inserting the  
 19 following:

20 “(II) The Secretary of Agriculture may share any in-  
 21 formation contained in any list referred to in subclause  
 22 (I) with any other agency or instrumentality of the United  
 23 States which otherwise has access to social security ac-  
 24 count numbers in accordance with this subsection or other  
 25 applicable Federal law, except that the Secretary of Agri-

1 culture may share such information only to the extent that  
2 such Secretary determines such sharing would assist in  
3 verifying and matching such information against informa-  
4 tion maintained by such other agency or instrumentality.  
5 Any such information shared pursuant to this subclause  
6 may be used by such other agency or instrumentality only  
7 for the purpose of effective administration and enforce-  
8 ment of the Food Stamp Act of 1977 or for the purpose  
9 of investigation of violations of other Federal laws or en-  
10 forcement of such laws.

11 “(III) The Secretary of Agriculture, and the head of  
12 any other agency or instrumentality referred to in this  
13 subclause, shall restrict, to the satisfaction of the Sec-  
14 retary of Health and Human Services, access to social se-  
15 curity account numbers obtained pursuant to this clause  
16 only to officers and employees of the United States whose  
17 duties or responsibilities require access for the purposes  
18 described in subclause (II).

19 “(IV) The Secretary of Agriculture, and the head of  
20 any agency or instrumentality with which information is  
21 shared pursuant to clause (II), shall provide such other  
22 safeguards as the Secretary of Health and Human Serv-  
23 ices determines to be necessary or appropriate to protect  
24 the confidentiality of the social security account num-  
25 bers.”.

1 (b) EMPLOYER IDENTIFICATION NUMBER INFORMA-  
2 TION.—Subsection (f) of section 6109 of the Internal Rev-  
3 enue Code of 1986 (as added by section 1735(c) of the  
4 Food, Agriculture, Conservation, and Trade Act of 1990  
5 (Public Law 101–624; 104 Stat. 3792)) (relating to access  
6 to employer identification numbers by Secretary of Agri-  
7 culture for purposes of Food Stamp Act of 1977) is  
8 amended—

9 (1) by striking paragraph (2) and inserting the  
10 following:

11 “(2) SHARING OF INFORMATION AND SAFE-  
12 GUARDS.—

13 “(A) SHARING OF INFORMATION.—The  
14 Secretary of Agriculture may share any infor-  
15 mation contained in any list referred to in para-  
16 graph (1) with any other agency or instrumen-  
17 tality of the United States which otherwise has  
18 access to employer identification numbers in ac-  
19 cordance with this section or other applicable  
20 Federal law, except that the Secretary of Agri-  
21 culture may share such information only to the  
22 extent that such Secretary determines such  
23 sharing would assist in verifying and matching  
24 such information against information main-  
25 tained 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.”;

1           (2) in paragraph (3), by striking “by the Sec-  
2       retary of Agriculture pursuant to this subsection”  
3       and inserting “pursuant to this subsection by the  
4       Secretary of Agriculture or the head of any agency  
5       or instrumentality with which information is shared  
6       pursuant to paragraph (2)”, and by striking “social  
7       security account numbers” and inserting “employer  
8       identification numbers”; and

9           (3) in paragraph (4), by striking “by the Sec-  
10      retary of Agriculture pursuant to this subsection”  
11      and inserting “pursuant to this subsection by the  
12      Secretary of Agriculture or any agency or instru-  
13      mentality with which information is shared pursuant  
14      to paragraph (2)”.

15 **SEC. 13019. PROHIBITION OF MISUSE OF DEPARTMENT OF**  
16 **THE TREASURY NAMES, SYMBOLS, ETC.**

17       (a) GENERAL RULE.—Subchapter II of chapter 3 of  
18 title 31, United States Code, is amended by adding at the  
19 end thereof the following new section:

20 **“§ 333. Prohibition of misuse of Department of the**  
21 **Treasury names, symbols, etc.**

22       “(a) GENERAL RULE.—No person may use, in con-  
23 nection with, or as a part of, any advertisement, sollicita-  
24 tion, business activity, or product, whether alone or with  
25 other words, letters, symbols, or emblems—

1           “(1) the words ‘Department of the Treasury’,  
2           or the name of any service, bureau, office, or other  
3           subdivision of the Department of the Treasury,

4           “(2) the titles ‘Secretary of the Treasury’ or  
5           ‘Treasurer of the United States’ or the title of any  
6           other officer or employee of the Department of the  
7           Treasury,

8           “(3) the abbreviations or initials of any entity  
9           referred to in paragraph (1),

10          “(4) the words ‘United States Savings Bond’ or  
11          the name of any other obligation issued by the De-  
12          partment of the Treasury,

13          “(5) any symbol or emblem of an entity re-  
14          ferred to in paragraph (1) (including the design of  
15          any envelope or stationary used by such an entity),  
16          and

17          “(6) any colorable imitation of any such words,  
18          titles, abbreviations, initials, symbols, or emblems,  
19          in a manner which could reasonably be interpreted or con-  
20          strued as conveying the false impression that such adver-  
21          tisement, solicitation, business activity, or product is in  
22          any manner approved, endorsed, sponsored, or authorized  
23          by, or associated with, the Department of the Treasury  
24          or any entity referred to in paragraph (1) or any officer  
25          or employee thereof.



1       “(b) TREATMENT OF DISCLAIMERS.—Any deter-  
2 mination of whether a person has violated the provisions  
3 of subsection (a) shall be made without regard to any use  
4 of a disclaimer of affiliation with the United States Gov-  
5 ernment or any particular agency or instrumentality there-  
6 of.

7       “(c) CIVIL PENALTY.—

8           “(1) IN GENERAL.—The Secretary of the  
9 Treasury may impose a civil penalty on any person  
10 who violates the provisions of subsection (a).

11           “(2) AMOUNT OF PENALTY.—The amount of  
12 the civil penalty imposed by paragraph (1) shall not  
13 exceed \$5,000 for each use of any material in viola-  
14 tion of subsection (a). If such use is in a broadcast  
15 or telecast, the preceding sentence shall be applied  
16 by substituting ‘\$25,000’ for ‘\$5,000’.

17           “(3) TIME LIMITATIONS.—

18           “(A) ASSESSMENTS.—The Secretary of the  
19 Treasury may assess any civil penalty under  
20 paragraph (1) at any time before the end of the  
21 3-year period beginning on the date of the vio-  
22 lation with respect to which such penalty is im-  
23 posed.

24           “(B) CIVIL ACTION.—The Secretary of the  
25 Treasury may commence a civil action to re-

1 cover any penalty imposed under this subsection  
2 at any time before the end of the 2-year period  
3 beginning on the date on which such penalty  
4 was assessed.

5 “(4) COORDINATION WITH SUBSECTION (d).—  
6 No penalty may be assessed under this subsection  
7 with respect to any violation after a criminal pro-  
8 ceeding with respect to such violation has been com-  
9 menced under subsection (d).

10 “(d) CRIMINAL PENALTY.—

11 “(1) IN GENERAL.—If any person knowingly  
12 violates subsection (a), such person shall, upon con-  
13 viction thereof, be fined not more than \$10,000 for  
14 each such use or imprisoned not more than 1 year,  
15 or both. If such use is in a broadcast or telecast, the  
16 preceding sentence shall be applied by substituting  
17 ‘\$50,000’ for ‘\$10,000’.

18 “(2) TIME LIMITATIONS.—No person may be  
19 prosecuted, tried, or punished under paragraph (1)  
20 for any violation of subsection (a) unless the indict-  
21 ment is found or the information instituted during  
22 the 3-year period beginning on the date of the viola-  
23 tion.

24 “(3) COORDINATION WITH SUBSECTION (c).—  
25 No criminal proceeding may be commenced under

1       this subsection with respect to any violation if a civil  
2       penalty has previously been assessed under sub-  
3       section (c) with respect to such violation.”

4       (b) CLERICAL AMENDMENT.—The analysis for chap-  
5       ter 3 of title 31, United States Code, is amended by add-  
6       ing after the item relating to section 332 the following  
7       new item:

      “333. Prohibition of misuse of Department of the Treasury names, symbols,  
          etc.”.

8       (c) EFFECTIVE DATE.—The amendments made by  
9       this section shall take effect on the date of the enactment  
10      of this Act.

11      (d) REPORT.—Not later than May 1, 1995, the Sec-  
12      retary of the Treasury shall submit a report to the Com-  
13      mittee on Ways and Means of the House of Representa-  
14      tives and the Committee on Finance of the Senate on the  
15      implementation of the amendments made by this section.  
16      Such report shall include the number of cases in which  
17      the Secretary has notified persons of violations of section  
18      333 of title 31, United States Code (as added by sub-  
19      section (a)), the number of prosecutions commenced under  
20      such section, and the total amount of the penalties col-  
21      lected in such prosecutions.

1 **SEC. 13020. AVAILABILITY AND USE OF DEATH INFORMA-**  
2 **TION UNDER THE OLD-AGE, SURVIVORS, AND**  
3 **DISABILITY INSURANCE PROGRAM.**

4 (a) IMPROVEMENTS IN PROGRAM FOR USE OF  
5 DEATH CERTIFICATES TO CORRECT PROGRAM INFORMA-  
6 TION.—

7 (1) ELIMINATION OF STATE RESTRICTIONS ON  
8 USE OF INFORMATION.—Section 205(r)(1) of the So-  
9 cial Security Act (42 U.S.C. 405(r)(1)) is amended  
10 by adding at the end, after and below subparagraph  
11 (B), the following new sentence:

12 “Any contract entered into pursuant to subparagraph (A)  
13 shall not include any restriction on the use of information  
14 obtained by the Secretary pursuant to such contract, ex-  
15 cept to the extent that such use may be restricted under  
16 paragraph (6).”.

17 (2) INFORMATION PROVIDED TO STATE AGEN-  
18 CIES FREE OF CHARGE.—

19 (A) IN GENERAL.—Section 205(r)(4) of  
20 such Act (42 U.S.C. 405(r)(4)) is amended to  
21 read as follows:

22 “(4)(A) In the case of individuals with respect to  
23 whom federally funded benefits are provided by (or  
24 through) a State agency other than under this Act, the  
25 Secretary shall to the extent feasible provide such informa-  
26 tion free of charge through a cooperative arrangement

1 with such agency, for ensuring proper payment of those  
2 benefits with respect to such individuals, if such arrange-  
3 ment does not conflict with the duties of the Secretary  
4 under paragraph (1).

5 “(B) The Secretary may enter into similar agree-  
6 ments with States to provide information free of charge  
7 for their use in programs wholly funded by the States if  
8 such arrangement does not conflict with the duties of the  
9 Secretary under paragraph (1).”.

10 (B) CONFORMING AMENDMENT.—Section  
11 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is  
12 amended by striking “or State”.

13 (3) USE BY STATES OF SOCIAL SECURITY AC-  
14 COUNT NUMBERS CONTINGENT UPON PARTICIPATION  
15 IN PROGRAM.—Section 205(r)(2) of such Act (42  
16 U.S.C. 405(r)(2)) is amended—

17 (A) by inserting “(A)” after “(2)”; and

18 (B) by adding at the end the following new  
19 subparagraph:

20 “(B) Notwithstanding section 7(a)(2)(B) of the Pri-  
21 vacy Act of 1974 and clauses (i) and (v) of subsection  
22 (c)(2)(C) of this section, any State which is not a party  
23 to a contract with the Secretary meeting the requirements  
24 of paragraph (1) (and any political subdivision thereof)  
25 may not utilize an individual’s social security account

1 number in the administration of any driver's license or  
2 motor vehicle registration law.”.

3 (b) STUDY REGARDING IMPROVEMENTS IN GATHER-  
4 ING AND REPORTING OF DEATH INFORMATION.

5 (1) IN GENERAL.—As soon as practicable after  
6 the date of the enactment of this Act, the Secretary  
7 of Health and Human Services shall conduct a study  
8 of possible improvements in the current methods of  
9 gathering and reporting death information by the  
10 Federal, State, and local governments which would  
11 result in more efficient and expeditious handling of  
12 such information.

13 (2) SPECIFIC MATTERS TO BE STUDIED.—In  
14 carrying out the study required under this sub-  
15 section, the Secretary shall—

16 (A) ascertain the delays in the receipt of  
17 death information which are currently encoun-  
18 tered by the Social Security Administration and  
19 other agencies in need of such information on  
20 a regular basis,

21 (B) analyze the causes of such delays,

22 (C) develop alternative options for improv-  
23 ing Federal, State, and local agency cooperation  
24 in reducing such delays, and

1 (D) evaluate the costs and benefits associ-  
2 ated with the options referred to in subpara-  
3 graph (C).

4 (3) REPORT.—Not later than June 1, 1994, the  
5 Secretary shall submit a written report to the Com-  
6 mittee on Ways and Means of the House of Rep-  
7 resentatives and the Committee on Finance of the  
8 Senate setting forth the results of the study con-  
9 ducted pursuant to this subsection, together with  
10 such administrative and legislative recommendations  
11 as the Secretary may consider appropriate.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by  
14 subsection (a) shall take effect 1 year after the date  
15 of the enactment of this Act.

16 (2) PROMOTION OF ENTRY INTO NEW CON-  
17 TRACTS.—As soon as practicable after the date of  
18 the enactment of this Act, the Secretary of Health  
19 and Human Services shall take such actions as are  
20 necessary and appropriate to promote entry into  
21 contracts under section 205(r) of the Social Security  
22 Act which are in compliance with the requirements  
23 of the amendments made by subsection (a).

1       **Subtitle B—Human Resources**  
2       **Amendments**

**3 SEC. 13201. TABLE OF CONTENTS.**

4 The table of contents of this subtitle is as follows:

## Subtitle B—Human Resources Amendments

Sec. 13201. Table of contents.

Sec. 13202. References.

CHAPTER 1—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

Sec. 13211. Entitlement funding for services designed to strengthen and preserve families.

Sec. 13212. Grants for State courts to assess and improve handling of proceedings relating to foster care and adoption.

Sec. 13213. Required protections for foster children.

Sec. 13214. States required to report on measures taken to comply with the Indian Child Welfare Act.

Sec. 13215. Child welfare traineeships.

Sec. 13216. Dissolved adoptions.

Sec. 13217. Time frame for judicial determinations on voluntary placements.

Sec. 13218. Study of reasonable efforts.

Sec. 13219. Enhanced match for automated data systems.

Sec. 13220. Periodic reevaluation of foster care maintenance payments.

Sec. 13221. Dispositional hearing.

Sec. 13222. Health care plans for foster children.

Sec. 13223. Independent living.

Sec. 13224. Elimination of foster care ceilings and of authority to transfer unused foster care funds to child welfare services programs.

Sec. 13225. Training of agency staff and foster and adoptive parents.

Sec. 13226. On-site reviews and audits of State claims for foster care and adoption assistance.

Sec. 13227. Conformity reviews.

Sec. 13228. Repeal of annual report on voluntary placement.

Sec. 13229. Demonstration projects.

Sec. 13230. Placement accountability.

Sec. 13231. Payments of State claims for foster care and adoption assistance.

Sec. 13232. Moratorium on collection of disallowances.

Sec. 13233. Border region child welfare worker training demonstration.

Sec. 13234. Effect of failure to carry out State plan.

## CHAPTER 2—CHILD SUPPORT ENFORCEMENT

Sec. 13241. State paternity establishment programs.

Sec. 13242. Enforcement of health insurance support.

Sec. 13243. Reports to credit bureaus on persons delinquent in child support payments.

## CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

Sec. 13251. Fees for Federal administration of State supplementary payments.



- Sec. 13252. Exclusion from income of State relocation assistance.
- 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.
- Sec. 13254. Eligibility for children of Armed Forces personnel residing outside the United States other than in foreign countries.
- Sec. 13255. Definition of disability for children under age 18 applied to all individuals under age 18.
- Sec. 13256. Valuation of certain in-kind support and maintenance when there is a cost of living adjustment in benefits.
- Sec. 13257. Exclusion from income of certain amounts received by Indians from interests held in trust.

#### CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

- Sec. 13261. 50 percent Federal match of State administrative costs.
- Sec. 13262. Delay in effective date of penalty for failure to meet required participation rate for unemployed parents in the JOBS program.
- Sec. 13263. Report to the Congress with respect to performance standards in the JOBS program.
- Sec. 13264. Measurement and reporting of welfare participation.
- Sec. 13265. New Hope demonstration project.
- Sec. 13266. Delay in requirement that outlying areas operate an AFDC-UP program.
- Sec. 13267. Adult in family or household allowed to attest to citizenship status of family or household members.
- Sec. 13268. Increase in stepparent income disregard.
- Sec. 13269. Extension of New York State child support demonstration program.
- Sec. 13270. Early childhood development projects.

#### CHAPTER 5—UNEMPLOYMENT INSURANCE

- Sec. 13271. Treatment of short-time compensation programs.
- Sec. 13272. Technical amendment to Unemployment Trust Fund.
- Sec. 13273. Extension of reporting date for advisory council.
- Sec. 13274. Clarification of emergency unemployment benefits provisions.
- Sec. 13275. Modifications to extended unemployment program.
- Sec. 13276. Extension of current Federal unemployment rate.
- Sec. 13277. Disclosure of information to Railroad Retirement Board.

#### 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.

1 **SEC. 13202. REFERENCES.**

2 Except as otherwise expressly provided, wherever in  
3 this subtitle an amendment or repeal is expressed in terms  
4 of an amendment to, or repeal of, a section or other provi-  
5 sion, the reference shall be considered to be made to a  
6 section or other provision of the Social Security Act.

7 **CHAPTER 1—CHILD WELFARE SERVICES,**  
8 **FOSTER CARE, AND ADOPTION ASSIST-**  
9 **ANCE**

10 **SEC. 13211. ENTITLEMENT FUNDING FOR SERVICES DE-**  
11 **SIGNED TO STRENGTHEN AND PRESERVE**  
12 **FAMILIES.**

13 (a) IN GENERAL.—Part B of title IV (42 U.S.C.  
14 620–628) is amended—

15 (1) by striking the heading and inserting the  
16 following:

17 **“PART B—CHILD AND FAMILY SERVICES**

18 **“Subpart 1—Child Welfare Services”;** and

19 (2) by adding at the end the following:

20 **“Subpart 2—Family Preservation and Support**  
21 **Services**

22 **“SEC. 430. PURPOSES; LIMITATIONS ON AUTHORIZATIONS**  
23 **OF APPROPRIATIONS; RESERVATION OF CER-**  
24 **TAIN AMOUNTS.**

25 “(a) PURPOSES; LIMITATIONS ON AUTHORIZATION  
26 OF APPROPRIATIONS.—For the purpose of encouraging

1 and enabling each State to develop and establish, or ex-  
2 pand, and to operate a program of family preservation  
3 services and community-based family support services,  
4 there are authorized to be appropriated to the Secretary—

5 “(1) \$60,000,000 for fiscal year 1994;

6 “(2) \$135,000,000 for fiscal year 1995;

7 “(3) \$240,000,000 for fiscal year 1996;

8 “(4) \$360,000,000 for fiscal year 1997; and

9 “(5) \$600,000,000 for fiscal year 1998.

10 “(b) RESERVATION OF CERTAIN AMOUNTS.—

11 “(1) EVALUATION, RESEARCH, TRAINING, AND  
12 TECHNICAL ASSISTANCE.—The Secretary shall re-  
13 serve 1 percent of the amount appropriated pursu-  
14 ant to subsection (a) for each fiscal year, for expend-  
15 iture by the Secretary for evaluation, research, train-  
16 ing, and technical assistance related to the program  
17 under this subpart.

18 “(2) STATE COURT ASSESSMENTS.—The Sec-  
19 retary shall reserve \$5,000,000 of the amount ap-  
20 propriated pursuant to subsection (a) for fiscal year  
21 1995, and \$10,000,000 of the amount so appro-  
22 priated for each of fiscal years 1996, 1997, and  
23 1998, for grants under section 13212 of the Omni-  
24 bus Budget Reconciliation Act of 1993.

1           “(3) INDIAN TRIBES.—The Secretary shall re-  
2       serve 1 percent of the amount appropriated pursu-  
3       ant to subsection (a) for each fiscal year, for allot-  
4       ment to Indian tribes in accordance with section  
5       433(a).

6   **“SEC. 431. DEFINITIONS.**

7       “(a) IN GENERAL.—As used in this subpart:

8           “(1) FAMILY PRESERVATION SERVICES.—The  
9       term ‘family preservation services’ means services  
10      for children and families designed to help families  
11      (including adoptive and extended families) at risk or  
12      in crisis, including—

13           “(A) service programs designed to help  
14      children—

15           “(i) where appropriate, return to fam-  
16      ilies from which they have been removed;  
17      or

18           “(ii) be placed for adoption, with a  
19      legal guardian, or, if adoption or legal  
20      guardianship is determined not to be ap-  
21      propriate for a child, in some other  
22      planned, permanent living arrangement;

23           “(B) preplacement preventive services pro-  
24      grams, such as intensive family preservation  
25      programs, designed to help children at risk of

1 foster care placement remain with their fami-  
2 lies;

3 “(C) service programs designed to provide  
4 followup care to families to whom a child has  
5 been returned after a foster care placement;

6 “(D) respite care of children to provide  
7 temporary relief for parents and other  
8 caregivers (including foster parents); and

9 “(E) services designed to improve  
10 parenting skills (by reinforcing parents’ con-  
11 fidence in their strengths, and helping them to  
12 identify where improvement is needed and to  
13 obtain assistance in improving those skills) with  
14 respect to matters such as child development,  
15 family budgeting, coping with stress, health,  
16 and nutrition.

17 “(2) FAMILY SUPPORT SERVICES.—The term  
18 ‘family support services’ means community-based  
19 services to promote the well-being of children and  
20 families designed to increase the strength and stabil-  
21 ity of families (including adoptive, foster, and ex-  
22 tended families), to increase parents’ confidence and  
23 competence in their parenting abilities, to afford  
24 children a stable and supportive family environment,

1       and otherwise to enhance child development, includ-  
2       ing—

3               “(A) services described in paragraph  
4               (1)(E);

5               “(B) respite care of children to provide  
6               temporary relief for parents and other  
7               caregivers;

8               “(C) structured activities involving parents  
9               and children to strengthen the parent-child re-  
10              lationship;

11              “(D) drop-in centers to afford families op-  
12              portunities for informal interaction with other  
13              families and with program staff;

14              “(E) information and referral services to  
15              afford families access to other community serv-  
16              ices, including child care, health care, nutrition  
17              programs, adult education and literacy pro-  
18              grams, and counseling and mentoring services;  
19              and

20              “(F) early developmental screening of chil-  
21              dren to assess the needs of such children, and  
22              assistance to families in securing specific serv-  
23              ices to meet these needs.

1           “(3) STATE AGENCY.—The term ‘State agency’  
2       means the State agency responsible for administer-  
3       ing the program under subpart 1.

4           “(4) STATE.—The term ‘State’ includes an In-  
5       dian tribe or tribal organization, in addition to the  
6       meaning given such term for purposes of subpart 1.

7           “(5) TRIBAL ORGANIZATION.—The term ‘tribal  
8       organization’ means the recognized governing body  
9       of any Indian tribe.

10          “(6) INDIAN TRIBE.—The term ‘Indian tribe’  
11       means any Indian tribe (as defined in section  
12       482(i)(5)) and any Alaska Native organization (as  
13       defined in section 482(i)(7)(A)).

14          “(b) OTHER TERMS.—For other definitions of other  
15       terms used in this subpart, see section 475.

16       **“SEC. 432. STATE PLANS.**

17          “(a) PLAN REQUIREMENTS.—A State plan meets the  
18       requirements of this subsection if the plan—

19               “(1) provides that the State agency shall ad-  
20       minister, or supervise the administration of, the  
21       State program under this subpart;

22               “(2)(A)(i) sets forth the goals intended to be  
23       accomplished under the plan by the end of the 5th  
24       fiscal year in which the plan is in operation in the  
25       State, and (ii) is updated periodically to set forth

1 the goals intended to be accomplished under the  
2 plan by the end of each 5th fiscal year thereafter;

3 “(B) describes the methods to be used in meas-  
4 uring progress toward accomplishment of the goals;

5 “(C) contains a commitment that the State—

6 “(i) after the end of each of the 1st 4 fis-  
7 cal years covered by a set of goals, will perform  
8 an interim review of progress toward accom-  
9 plishment of the goals, and on the basis of the  
10 interim review will revise the statement of goals  
11 in the plan, if necessary, to reflect changed cir-  
12 cumstances; and

13 “(ii) after the end of the last fiscal year  
14 covered by a set of goals, will perform a final  
15 review of progress toward accomplishment of  
16 the goals, and on the basis of the final review  
17 (I) will prepare, transmit to the Secretary, and  
18 make available to the public a final report on  
19 progress toward accomplishment of the goals,  
20 and (II) will develop (in consultation with the  
21 entities required to be consulted pursuant to  
22 subsection (b)) and add to the plan a statement  
23 of the goals intended to be accomplished by the  
24 end of the 5th succeeding fiscal year;



1           “(3) provides for coordination, to the extent  
2           feasible and appropriate, of the provision of services  
3           under the plan and the provision of services or bene-  
4           fits under other Federal or federally assisted pro-  
5           grams serving the same populations;

6           “(4) contains assurances that not less than 90  
7           percent of expenditures under the plan for any fiscal  
8           year with respect to which the State is eligible for  
9           payment under section 433 for the fiscal year shall  
10          be for services for children and families, and that  
11          significant portions of such 90 percent shall be ex-  
12          pended—

13                 “(A) for family preservation services; and

14                 “(B) for community-based family support  
15          services;

16          “(5) provides that, by the beginning of the 6th  
17          fiscal year during which the plan is in effect, pro-  
18          grams under the plan shall be available on a state-  
19          wide basis, to the extent feasible and appropriate;

20          “(6) contains assurances that the State will—

21                 “(A) annually prepare, furnish to the Sec-  
22          retary, and make available to the public a de-  
23          scription (including separate descriptions with  
24          respect to family preservation services and com-  
25          munity-based family support services) of—

1           “(i) the service programs to be made  
2           available under the plan in the immediately  
3           succeeding fiscal year;

4           “(ii) the populations which the pro-  
5           grams will serve; and

6           “(iii) the geographic areas in the  
7           State in which the services will be avail-  
8           able; and

9           “(B) perform the activities described in  
10          subparagraph (A)—

11           “(i) in the case of the 1st fiscal year  
12           under the plan, at the time the State sub-  
13           mits its initial plan; and

14           “(ii) in the case of each succeeding  
15           fiscal year, by the end of the 3rd quarter  
16           of the immediately preceding fiscal year;

17           “(7) provides for such methods of administra-  
18           tion as the Secretary finds to be necessary for the  
19           proper and efficient operation of the plan;

20           “(8)(A) contains assurances that Federal funds  
21           provided to the State under this subpart will not be  
22           used to supplant Federal or non-Federal funds for  
23           existing services and activities which promote the  
24           purposes of this subpart; and

1           “(B) provides that the State will furnish re-  
2       ports to the Secretary, at such times, in such for-  
3       mat, and containing such information as the Sec-  
4       retary may require, that demonstrate the State’s  
5       compliance with the prohibition contained in sub-  
6       paragraph (A); and

7           “(9) provides that the State agency will furnish  
8       such reports, containing such information, and par-  
9       ticipate in such evaluations, as the Secretary may  
10      require.

11      “(b) APPROVAL OF PLANS.—

12           “(1) IN GENERAL.—The Secretary shall ap-  
13      prove a plan that meets the requirements of sub-  
14      section (a) only if the plan was developed jointly by  
15      the Secretary and the State, after consultation by  
16      the State agency with appropriate public and non-  
17      profit private agencies and community-based organi-  
18      zations with experience in administering programs of  
19      services for children and families (including family  
20      preservation and family support services).

21           “(2) PLANS OF INDIAN TRIBES EXEMPTED  
22      FROM INAPPROPRIATE REQUIREMENTS.—The Sec-  
23      retary may exempt a plan submitted by an Indian  
24      tribe from any requirement of this section that the  
25      Secretary determines would be inappropriate to

1       apply to the Indian tribe, taking into account the re-  
2       sources, needs, and other circumstances of the  
3       Indian tribe.

4       **“SEC. 433. ALLOTMENTS TO STATES.**

5       “(a) INDIAN TRIBES.—

6               “(1) IN GENERAL.—From the amount reserved  
7       pursuant to section 430(b)(3), the Secretary shall  
8       allot to each Indian tribe with a plan approved  
9       under this subpart (except as provided in paragraph  
10      (2) of this subsection) an amount that bears the  
11      same ratio to such reserved amount as the number  
12      of children in the Indian tribe bears to the total  
13      number of children in all Indian tribes with State  
14      plans so approved, as determined by the Secretary  
15      on the basis of the most current and reliable infor-  
16      mation available to the Secretary.

17              “(2) SPECIAL RULE.—The Secretary may not  
18      allot funds to an Indian tribe with a plan approved  
19      under this subpart whose allotment (but for this  
20      paragraph) would be less than \$10,000 if allotments  
21      were made under paragraph (1) to all Indian tribes  
22      with plans approved under this subpart with the  
23      same or larger numbers of children.

24              “(b) TERRITORIES.—From the amount appropriated  
25      pursuant to section 430 that remains after applying sec-

1 tion 430(b) for each fiscal year, the Secretary shall allot  
2 to each of the jurisdictions of Puerto Rico, Guam, the Vir-  
3 gin Islands, the Northern Mariana Islands, and American  
4 Samoa an amount determined in the same manner as the  
5 allotment to each of such jurisdictions is determined under  
6 section 421.

7 “(c) OTHER STATES.—

8 “(1) IN GENERAL.—From the amount appro-  
9 priated pursuant to section 430 that remains after  
10 applying section 430(b) and subsection (b) of this  
11 section for each fiscal year, the Secretary shall allot  
12 to each State (other than an Indian tribe) which is  
13 not specified in subsection (b) of this section an  
14 amount equal to such remaining amount multiplied  
15 by the food stamp percentage of the State for the  
16 fiscal year.

17 “(2) FOOD STAMP PERCENTAGE DEFINED.—

18 “(A) IN GENERAL.—As used in paragraph  
19 (1) of this subsection, the term ‘food stamp  
20 percentage’ means, with respect to a State and  
21 a fiscal year, the average monthly number of  
22 children receiving food stamp benefits in the  
23 State for months in the 3 fiscal years referred  
24 to in subparagraph (B) of this paragraph, as  
25 determined from sample surveys made under

1 section 16(c) of the Food Stamp Act of 1977,  
2 expressed as a percentage of the average  
3 monthly number of children receiving food  
4 stamp benefits in the States described in such  
5 paragraph (1) for months in such 3 fiscal years,  
6 as so determined.

7 “(B) FISCAL YEARS USED IN CALCULA-  
8 TION.—For purposes of the calculation pursu-  
9 ant to subparagraph (A), the Secretary shall  
10 use data for the 3 most recent fiscal years, pre-  
11 ceding the fiscal year for which the State’s al-  
12 lotment is calculated under this subsection, for  
13 which such data are available to the Secretary.

14 **“SEC. 434. PAYMENTS TO STATES.**

15 “(a) ENTITLEMENT.—

16 “(1) GENERAL RULE.—Except as provided in  
17 paragraph (2) of this subsection, each State which  
18 has a plan approved under this subpart shall be enti-  
19 tled to payment of the lesser of—

20 “(A) 75 percent of the total cost of activi-  
21 ties under the plan during the fiscal year or the  
22 immediately succeeding fiscal year; or

23 “(B) the allotment of the State under sec-  
24 tion 433 for the fiscal year.

1           “(2) SPECIAL RULE.—Upon submission by a  
2           State to the Secretary during fiscal year 1994 of an  
3           application in such form and containing such infor-  
4           mation as the Secretary may require (including, if  
5           the State is seeking payment of an amount pursuant  
6           to subparagraph (B) of this paragraph, a description  
7           of the services to be provided with the amount), the  
8           State shall be entitled to payment of an amount  
9           equal to the sum of—

10                 “(A) such amount not exceeding  
11                 \$1,000,000 as the State may require to develop  
12                 and submit a plan for approval under section  
13                 432; and

14                 “(B) an amount equal to the lesser of—

15                         “(i) 75 percent of the cost of State  
16                         services to children and families provided  
17                         in accordance with section 432(a)(4); or

18                         “(ii) the allotment of the State under  
19                         section 433 for fiscal year 1994, reduced  
20                         by any amount paid to the State pursuant  
21                         to subparagraph (A) of this paragraph.

22           “(b) PROHIBITIONS.—

23                 “(1) NO USE OF OTHER FEDERAL FUNDS FOR  
24                 STATE MATCH.—Each State receiving an amount  
25                 paid under paragraph (1) or (2)(B) of subsection (a)

1       may not expend any Federal funds to meet the costs  
2       of services described in this subpart not covered by  
3       the amount so paid.

4               “(2) AVAILABILITY OF FUNDS.—

5                       “(A) IN GENERAL.—A State may not ex-  
6                       pend any amount paid under subsection (a)(1)  
7                       for any fiscal year after the end of the imme-  
8                       diately succeeding fiscal year.

9                       “(B) PLAN DEVELOPMENT.—A State may  
10                      not expend any amount paid under subsection  
11                      (a)(2) after the end of fiscal year 1994.

12       “(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS  
13       OF INDIAN TRIBES.—The Secretary shall pay any amount  
14       to which an Indian tribe is entitled under this section di-  
15       rectly to the tribal organization of the Indian tribe.

16       **“SEC. 435. EVALUATIONS; REPORT.**

17               “(a) EVALUATIONS.—

18                       “(1) IN GENERAL.—The Secretary shall evalu-  
19                       ate the effectiveness of the programs carried out  
20                       pursuant to this subpart in accomplishing the pur-  
21                       poses of this subpart, in accordance with criteria es-  
22                       tablished in accordance with paragraph (2).

23                       “(2) CRITERIA TO BE USED.—In developing the  
24                       criteria to be used in evaluations under paragraph



1       (1), the Secretary shall consult with appropriate par-  
2       ties, such as—

3               “(A) State agencies administering pro-  
4       grams under this part and part E;

5               “(B) persons administering child and fam-  
6       ily services programs (including family preser-  
7       vation and family support programs) for pri-  
8       vate, nonprofit organizations with an interest in  
9       child welfare; and

10              “(C) other persons with recognized exper-  
11       tise in the evaluation of child and family serv-  
12       ices programs (including family preservation  
13       and family support programs) or other related  
14       programs.

15       “(b) REPORT TO THE CONGRESS.—Not later than  
16       December 31, 1997, the Secretary shall submit to the  
17       Congress a report containing findings with respect to the  
18       evaluations required by subsection (a).

19       “(c) COORDINATION OF EVALUATIONS.—The Sec-  
20       retary shall develop procedures to coordinate evaluations  
21       under this section, to the extent feasible, with evaluations  
22       by the States of the effectiveness of programs under this  
23       subpart.”.

24       (b) CONFORMING AMENDMENTS.—

25              (1) Section 422 (42 U.S.C. 622) is amended—

1 (A) in subsection (a), by striking “this  
2 part” and inserting “this subpart”;

3 (B) in subsection (b), by striking “this  
4 part” each place such term appears and insert-  
5 ing “this subpart”; and

6 (C) in subsection (b)(2), by inserting  
7 “under the State plan approved under subpart  
8 2 of this part,” after “part A of this title,”.

9 (2) Section 423(a) (42 U.S.C. 623(a)) is  
10 amended by striking “this part” and inserting “this  
11 subpart”.

12 (3) Section 428(a) (42 U.S.C. 628(a)) is  
13 amended by striking “this part” each place such  
14 term appears and inserting “this subpart”.

15 (4) Section 471(a)(2) (42 U.S.C. 671(a)(2)) is  
16 amended by inserting “subpart 1 of” before “part  
17 B”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall be effective with respect to calendar  
20 quarters beginning on or after October 1, 1993.

21 **SEC. 13212. GRANTS FOR STATE COURTS TO ASSESS AND**  
22 **IMPROVE HANDLING OF PROCEEDINGS RE-**  
23 **LATING TO FOSTER CARE AND ADOPTION.**

24 (a) IN GENERAL.—The Secretary shall make grants,  
25 in accordance with this section, to the highest State courts

1 in States participating in the program under part E of  
2 title IV of the Social Security Act, for the purpose of ena-  
3 bling such courts—

4 (1) to conduct assessments, in accordance with  
5 subsection (b), of the role, responsibilities, and effec-  
6 tiveness of State courts in carrying out State laws  
7 requiring proceedings (conducted by or under the su-  
8 pervision of the courts)—

9 (A) to determine the advisability or appro-  
10 priateness of foster care placement;

11 (B) to determine whether to terminate pa-  
12 rental rights; and

13 (C) to legally recognize the adoption of a  
14 child; and

15 (2) to implement changes deemed necessary as  
16 a result of the assessments.

17 (b) ASSESSMENTS.—Each assessment conducted with  
18 funds provided under this section shall—

19 (1) identify the requirements imposed on State  
20 courts with respect to proceedings described in sub-  
21 section (a), addressing separately—

22 (A) rules, standards, and criteria imposed  
23 pursuant to State laws (including laws imple-  
24 menting parts B and E of title IV of the Social  
25 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 deter-  
minations—

(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 place-  
ment;

(iii) whether to terminate parental  
rights;

(iv) whether to place a child for adop-  
tion 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 mat-  
ters such as—

(i) whether a proceeding should be ju-  
dicial or administrative;

1           (ii) timetables for such proceedings,  
2           and determinations of the priority of such  
3           proceedings relative to other matters under  
4           the jurisdiction of the State courts;

5           (iii) procedural safeguards of the  
6           rights of parents (including foster and  
7           adoptive parents), guardians, and children,  
8           such as provisions for legal representation  
9           and for guardians ad litem; and

10          (iv) rules for conduct of the proceed-  
11          ing with respect to matters such as admis-  
12          sible evidence, opportunity to present wit-  
13          nesses, and time limits on the presentation  
14          of evidence and the making of arguments;

15          (2) evaluate the performance of the State  
16          courts in implementing the requirements identified  
17          under paragraph (1), by assessing—

18               (A) the extent to which particular practices  
19               or procedures have been successful in facilitat-  
20               ing compliance with such requirements;

21               (B) the frequency of failures to comply  
22               with any such requirements, and patterns with  
23               respect to the circumstances of and factors con-  
24               tributing to the failures; and

1 (C) the extent to which caseload size and  
2 resource limitations contribute to the failures  
3 identified pursuant to subparagraph (B);

4 (3) determine the extent to which the rules and  
5 practices identified under paragraph (1) or (2) are  
6 in accord with recommended standards of national  
7 organizations concerned with permanent placement  
8 for foster children;

9 (4) determine, from the standpoint of the State  
10 courts, the extent to which particular requirements  
11 under paragraph (1)—

12 (A) are facilitating or impeding achieve-  
13 ment of the purposes of such parts B and E,  
14 including the goal of appropriate permanent  
15 placement for each child; and

16 (B) are imposing significant administrative  
17 burdens on the State court system; and

18 (5) make specific recommendations for improve-  
19 ment, based on the conclusions reached as a result  
20 of activities described in paragraphs (1) through (4),  
21 including recommendations for—

22 (A) changes in Federal or State laws, reg-  
23 ulations, or policies;

24 (B) changes in procedures and practices of  
25 the State courts and of the State agencies ad-

1 ministering foster care, adoption, child welfare,  
2 and child protective services programs;

3 (C) additional education or training of  
4 State court judges, or of personnel of the judi-  
5 cial system or of the State agencies described in  
6 subparagraph (B);

7 (D) collection or dissemination of addi-  
8 tional data or information for purposes of in-  
9 creasing the understanding of personnel of  
10 State courts and State agencies of matters re-  
11 lating to case review proceedings in general, or  
12 to specific case review proceedings; and

13 (E) increases in manpower, reductions in  
14 the number of case reviews, or other changes  
15 needed to enable the State courts to better  
16 manage their caseloads with respect to such  
17 proceedings.

18 (c) APPLICATIONS.—In order to be eligible for a  
19 grant under this section, a highest State court shall sub-  
20 mit to the Secretary, at such time and in such form as  
21 the Secretary may require, an application containing—

22 (1) a timetable for conducting and completing  
23 the assessment;

24 (2) a budget for the assessment;

1           (3) a description of the methods to be used to  
2       select State courts for inclusion in, and to conduct,  
3       the assessment;

4           (4) certifications by the head of the State agen-  
5       cy administering the State program under such part  
6       E, and by the State foster care citizen review board  
7       or State organization of such review boards (if any),  
8       that such entities have had an opportunity to review  
9       and comment on a draft of the application before its  
10      submission, and a copy of such comments;

11          (5) a description of the process to be used by  
12      the court to consult with the entities referred to in  
13      paragraph (4) of this subsection in conducting the  
14      assessment under subsection (b);

15          (6) an assurance that, to the extent funds pro-  
16      vided under this section are not necessary to com-  
17      plete the assessment under subsection (b), the court  
18      will use such funds to implement, to the extent fea-  
19      sible, recommendations made pursuant to subsection  
20      (b)(5);

21          (7) an assurance that funds provided under this  
22      section will not be used to supplant State or local  
23      funds which would otherwise be used for similar  
24      purposes;

25          (8) a commitment to furnish to the Secretary—



1 (A) an interim report following the end of  
2 the 2nd year of assessment activities under this  
3 section; and

4 (B) a final report following the completion  
5 of the assessment; and

6 (9) any other information the Secretary may  
7 require.

8 (d) ALLOTMENTS.—

9 (1) IN GENERAL.—Each highest State court  
10 which has an application approved under subsection  
11 (c), and is conducting assessment activities in ac-  
12 cordance with this section, shall be entitled to pay-  
13 ment, for each of fiscal years 1995 through 1998,  
14 from amounts reserved pursuant to section  
15 430(b)(2) of the Social Security Act, of an amount  
16 equal to the sum of—

17 (A) for fiscal year 1995, \$75,000 plus the  
18 amount described in paragraph (2) for fiscal  
19 year 1995; and

20 (B) for each of fiscal years 1996 through  
21 1998, \$85,000 plus the amount described in  
22 paragraph (2) for each of such fiscal years.

23 (2) FORMULA.—The amount described in this  
24 paragraph for any fiscal year is the amount that  
25 bears the same ratio to the amount reserved pursu-

1 ant to section 430(b)(2) of the Social Security Act  
2 for the fiscal year (reduced by the dollar amount  
3 specified in paragraph (1) of this subsection for the  
4 fiscal year) as the number of individuals in the State  
5 who have not attained 21 years of age bears to the  
6 total number of such individuals in all States the  
7 highest State courts of which have approved applica-  
8 tions under subsection (c).

9 (e) USE OF GRANT FUNDS.—Each highest State  
10 court which receives funds paid under this section may  
11 use such funds to pay—

12 (1) any or all costs of activities under this sec-  
13 tion in fiscal year 1995; and

14 (2) not more than 75 percent of the cost of ac-  
15 tivities under this section in each of fiscal years  
16 1996, 1997, and 1998.

17 **SEC. 13213. REQUIRED PROTECTIONS FOR FOSTER CHIL-**  
18 **DREN.**

19 (a) IN GENERAL.—Section 422(b) (42 U.S.C.  
20 622(b)) is amended—

21 (1) by striking “and” at the end of paragraph  
22 (7);

23 (2) by striking the period at the end of para-  
24 graph (8) and inserting “; and”; and

25 (3) by adding at the end the following:

1 “(9) provide assurances that the State—

2 “(A) since June 17, 1980, has completed  
3 an inventory of all children who, before the in-  
4 ventory, had been in foster care under the re-  
5 sponsibility of the State for 6 months or more,  
6 which determined—

7 “(i) the appropriateness of, and neces-  
8 sity for, the foster care placement;

9 “(ii) whether the child could or should  
10 be returned to the parents of the child or  
11 should be freed for adoption or other per-  
12 manent placement; and

13 “(iii) the services necessary to facili-  
14 tate the return of the child or the place-  
15 ment of the child for adoption or legal  
16 guardianship;

17 “(B) is operating, to the satisfaction of the  
18 Secretary—

19 “(i) a statewide information system  
20 from which can be readily determined the  
21 status, demographic characteristics, loca-  
22 tion, and goals for the placement of every  
23 child who is (or, within the immediately  
24 preceding 12 months, has been) in foster  
25 care;

1           “(ii) a case review system (as defined  
2           in section 475(5)) for each child receiving  
3           foster care under the supervision of the  
4           State;

5           “(iii) a service program designed to  
6           help children—

7                   “(I) where appropriate, return to  
8                   families from which they have been  
9                   removed; or

10                   “(II) be placed for adoption, with  
11                   a legal guardian, or, if adoption or  
12                   legal guardianship is determined not  
13                   to be appropriate for a child, in some  
14                   other planned, permanent living ar-  
15                   rangement; and

16           “(iv) a preplacement preventive serv-  
17           ices program designed to help children at  
18           risk of foster care placement remain with  
19           their families; and

20           “(C)(i) has reviewed (or within 12 months  
21           after the date of the enactment of this para-  
22           graph will review) State laws and administra-  
23           tive and judicial procedures in effect for chil-  
24           dren abandoned at or shortly after birth (in-

1 cluding laws and procedures providing for legal  
2 representation of such children); and

3 “(ii) has enacted and is implementing (or  
4 within 24 months after the date of the enact-  
5 ment of this paragraph will enact and imple-  
6 ment) such laws and procedures as the State  
7 determines, on the basis of the review described  
8 in clause (i), to be necessary to enable perma-  
9 nent decisions to be made expeditiously with re-  
10 spect to the placement of such children.”.

11 (b) RESTRICTION ON REALLOTMENT.—Section 424  
12 (42 U.S.C. 624) is amended—

13 (1) in the 1st sentence, by striking “The  
14 amount” and inserting the following:

15 “(a) IN GENERAL.—Subject to subsection (b), the  
16 amount”; and

17 (2) by adding at the end the following:

18 “(b) EXCEPTION RELATING TO FOSTER CHILD PRO-  
19 TECTIONS.—The Secretary shall not realLOT under sub-  
20 section (a) of this section any amount that is withheld or  
21 recovered from a State due to the failure of the State to  
22 comply with section 422(b)(9).”.

23 (c) REPEAL.—Section 427 (42 U.S.C. 627) is hereby  
24 repealed.

25 (d) CONFORMING AMENDMENTS.—

1           (1) Section 423(a) (42 U.S.C. 623(a)) is  
2       amended by striking “and in section 427”.

3           (2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is  
4       amended by striking “the statistical report required  
5       by section” and inserting “with section 422(b)(9)  
6       or”.

7           (3) Section 472(d) (42 U.S.C. 672(d)) is  
8       amended by striking “427(b)” and inserting  
9       “422(b)(9)”.

10       (e) EFFECTIVE DATE.—The amendments and repeal  
11   made by this section shall be effective for fiscal years be-  
12   ginning on or after October 1, 1994.

13       (f) CONSTRUCTION OF SECTION.—This section and  
14   the amendments and repeal made by this section shall not  
15   be construed to permit any State to interrupt the provision  
16   of the foster care protections described in section 427 of  
17   the Social Security Act, as in effect on the effective date  
18   of such amendments and repeal.

19   **SEC. 13214. STATES REQUIRED TO REPORT ON MEASURES**  
20                   **TAKEN TO COMPLY WITH THE INDIAN CHILD**  
21                   **WELFARE ACT.**

22       (a) STATE PLAN REQUIREMENT.—Section 422(b)  
23   (42 U.S.C. 622(b)), as amended by section 13213(a) of  
24   this Act, is amended—

1 (1) by striking “and” at the end of paragraph  
2 (8);

3 (2) by striking the period at the end of para-  
4 graph (9) and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(10) contain a description, developed after  
7 consultation with tribal organizations (as defined in  
8 section 4 of the Indian Self-Determination and Edu-  
9 cation Assistance Act) in the State, of the specific  
10 measures taken by the State to comply with the In-  
11 dian Child Welfare Act.”.

12 (b) EFFECTIVE DATE.—The amendments made by  
13 subsection (a) shall be effective with respect to calendar  
14 quarters beginning on or after October 1, 1994.

15 **SEC. 13215. CHILD WELFARE TRAINEESHIPS.**

16 (a) IN GENERAL.—Part B of title IV (42 U.S.C.  
17 620–628) is amended by inserting after section 428 the  
18 following:

19 **“SEC. 429. CHILD WELFARE TRAINEESHIPS.**

20 “The Secretary may approve an application for a  
21 grant to a public or nonprofit institution for higher learn-  
22 ing to provide traineeships with stipends under section  
23 426(a)(1)(C) only if the application—

24 “(1) provides assurances that each individual  
25 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-



1           lection fees (in accordance with regulations pro-  
2           mulgated by the Secretary);

3           “(2) provides assurances that the institution  
4       will—

5                   “(A) enter into agreements with child wel-  
6           fare agencies for onsite training of recipients;

7                   “(B) permit an individual who is employed  
8           in the field of child welfare services to apply for  
9           a traineeship with a stipend if the traineeship  
10          furtheres the progress of the individual toward  
11          the completion of degree requirements; and

12                   “(C) develop and implement a system that,  
13          for the 3-year period that begins on the date  
14          any student completes a child welfare services  
15          program of study, tracks the employment  
16          record of the student, for the purpose of deter-  
17          mining the percentage of students who secure  
18          employment in the field of child welfare services  
19          and remain employed in the field.”.

20       (b)           CONFORMING           AMENDMENT.—Section  
21   426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by in-  
22   serting “described in section 429” after “including  
23   traineeships”.

1 (c) APPLICABILITY.—The amendments made by this  
2 section shall apply to grants awarded on or after April  
3 1, 1994.

4 **SEC. 13216. DISSOLVED ADOPTIONS.**

5 (a) ELIGIBILITY FOR FOSTER CARE MAINTENANCE  
6 PAYMENTS.—Section 472 (42 U.S.C. 672) is amended—

7 (1) in subsection (b), by inserting “or (i)” after  
8 “subsection (a)”; and

9 (2) by adding at the end the following:

10 “(i) Any State with a plan approved under this part  
11 may make foster care maintenance payments under this  
12 part on behalf of a child—

13 “(1) with respect to whom such payments were  
14 previously made;

15 “(2) whose adoption has been set aside by a  
16 court;

17 “(3) who meets the requirements of paragraphs  
18 (1), (2), and (3) of subsection (a); and

19 “(4) who fails to meet the requirements of sub-  
20 section (a)(4) but would meet such requirements  
21 if—

22 “(A) the child were treated as if the child  
23 were in the same financial and other cir-  
24 cumstances the child was in the last time the

1 child was determined eligible for such pay-  
2 ments; and

3 “(B) the adoption were treated as having  
4 never occurred.”.

5 (b) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to payments under part E of title  
7 IV of the Social Security Act in fiscal years beginning on  
8 or after October 1, 1995.

9 **SEC. 13217. TIME FRAME FOR JUDICIAL DETERMINATIONS**  
10 **ON VOLUNTARY PLACEMENTS.**

11 (a) IN GENERAL.—Section 472(e) (42 U.S.C. 672(e))  
12 is amended—

13 (1) by striking “No” and inserting “(1) Except  
14 as provided in paragraph (2), no”; and

15 (2) by adding at the end the following:

16 “(2) If the judicial determination referred to in  
17 paragraph (1) is made after the 180-day period de-  
18 scribed therein, the payments referred to therein  
19 may not be made for the period that begins at the  
20 end of the 180-day period and ends 180 days after  
21 the date of the judicial determination, but shall (un-  
22 less otherwise prohibited) be made for periods there-  
23 after.”.

24 (b) EFFECTIVE DATE.—The amendments made by  
25 subsection (a) shall be effective with respect to foster care

1 maintenance payments made, under State plans in fiscal  
2 year 1996 and succeeding fiscal years, on behalf of chil-  
3 dren placed in foster care on or after October 1, 1995.

4 **SEC. 13218. STUDY OF REASONABLE EFFORTS.**

5 (a) IN GENERAL.—The Secretary of Health and  
6 Human Services shall conduct a study of the implementa-  
7 tion by the States of section 471(a)(15) of the Social Secu-  
8 rity Act, giving particular attention to—

9 (1) standards used by States in determining  
10 what action to take, and whether and for how long  
11 to continue efforts—

12 (A) before the placement of a child in fos-  
13 ter care, to prevent or eliminate the need for re-  
14 moval of the child from the home of the child;  
15 and

16 (B) to return a child home rather than to  
17 seek some other planned, permanent placement;  
18 and

19 (2) the responses of the courts to the State ac-  
20 tions described in paragraph (1) of this subsection,  
21 including whether such responses facilitate or im-  
22 pede the achievement by State agencies of the objec-  
23 tives of such section 471(a)(15).

24 (b) REPORT AND RECOMMENDATIONS.—Within 18  
25 months after the date of the enactment of this Act, the

1 Secretary of Health and Human Services shall submit to  
2 the Congress a report, with such recommendations as the  
3 Secretary finds appropriate, based on the results of the  
4 study required by subsection (a) of this section, which de-  
5 scribes State practices that the Secretary has found effec-  
6 tive in achieving the objectives of section 471(a)(15) of  
7 the Social Security Act, and, if appropriate, shall set forth  
8 model practices for consideration by the States.

9 **SEC. 13219. ENHANCED MATCH FOR AUTOMATED DATA**  
10 **SYSTEMS.**

11 (a) PAYMENTS TO STATES.—

12 (1) IN GENERAL.—Section 474(a)(3) (42  
13 U.S.C. 674(a)(3)) is amended—

14 (A) by striking “and” at the end of sub-  
15 paragraph (B);

16 (B) by redesignating subparagraph (C) as  
17 subparagraph (E); and

18 (C) by inserting after subparagraph (B)  
19 the following:

20 “(C) 90 percent of so much of such ex-  
21 penditures as are for the planning, design, de-  
22 velopment, or installation of statewide mecha-  
23 nized data collection and information retrieval  
24 systems (including 90 percent of the full  
25 amount of expenditures for hardware compo-

1 nents for such systems) but only to the extent  
2 that such systems—

3 “(i) meet the requirements imposed  
4 by regulations promulgated pursuant to  
5 section 479(b)(2);

6 “(ii) to the extent practicable, are ca-  
7 pable of interfacing with the State data  
8 collection system that collects information  
9 relating to child abuse and neglect;

10 “(iii) to the extent practicable, have  
11 the capability of interfacing with, and re-  
12 trieving information from, the State data  
13 collection system that collects information  
14 relating to the eligibility of individuals  
15 under part A (for the purposes of facilitat-  
16 ing verification of eligibility of foster chil-  
17 dren); and

18 “(iv) are determined by the Secretary  
19 to be likely to provide more efficient, eco-  
20 nomical, and effective administration of  
21 the programs carried out under a State  
22 plan approved under part B or this part;  
23 and

24 “(D) 50 percent of so much of such ex-  
25 penditures as are for the operation of the state-

1 wide mechanized data collection and informa-  
2 tion retrieval systems referred to in subpara-  
3 graph (C); and”.

4 (2) TREATMENT OF STATE EXPENDITURES FOR  
5 DATA COLLECTION AND INFORMATION RETRIEVAL  
6 SYSTEMS.—Section 474 (42 U.S.C. 674), as amend-  
7 ed by section 13224 of this Act, is amended by add-  
8 ing at the end the following:

9 “(c) AUTOMATED DATA COLLECTION EXPENDI-  
10 TURES.—The Secretary shall treat as necessary for the  
11 proper and efficient administration of the State plan all  
12 expenditures of a State necessary in order for the State  
13 to plan, design, develop, install, and operate data collec-  
14 tion and information retrieval systems described in sub-  
15 section (a)(3)(C), without regard to whether the systems  
16 may be used with respect to foster or adoptive children  
17 other than those on behalf of whom foster care mainte-  
18 nance payments or adoption assistance payments may be  
19 made under this part.”.

20 (3) EFFECTIVE DATE.—The amendments made  
21 by this subsection shall apply to expenditures during  
22 fiscal years 1994, 1995, and 1996.

23 (b) TERMINATION OF ENHANCED MATCH.—

24 (1) IN GENERAL.—Section 474(a)(3)(C) (42  
25 U.S.C. 674(a)(3)(C)), as amended by subsection (a)

1 of this section, is amended by striking “90 percent”  
2 each place such term appears and inserting “50 per-  
3 cent”.

4 (2) EFFECTIVE DATE.—The amendment made  
5 by paragraph (1) shall apply to expenditures during  
6 fiscal years beginning on or after October 1, 1996.

7 **SEC. 13220. PERIODIC REEVALUATION OF FOSTER CARE**  
8 **MAINTENANCE PAYMENTS.**

9 (a) IN GENERAL.—Section 471(a)(11) (42 U.S.C.  
10 671(a)(11)) is amended—

11 (1) by inserting “(A)” after “(11)”;

12 (2) by striking “and amounts paid as foster  
13 care maintenance payments and adoption assist-  
14 ance”; and

15 (3) by adding at the end the following:

16 “(B) provides that, at least once every 3 years,  
17 the State agency will review the amount paid as fos-  
18 ter care maintenance payments and adoption assist-  
19 ance payments to ensure their continuing appro-  
20 priateness, and will submit to the Secretary (and  
21 make available to the public) a report on the results  
22 of the review, in such form and manner as the Sec-  
23 retary may by regulation require, which contains, at  
24 a minimum—



1           “(i) a statement of the manner in which  
2           the foster care maintenance payment level is de-  
3           termined, including information on the cost of  
4           foster care with respect to which such payments  
5           are made;

6           “(ii) information on the amount of the  
7           basic foster care maintenance payment level,  
8           and as to whether such payment level includes  
9           an amount to cover the cost of clothing, and  
10          whether such payment level varies by the type  
11          of care or the special needs or age of the child,  
12          and, if so, the payment levels for each special  
13          needs, care, or age category;

14          “(iii) if such payments are not made at a  
15          different rate for children who test positive for  
16          human immunodeficiency virus, have acquired  
17          immune deficiency syndrome, are addicted to  
18          drugs, suffer from complications due to expo-  
19          sure to drugs or alcohol, or have other severe  
20          special needs, the reasons therefor; and

21          “(iv) information on any limitations im-  
22          posed by the State on adoption assistance pay-  
23          ment levels;”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall be effective with respect to calendar  
3 quarters beginning on or after October 1, 1994.

4 **SEC. 13221. DISPOSITIONAL HEARING.**

5 Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended  
6 by striking “periodically” and inserting “not less fre-  
7 quently than every 12 months”.

8 **SEC. 13222. HEALTH CARE PLANS FOR FOSTER CHILDREN.**

9 (a) IN GENERAL.—Section 475(1)(C) (42 U.S.C.  
10 675(1)(C)) is amended—

11 (1) in clause (vii), by striking “and”; and

12 (2) by redesignating clause (viii) as clause (ix)  
13 and inserting after clause (vii) the following:

14 “(viii) a record indicating that the child’s  
15 foster care provider was advised (where appro-  
16 priate) of the child’s eligibility for early and  
17 periodic screening, diagnostic, and treatment  
18 services under title XIX; and”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to case plans established or re-  
21 viewed on or after January 1, 1994.

22 **SEC. 13223. INDEPENDENT LIVING.**

23 (a) TREATMENT OF ASSETS OF PARTICIPATING  
24 YOUTHS.—Section 477 (42 U.S.C. 677) is amended—

1           (1) by redesignating subsection (i) as subsection  
2           (j); and

3           (2) by inserting after subsection (h) the follow-  
4           ing:

5           “(i) Notwithstanding any other provision of this title,  
6 with respect to a child who is included in a program estab-  
7 lished by a State agency under subsection (a), an amount  
8 of the assets of the child which would otherwise be re-  
9 garded as resources for purposes of determining eligibility  
10 for benefits under this title may be disregarded for the  
11 purpose of allowing the child to establish a household, pur-  
12 sue education, or otherwise complete the transition to  
13 independent living. The amount disregarded may not ex-  
14 ceed an amount determined by the State agency to be rea-  
15 sonable for such purposes.”.

16           (b) PERMANENT EXTENSION OF PROGRAM.—Section  
17 477 (42 U.S.C. 677) is amended—

18           (1) in subsection (a)(1), by striking the 3rd  
19           sentence;

20           (2) in subsection (c), by striking “of the fiscal  
21           years 1988 through 1992” and inserting “succeed-  
22           ing fiscal year”;

23           (3) in subsection (e)(1)(A), by striking “each of  
24           the fiscal years 1987 through 1992” and inserting  
25           “fiscal year 1987 and any succeeding fiscal year”;

1 (4) in subsection (e)(1)(B), by striking “fiscal  
2 years 1991 and 1992” and inserting “fiscal year  
3 1991 and any succeeding fiscal year”; and

4 (5) in subsection (e)(1)(C)(ii), by striking “fis-  
5 cal year 1992” and inserting “any succeeding fiscal  
6 year”.

7 (c) EFFECTIVE DATES.—

8 (1) TREATMENT OF ASSETS OF PARTICIPATING  
9 YOUTHS.—The amendments made by subsection (a)  
10 shall apply to activities in fiscal years beginning on  
11 or after October 1, 1995.

12 (2) PERMANENT EXTENSION OF PROGRAM.—  
13 The amendments made by subsection (b) shall apply  
14 to activities engaged in on or after October 1, 1992.

15 **SEC. 13224. ELIMINATION OF FOSTER CARE CEILINGS AND**  
16 **OF AUTHORITY TO TRANSFER UNUSED FOS-**  
17 **TER CARE FUNDS TO CHILD WELFARE SERV-**  
18 **ICES PROGRAMS.**

19 (a) REPEAL.—Subsections (b) and (c) of section 474  
20 (42 U.S.C. 674(b) and (c)) are hereby repealed.

21 (b) CONFORMING AMENDMENTS.—Section 474 (42  
22 U.S.C. 674) is amended—

23 (1) in subsection (d)(1)—

24 (A) by striking “subsections (a), (b), and  
25 (c)” and inserting “subsection (a)”; and

1 (B) by striking “the provisions of such  
2 subsections” and inserting “subsection (a)”;  
3 and

4 (2) by redesignating subsection (d) as sub-  
5 section (b).

6 (c) EFFECTIVE DATE.—The amendments and repeal  
7 made by this section shall apply to payments for calendar  
8 quarters beginning on or after October 1, 1993.

9 **SEC. 13225. TRAINING OF AGENCY STAFF AND FOSTER**  
10 **AND ADOPTIVE PARENTS.**

11 (a) IN GENERAL.—Section 8006(b) of the Omnibus  
12 Budget Reconciliation Act of 1989 (42 U.S.C. 674 note)  
13 is amended by striking “, and before October 1, 1992”.

14 (b) RETROACTIVE APPLICABILITY.—The Social Secu-  
15 rity Act shall be applied and administered as if the amend-  
16 ment made by subsection (a) had been made on October  
17 1, 1992.

18 **SEC. 13226. ON-SITE REVIEWS AND AUDITS OF STATE**  
19 **CLAIMS FOR FOSTER CARE AND ADOPTION**  
20 **ASSISTANCE.**

21 (a) ON-SITE REVIEWS AND AUDITS OF STATE  
22 CLAIMS.—Section 474 (42 U.S.C. 674), as amended by  
23 sections 13224 and 13219(a)(2) of this Act, is amended—

24 (1) by redesignating subsection (c) as sub-  
25 section (d); and

1           (2) by inserting after subsection (b) the follow-  
2       ing:

3       “(c) ON-SITE REVIEWS AND AUDITS OF STATE  
4 CLAIMS FOR PAYMENT.—

5           “(1) REGULATIONS SPECIFYING REVIEW  
6 STANDARDS.—The Secretary shall promulgate regu-  
7 lations applicable to on-site reviews and audits of  
8 State expenditures for foster care maintenance pay-  
9 ments and adoption assistance payments under this  
10 part, which specify—

11           “(A) the criteria to be used to determine  
12 the appropriateness of expenditures identified in  
13 sampled case files;

14           “(B) the criteria to be used to determine  
15 the appropriateness of expenditures for child  
16 placement services and plan administration; and

17           “(C) the types of erroneous expenditures  
18 which will be disregarded for purposes of deter-  
19 mining the appropriateness of payments under  
20 this part (including erroneous payments result-  
21 ing from the State’s reliance upon and correct  
22 use of formal written statements of Federal law  
23 or policy provided to the State by the Sec-  
24 retary).

1           “(2) DEVELOPMENT AND PUBLICATION OF  
2 WRITTEN STANDARDS AND PROCEDURES.—The Sec-  
3 retary, after consultation with organizations rep-  
4 resenting State and local governmental agencies with  
5 responsibility for foster care and adoption services  
6 and other relevant agencies and organizations, shall  
7 develop and furnish to State agencies a written de-  
8 scription of the methods and procedures to be used  
9 in the on-site audits and reviews referred to in para-  
10 graph (1), which specify—

11               “(A) the methods and procedures to be  
12 used to select a sample of case files for review  
13 or audit;

14               “(B) the procedures to be used in review-  
15 ing or auditing sampled case files to determine  
16 erroneous expenditures;

17               “(C) the procedures to be used to review or  
18 audit State expenditures for child placement  
19 services and plan administration; and

20               “(D) the methodology to be used to ex-  
21 trapolate from review or audit findings to all  
22 expenditures under the State plan.

23           “(3) ADVANCE NOTICE TO STATES.—The Sec-  
24 retary shall not, in a review or audit of State ex-  
25 penditures during a fiscal year, use any criterion

1 specified pursuant to paragraph (1), or any proce-  
2 dure or methodology specified pursuant to para-  
3 graph (2), which was not published in final regula-  
4 tions or furnished in writing to the State (as appli-  
5 cable) at least 3 months before the beginning of the  
6 fiscal year.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply to expenditures in fiscal years  
9 beginning on or after October 1, 1994.

10 **SEC. 13227. CONFORMITY REVIEWS.**

11 (a) IN GENERAL.—Part A of title XI (42 U.S.C.  
12 1301–1320b–13) is amended by inserting after section  
13 1122 the following:

14 **“SEC. 1123. REVIEWS OF CHILD AND FAMILY SERVICES**  
15 **PROGRAMS, AND OF FOSTER CARE AND**  
16 **ADOPTION ASSISTANCE PROGRAMS, FOR**  
17 **COMPLIANCE WITH STATE PLAN REQUIRE-**  
18 **MENTS.**

19 “(a) IN GENERAL.—The Secretary shall not impose  
20 a financial penalty on any State for any failure of the  
21 State programs under parts B and E of title IV to comply  
22 with any requirement of any State plan approved under  
23 such part B or E, except pursuant to final regulations,  
24 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

1       whether there is a substantial failure to comply with  
2       a plan requirement;

3           “(3) specify the method to be used to determine  
4       the financial penalty to be imposed (subject to para-  
5       graph (4)) for a failure to comply with plan require-  
6       ments, which ensures that—

7           “(A) a financial penalty will not be im-  
8       posed with respect to a program, unless it is de-  
9       termined that the program fails substantially to  
10      so comply;

11          “(B) a financial penalty will not be im-  
12      posed for a failure to so comply resulting from  
13      the State’s reliance upon and correct use of for-  
14      mal written statements of Federal law or policy  
15      provided to the State by the Secretary; and

16          “(C) the amount of financial penalty is re-  
17      lated to the extent of the noncompliance; and

18          “(4) require the Secretary, with respect to any  
19      State found to have failed substantially to comply  
20      with plan requirements—

21           “(A) to afford the State an opportunity to  
22      adopt and implement a corrective action plan,  
23      approved by the Secretary, designed to end the  
24      noncompliance;

1           “(B) to make technical assistance available  
2           to the State to the extent necessary to enable  
3           the State to develop and implement such a cor-  
4           rective action plan;

5           “(C) to suspend the imposition of any pen-  
6           alty under this section while such a corrective  
7           action plan is in effect; and

8           “(D) to rescind any such penalty if the  
9           noncompliance is ended by successful comple-  
10          tion of such a corrective action plan.

11       “(c) PROVISIONS FOR ADMINISTRATIVE AND JUDI-  
12       CIAL REVIEW.—The regulations referred to in subsection  
13       (a) shall—

14           “(1) require the Secretary, not later than 10  
15           days after a determination that a program of the  
16           State is not in compliance with applicable plan  
17           requirements, to notify the State of—

18           “(A) the basis for the determination; and

19           “(B) the amount of the financial penalty  
20           (if any) imposed on the State;

21           “(2) afford the State an opportunity to appeal  
22           the determination to the Departmental Appeals  
23           Board within 60 days after receipt of the notice de-  
24           scribed 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.

1   **SEC. 13228. REPEAL OF ANNUAL REPORT ON VOLUNTARY**  
2                   **PLACEMENT.**

3           Section 102(e) of the Adoption Assistance and Child  
4   Welfare Act of 1980 (42 U.S.C. 672 note) is hereby  
5   repealed.

6   **SEC. 13229. DEMONSTRATION PROJECTS.**

7           Part A of title XI (42 U.S.C. 1301–1320b–13) is  
8   amended by inserting after section 1128B the following:

9   **“SEC. 1129. DEMONSTRATION PROJECTS.**

10           “(a) IN GENERAL.—The Secretary may authorize not  
11   more than 10 States to conduct demonstration projects  
12   pursuant to this section which the Secretary finds are like-  
13   ly to promote the objectives of part B or E of title IV.

14           “(b) WAIVER AUTHORITY.—The Secretary may  
15   waive compliance with any requirement of part B or E  
16   of title IV which (if applied) would prevent a State from  
17   carrying out a demonstration project under this section  
18   or prevent the State from effectively achieving the purpose  
19   of such a project, except that the Secretary may not  
20   waive—

21                   “(1) any provision of section 427 (as in effect  
22           before October 1, 1994), section 422(b)(9) (as in ef-  
23           fect after such date), or section 479; or

24                   “(2) any provision of such part E, to the extent  
25           that the waiver would impair the entitlement of any

1 qualified child or family to benefits under a State  
2 plan approved under such part E.

3 “(c) TREATMENT AS PROGRAM EXPENDITURES.—  
4 For purposes of parts B and E of title IV, the Secretary  
5 shall consider the expenditures of any State to conduct  
6 a demonstration project under this section to be expendi-  
7 tures under subpart 1 or 2 of such part B, or under such  
8 part E, as the State may elect.

9 “(d) DURATION OF DEMONSTRATION.—A dem-  
10 onstration project under this section may be conducted for  
11 not more than 5 years.

12 “(e) APPLICATION.—Any State seeking to conduct a  
13 demonstration project under this section shall submit to  
14 the Secretary an application, in such form as the Sec-  
15 retary may require, which includes—

16 “(1) a description of the proposed project, the  
17 geographic area in which the proposed project would  
18 be conducted, the children or families who would be  
19 served by the proposed project, and the services  
20 which would be provided by the proposed project  
21 (which shall provide, where appropriate, for random  
22 assignment of children and families to groups served  
23 under the project and to control groups);

24 “(2) a statement of the period during which the  
25 proposed project would be conducted;

1           “(3) a discussion of the benefits that are ex-  
2           pected from the proposed project (compared to a  
3           continuation of activities under the approved plan or  
4           plans of the State);

5           “(4) an estimate of the costs or savings of the  
6           proposed project;

7           “(5) a statement of program requirements for  
8           which waivers would be needed to permit the pro-  
9           posed project to be conducted;

10           “(6) a description of the proposed evaluation  
11           design; and

12           “(7) such additional information as the Sec-  
13           retary may require.

14           “(f) EVALUATIONS; REPORT.—Each State authorized  
15           to conduct a demonstration project under this section  
16           shall—

17           “(1) obtain an evaluation by an independent  
18           contractor of the effectiveness of the project, using  
19           an evaluation design approved by the Secretary  
20           which provides for—

21                   “(A) comparison of methods of service de-  
22                   livery under the project, and such methods  
23                   under a State plan or plans, with respect to ef-  
24                   ficiency, economy, and any other appropriate  
25                   measures of program management;

1           “(B) comparison of outcomes for children  
2           and families (and groups of children and fami-  
3           lies) under the project, and such outcomes  
4           under a State plan or plans, for purposes of as-  
5           sessing the effectiveness of the project in  
6           achieving program goals; and

7           “(C) any other information that the Sec-  
8           retary may require; and

9           “(2) provide interim and final evaluation re-  
10          ports to the Secretary, at such times and in such  
11          manner as the Secretary may require.

12          “(g) COST NEUTRALITY.—The Secretary may not  
13          authorize a State to conduct a demonstration project  
14          under this section unless the Secretary determines that  
15          the total amount of Federal funds that will be expended  
16          under (or by reason of) the project over its approved term  
17          (or such portion thereof or other period as the Secretary  
18          may find appropriate) will not exceed the amount of such  
19          funds that would be expended by the State under the State  
20          plans approved under parts B and E of title IV if the  
21          project were not conducted.”.

22      **SEC. 13230. PLACEMENT ACCOUNTABILITY.**

23          (a) CASE PLAN REQUIREMENTS.—Section 475(5)(A)  
24          (42 U.S.C. 675(5)(A)) is amended by adding at the end  
25          the following: “which—



1           “(i) if the child has been placed in a  
2           foster family home or child-care institution  
3           a substantial distance from the home of  
4           the parents of the child, or in a State dif-  
5           ferent from the State in which the home is  
6           located, sets forth the reasons why such  
7           placement is in the best interests of the  
8           child, and

9           “(ii) if the child has been placed in  
10          foster care outside the State, requires that,  
11          at least every 6 months, a caseworker on  
12          the staff of the State agency of the State  
13          in which the home of the parents of the  
14          child is located, or of the State in which  
15          the child has been placed, visit such child  
16          in such home or institution and submit a  
17          report on such visit to the State agency of  
18          the State in which the home of the parents  
19          of the child is located,”.

20          (b) DISPOSITIONAL HEARING.—Section 475(5)(C)  
21          (42 U.S.C. 675(5)(C)) is amended by inserting “and, in  
22          the case of a child described in subparagraph (A)(ii),  
23          whether the out-of-State placement continues to be appro-  
24          priate and in the best interests of the child,” after “long-  
25          term basis)”.

1 (c) DATA COLLECTION.—Section 479(c)(3)(C) (42  
2 U.S.C. 679(c)(3)(C)) is amended—

3 (1) by striking “and” at the end of clause (i);  
4 and

5 (2) by adding at the end the following:

6 “(iii) children placed in foster care  
7 outside the State, and”.

8 (d) EFFECTIVE DATES.—The amendments made by  
9 subsections (a), (b), and (c) shall be effective with respect  
10 to fiscal years beginning on and after October 1, 1994.

11 **SEC. 13231. PAYMENTS OF STATE CLAIMS FOR FOSTER**  
12 **CARE AND ADOPTION ASSISTANCE.**

13 Section 474(b) (42 U.S.C. 674(b)), as so redesign-  
14 nated by section 13239(b)(2) of this Act, is amended by  
15 adding at the end the following:

16 “(4)(A) Within 60 days after receipt of a State claim  
17 for expenditures pursuant to subsection (a), the Secretary  
18 shall allow, disallow, or defer such claim.

19 “(B) Within 15 days after a decision to defer such  
20 a State claim, the Secretary shall notify the State of the  
21 reasons for the deferral and of the additional information  
22 necessary to determine the allowability of the claim.

23 “(C) Within 90 days after receiving such necessary  
24 information (in readily reviewable form), the Secretary  
25 shall—

1           “(i) disallow the claim, if able to complete the  
2       review and determine that the claim is not allowable,  
3       or

4           “(ii) in any other case, allow the claim, subject  
5       to disallowance (as necessary)—

6           “(I) upon completion of the review, if it is  
7       determined that the claim is not allowable; or

8           “(II) on the basis of findings of an audit  
9       or financial management review.”.

10 **SEC. 13232. MORATORIUM ON COLLECTION OF DISALLOW-**  
11 **ANCES.**

12       The Secretary of Health and Human Services shall  
13 not—

14           (1) before October 1, 1994, reduce any pay-  
15       ment to, withhold any payment from, or seek any re-  
16       payment from any State under part B or E of title  
17       IV of the Social Security Act by reason of a deter-  
18       mination made in connection with a review of State  
19       compliance with section 427 of such Act for any  
20       Federal fiscal year before fiscal year 1995; or

21           (2) reduce any payment to, withhold any pay-  
22       ment from, or seek any repayment from any State  
23       under such part E by reason of a determination  
24       made in connection with any on-site Federal finan-

1 cial review, or any audit conducted by the Inspector  
2 General using similar methodologies.

3 **SEC. 13233. BORDER REGION CHILD WELFARE WORKER**  
4 **TRAINING DEMONSTRATION.**

5 (a) IN GENERAL.—The Secretary shall make grants  
6 to not more than 5 eligible institutions to train individuals  
7 to deliver culturally sensitive and bilingual child welfare  
8 services in areas of the United States that border on Mex-  
9 ico, 1 of which grants shall be for training to deliver child  
10 welfare services to historically unserved or underserved  
11 populations in an urban center with a high concentration  
12 of such populations.

13 (b) APPLICATIONS.—The Secretary shall approve an  
14 application of an institution for a grant under this section  
15 only if the application—

16 (1) demonstrates to the satisfaction of the Sec-  
17 retary that the institution has a history of, or a plan  
18 for, training students to deliver culturally sensitive  
19 and bilingual child welfare services in a border  
20 county;

21 (2) provides assurances that the institution will  
22 develop and implement, in consultation with the  
23 child welfare agency of the State in which the insti-  
24 tution is located, a curriculum in the field of child  
25 welfare services which—

1 (A) is sensitive to the culture of—

2 (i) the areas of the United States that  
3 border on Mexico; or

4 (ii) in the case of the institution which  
5 receives the urban center grant described  
6 in subsection (a), the historically unserved  
7 or underserved populations in the urban  
8 center; and

9 (B) includes training for identification of  
10 health problems of children and their families  
11 and of child abuse and neglect;

12 (3) provides assurances that each individual  
13 who receives a stipend with such training will enter  
14 into an agreement with the institution under which  
15 the individual agrees—

16 (A) to be employed for a period of years  
17 equivalent to the period of such training, in a  
18 public or private nonprofit family assistance  
19 agency that provides services directly to resi-  
20 dents of—

21 (i) the border county in which the  
22 agency is located; or

23 (ii) in the case of the institution which  
24 receives the urban center grant described

1           in subsection (a), the urban center in  
2           which the agency is located; and

3           (B) if the individual fails to be so em-  
4           ployed for such period, to repay to the Sec-  
5           retary, in accordance with such conditions as  
6           the Secretary may prescribe, all or part of the  
7           amount of the stipend, plus interest, and, if ap-  
8           plicable, reasonable collection fees; and

9           (4) provides that each agreement entered into  
10          with an individual pursuant to paragraph (3) will  
11          fully disclose the terms and conditions under which  
12          the stipend is to be provided.

13          (c) EVALUATIONS.—Each institution that receives a  
14          grant under this section shall develop and carry out a plan  
15          for evaluating the effects of the training provided under  
16          the grant, and shall submit to the Secretary a report on  
17          the evaluation.

18          (d) DEFINITIONS.—As used in this section:

19                (1) FAMILY ASSISTANCE AGENCY.—The term  
20                “family assistance agency” means a child welfare  
21                agency, family planning agency, hospital, clinic, com-  
22                munity mental health facility, or drug and alcohol  
23                treatment program.

24                (2) ELIGIBLE INSTITUTION.—The term “eligi-  
25                ble institution” means a public or private nonprofit

1 institution of higher learning that is located in a  
2 State that contains a border county.

3 (3) BORDER COUNTY.—The term “border coun-  
4 ty” means—

5 (A) a United States county that borders on  
6 Mexico; and

7 (B) a United States county that borders  
8 on a county described in subparagraph (A).

9 (4) URBAN CENTER.—The term “urban center”  
10 means an area in a metropolitan statistical area, as  
11 designated by the Office of Management and Budg-  
12 et, which has a high incidence of individuals in his-  
13 torically unserved or underserved populations who  
14 are in need of social services, as determined by the  
15 Secretary using the most recent and best available  
16 information.

17 (5) HISTORICALLY UNSERVED OR UNDER-  
18 SERVED POPULATIONS.—The term “historically  
19 unserved or underserved populations” includes—

20 (A) socially and economically disadvan-  
21 tagged populations;

22 (B) persons with limited English pro-  
23 ficiency;

24 (C) populations residing in urban areas  
25 and exhibiting a high incidence of child abuse,

1 neglect, or abandonment, as determined by the  
2 Secretary;

3 (D) homeless persons (within the meaning  
4 of section 103 of the Stewart B. McKinney  
5 Homeless Assistance Act);

6 (E) persons who are, or are in danger of  
7 becoming, infected with the human  
8 immunodeficiency virus; and

9 (F) persons who abuse alcohol or drugs.

10 (6) SECRETARY.—The term “Secretary” means  
11 the Secretary of Health and Human Services.

12 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated such sums as may be  
14 necessary to carry out this section.

15 **SEC. 13234. EFFECT OF FAILURE TO CARRY OUT STATE**  
16 **PLAN.**

17 (a) IN GENERAL.—Part A of title XI (42 U.S.C.  
18 1301–1320b–13), as amended by section 13229 of this  
19 Act, is amended by inserting after section 1129 the follow-  
20 ing:

21 **“SEC. 1130. EFFECT OF FAILURE TO CARRY OUT STATE**  
22 **PLAN.**

23 “In an action brought to enforce a provision of the  
24 Social Security Act, such provision is not to be deemed  
25 unenforceable because of its inclusion in a section of the



1 Act requiring a State plan or specifying the required con-  
 2 tents of a State plan. This section is not intended to limit  
 3 or expand the grounds for determining the availability of  
 4 private actions to enforce State plan requirements other  
 5 than by overturning any such grounds applied in *Suter*  
 6 v. Artist M., 112 S. Ct. 1360 (1992), but not applied in  
 7 prior Supreme Court decisions respecting such enforce-  
 8 ability: *Provided, however,* That this section is not in-  
 9 tended to alter the holding in *Suter v. Artist M.* that sec-  
 10 tion 471(a)(15) of the Act is not enforceable in a private  
 11 right of action.”.

12 (b) APPLICABILITY.—The amendment made by sub-  
 13 section (a) shall apply to actions pending on the date of  
 14 the enactment of this Act and to actions brought on or  
 15 after such date of enactment.

## 16 **CHAPTER 2—CHILD SUPPORT**

### 17 **ENFORCEMENT**

#### 18 **SEC. 13241. STATE PATERNITY ESTABLISHMENT PRO-**

#### 19 **GRAMS.**

20 (a) PERFORMANCE STANDARDS.—Section 452(g) (42  
 21 U.S.C. 652(g)) is amended—

22 (1) in paragraph (1)—

23 (A) by striking “1991” and inserting  
 24 “1994”;

1 (B) by inserting “is based on reliable data  
2 and” before “equals or exceeds”; and

3 (C) by striking subparagraphs (A), (B),  
4 and (C) and inserting the following:

5 “(A) 75 percent;

6 “(B) for a State with a paternity establishment  
7 percentage of not less than 50 percent but less than  
8 75 percent for the fiscal year, the paternity estab-  
9 lishment percentage of the State for the immediately  
10 preceding year plus 3 percentage points; or

11 “(C) for a State with a paternity establishment  
12 percentage of less than 50 percent for such fiscal  
13 year, the paternity establishment percentage of the  
14 State for the immediately preceding year plus 6 per-  
15 centage points.”; and

16 (2) in paragraph (2)—

17 (A) by striking “(or under all such plans)”  
18 each place such term appears;

19 (B) by inserting “or part E” after “under  
20 part A” each place such term appears;

21 (C) by amending subparagraph (B) to read  
22 as follows:

23 “(B) the term ‘reliable data’ means the  
24 most recent data available which are found by

1 the Secretary to be reliable for purposes of this  
2 section.”;

3 (D) by inserting “unless paternity is estab-  
4 lished for such child” after “the death of a par-  
5 ent”;

6 (E) by striking “parent or” and inserting  
7 “parent,”; and

8 (F) by inserting “, or any child with re-  
9 spect to whom the State agency administering  
10 the plan under part E determines (as provided  
11 in section 454(4)(B)) that it is against the best  
12 interest of such child to do so” after “cooperate  
13 under section 402(a)(26)”.

14 (b) STATE PLAN REQUIREMENTS.—

15 (1) REQUIRED PROCEDURES.—Section 466(a)  
16 (42 U.S.C. 666(a)) is amended—

17 (A) in paragraph (2)—

18 (i) by striking “at the option of the  
19 State,”; and

20 (ii) by inserting “and paternity estab-  
21 lishment” after “support order issuance  
22 and enforcement”;

23 (B) in paragraph (5), by adding at the end  
24 the following:

1           “(C) Procedures for a simple civil process  
2           for voluntarily acknowledging paternity under  
3           which the State must explain the rights and re-  
4           sponsibilities of acknowledging paternity, and  
5           afford due process safeguards. Such procedures  
6           must include (i) a hospital-based program for  
7           the voluntary acknowledgment of paternity dur-  
8           ing the period immediately before or after the  
9           birth of a child, and (ii) the inclusion of signa-  
10          ture lines on applications for official birth cer-  
11          tificates which, once signed by the father and  
12          the mother, are considered a voluntary acknowl-  
13          edgment of paternity.

14          “(D) Procedures under which the vol-  
15          untary acknowledgment of paternity of a child  
16          by an individual in the manner described in  
17          subparagraph (C)(ii) creates a rebuttable or, at  
18          the option of the State, conclusive presumption  
19          that the individual is the father of the child,  
20          and under which such a voluntary acknowledg-  
21          ment is admissible as evidence of paternity.

22          “(E) Procedures under which a voluntary  
23          acknowledgment of paternity in the manner de-  
24          scribed in subparagraph (C)(ii) must be recog-  
25          nized as a basis for seeking a support order

1 without first requiring any further proceedings  
2 to establish paternity.

3 “(F) Procedures requiring that (i) any ob-  
4 jection to genetic testing results be made in  
5 writing within a specified number of days be-  
6 fore any hearing at which such results may be  
7 introduced into evidence, and (ii) if no objection  
8 is made, the test results be admissible as evi-  
9 dence of paternity without the need for founda-  
10 tion testimony or other proof of authenticity or  
11 accuracy.

12 “(G) Procedures which create a rebuttable  
13 or, at the option of the State, conclusive pre-  
14 sumption of paternity of a child, upon genetic  
15 testing results indicating a threshold probability  
16 of the alleged father being the father of the  
17 child.

18 “(H) Procedures requiring a default order  
19 to be entered in a paternity case upon a show-  
20 ing that process has been served on the defend-  
21 ant and any additional showing required by  
22 State law.”; and

23 (C) by inserting after paragraph (10) the  
24 following:

1           “(11) Procedures under which a State must  
2           give full faith and credit to a determination of pater-  
3           nity made by any other State, whether established  
4           through voluntary acknowledgment or through ad-  
5           ministrative or judicial processes.”.

6           (2) FURNISHING OF SOCIAL SECURITY NUM-  
7           BERS.—

8                   (A) IN GENERAL.—Section 466(a) (42  
9           U.S.C. 666(a)), as amended by paragraph  
10          (1)(C) of this subsection, is amended by insert-  
11          ing after paragraph (11) the following:

12          “(12)(A) Procedures under which, in the ad-  
13          ministration of any law involving the issuance,  
14          reissuance, or amendment of a birth certificate, the  
15          State shall require each parent to furnish to the  
16          State, or any agency or political subdivision thereof  
17          having administrative responsibility for the law in-  
18          volved, the social security account number (or num-  
19          bers, if the parent has more than 1 such number)  
20          issued to the parent, unless the State (in accordance  
21          with regulations prescribed by the Secretary) finds  
22          good cause for not requiring the furnishing of the  
23          number.

24          “(B) Procedures under which any number fur-  
25          nished under subparagraph (A) shall be made avail-

1       able to the agency administering the State plan  
2       under this part, in accordance with Federal or State  
3       law or regulation.

4           “(C) Procedures under which—

5               “(i) any number furnished under subpara-  
6               graph (A) shall not be recorded on the birth  
7               certificate; and

8               “(ii) any social security account number,  
9               obtained with respect to the issuance by the  
10              State of any birth certificate, shall not be used  
11              for other than child support purposes, unless  
12              section 7(a) of the Privacy Act of 1974 does  
13              not prohibit the State from requiring the disclo-  
14              sure of the number, by reason of the State hav-  
15              ing adopted, before January 1, 1975, a statute  
16              or regulation requiring such disclosure.”.

17           (B) CONFORMING AMENDMENTS.—Section  
18           205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is  
19           amended—

20               (i) by striking “(ii) In the administra-  
21               tion of any law involving the issuance” and  
22               inserting “(ii) In the administration of any  
23               law involving the issuance, reissuance, or  
24               amendment”; and

1 (ii) by striking “any purpose other  
2 than for the enforcement of child support  
3 orders in effect in the State” and inserting  
4 “other than child support purposes”.

5 (c) CONFORMING REPEAL.—Section 468 (42 U.S.C.  
6 668) is hereby repealed.

7 (d) EFFECTIVE DATE.—The amendments and repeal  
8 made by this section shall become effective with respect  
9 to a State—

10 (1) on October 1, 1993, or, if later

11 (2) upon enactment by the legislature of the  
12 State of all laws required by such amendments,

13 but in no event later than the 1st day of the 1st calendar  
14 quarter beginning after the close of the 1st regular session  
15 of the State legislature that begins after the date of the  
16 enactment of this Act. For purposes of the preceding sen-  
17 tence, in the case of a State that has a 2-year legislative  
18 session, each year of such session shall be deemed to be  
19 a separate regular session of the State legislature.

20 **SEC. 13242. ENFORCEMENT OF HEALTH INSURANCE SUP-**  
21 **PORT.**

22 (a) STATE PLAN REQUIREMENTS.—Section 454(a)  
23 (42 U.S.C. 654(a)) is amended—

24 (1) by striking “and” at the end of paragraph  
25 (23);



1           (2) by striking the period at the end of para-  
2           graph (24) and inserting “; and”; and

3           (3) by inserting after paragraph (24) the fol-  
4           lowing:

5           “(25) provide assurances satisfactory to the  
6           Secretary that the State has in effect laws applicable  
7           to health insurers and insurance policies or pro-  
8           grams subject to the laws of the State that—

9           “(A) prohibit insurers’ consideration, in  
10          determining an individual’s eligibility for or cov-  
11          erage under any such policy or program, of  
12          such individual’s eligibility for or coverage  
13          under the plan of any State under title XIX;

14          “(B) provide that, where an individual as-  
15          signs rights to any State in accordance with  
16          section 1912, that State is subrogated, to the  
17          extent of medical assistance furnished, to the  
18          individual’s rights under any health insurance  
19          policy or program;

20          “(C) prohibit insurers from applying, to  
21          State agencies administering programs under  
22          title XIX and acting as agents or subrogees (for  
23          purposes of insurance policies or programs of  
24          such insurers) of individuals receiving medical  
25          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

1 child's other parent or by the State agency  
2 administering the program under this part  
3 or title XIX; and

4 “(F) in any case where a child is covered  
5 under the health insurance of a noncustodial  
6 parent, require insurers—

7 “(i) to permit the custodial parent (or  
8 service provider, with the custodial par-  
9 ent's approval), or any State agency ad-  
10 ministering a program under title XIX, to  
11 submit claims for covered services without  
12 the approval of the noncustodial parent,  
13 and

14 “(ii) to make payment on claims sub-  
15 mitted in accordance with clause (i) di-  
16 rectly to the custodial parent, service pro-  
17 vider, or State agency submitting such  
18 claim;

19 “(26) provide assurances satisfactory to the  
20 Secretary that the State has in effect laws requiring  
21 employers doing business in the State—

22 “(A) upon notice of a court or administra-  
23 tive order requiring an employee to provide  
24 health insurance coverage for the employee's  
25 child, and upon application by such employee

1 (or, where such employee fails to make applica-  
2 tion, by the child's other parent or the State  
3 agency administering the program under this  
4 part or title XIX), to permit enrollment of such  
5 child at any time as a dependent of the em-  
6 ployee under the employer's group health insur-  
7 ance;

8 “(B) to permit disenrollment from such  
9 group health insurance by such employee, or  
10 elimination of coverage of such child, only upon  
11 receipt of satisfactory evidence, in writing,  
12 that—

13 “(i) such court or administrative  
14 order is no longer in effect, or

15 “(ii) the employee has enrolled or will  
16 enroll in alternative health insurance cover-  
17 ing such child which will take effect imme-  
18 diately upon the effective date of such  
19 disenrollment; and

20 “(C) to withhold from such employee's  
21 compensation the employee's share (if any) of  
22 premiums for such health insurance, and to pay  
23 such share of premiums to the insurer;

24 “(27) provide assurances satisfactory to the  
25 Secretary that the State has in effect laws requiring

1 the State agency to garnish the wages, salary, or  
2 other employment income of, and to withhold  
3 amounts from State tax refunds to, any person  
4 who—

5 “(A) is required by court or administrative  
6 order to provide coverage of the costs of medi-  
7 cal services to an individual eligible for medical  
8 assistance under title XIX,

9 “(B) has received payment from a third  
10 party for the costs of medical services to such  
11 individual, and

12 “(C) has not used such payments to reim-  
13 burse, as appropriate, either such individual or  
14 the provider of such services,

15 to the extent necessary to reimburse the State agen-  
16 cy for expenditures for such costs under its plan  
17 under title XIX, but any claims for current or past-  
18 due child support shall take priority over any such  
19 claims for the costs of medical services.”.

20 (b) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by  
22 subsection (a) apply to calendar quarters beginning  
23 on or after April 1, 1994, except as provided in  
24 paragraph (2).

1           (2) EXTENSION FOR STATE LAW AMEND-  
2           MENT.—In the case of a State plan under part D of  
3           title IV of the Social Security Act which the Sec-  
4           retary of Health and Human Services determines re-  
5           quires State legislation in order for the plan to meet  
6           the additional requirements imposed by the amend-  
7           ments made by subsection (a), the State plan shall  
8           not be regarded as failing to comply with the re-  
9           quirements of such title solely on the basis of its  
10          failure to meet these additional requirements before  
11          the 1st day of the 1st calendar quarter beginning  
12          after the close of the 1st regular session of the State  
13          legislature that begins after the date of enactment of  
14          this Act. For purposes of the preceding sentence, in  
15          the case of a State that has a 2-year legislative ses-  
16          sion, each year of such session shall be deemed to  
17          be a separate regular session of the State legislature.

18 **SEC. 13243. REPORTS TO CREDIT BUREAUS ON PERSONS**

19 **DELINQUENT IN CHILD SUPPORT PAYMENTS.**

20          (a) IN GENERAL.—Section 466(a)(7) (42 U.S.C.  
21 666(a)(7)) is amended—

22               (1) by striking “upon the request of such agen-  
23               cy” and inserting “, and procedures which require  
24               the State to periodically report to any such agency  
25               the name of any parent who owes overdue support

1 and is at least 2 months delinquent in the payment  
2 of such support and the amount of such delinquency  
3 unless the agency requests not to receive such infor-  
4 mation”; and

5 (2) by striking “(C) a fee” and all that follows  
6 through “by the State” and inserting “, and (C)  
7 such information shall not be made available to (i)  
8 a consumer reporting agency which the State deter-  
9 mines does not have sufficient capability to system-  
10 atically and timely make accurate use of such infor-  
11 mation, or (ii) an entity which has not furnished evi-  
12 dence satisfactory to the State that the entity is a  
13 consumer reporting agency”.

14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-  
16 graph (2), the amendments made by subsection (a)  
17 shall take effect on October 1, 1994.

18 (2) EXCEPTION.—If the Secretary of Health  
19 and Human Services determines that a State is un-  
20 able to comply with the amendments made by sub-  
21 section (a), such State shall be exempt from compli-  
22 ance with such amendments until the State estab-  
23 lishes an automated data processing and information  
24 retrieval system under section 454(24) of the Social

1 Security Act, or October 1, 1995, whichever occurs  
2 earlier.

3 **CHAPTER 3—SUPPLEMENTAL SECURITY**  
4 **INCOME**

5 **SEC. 13251. FEES FOR FEDERAL ADMINISTRATION OF**  
6 **STATE SUPPLEMENTARY PAYMENTS.**

7 (a) IN GENERAL.—

8 (1) OPTIONAL STATE SUPPLEMENTARY PAY-  
9 MENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is  
10 amended—

11 (A) by inserting “(1)” after “(d)”;

12 (B) by inserting “, plus an administration  
13 fee assessed in accordance with paragraph (2)  
14 and any additional services fee charged in ac-  
15 cordance with paragraph (3)” before the period;  
16 and

17 (C) by adding after and below the end the  
18 following:

19 “(2)(A) The Secretary shall assess each State an ad-  
20 ministration fee in an amount equal to—

21 “(i) the number of supplementary payments  
22 made by the Secretary on behalf of the State under  
23 this section for any month in a fiscal year; multi-  
24 plied by

25 “(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).

1       “(C) The additional services fee shall be payable in  
2 advance or by way of reimbursement.

3       “(4) All administration fees and additional services  
4 fees collected pursuant to this subsection shall be depos-  
5 ited in the general fund of the Treasury of the United  
6 States as miscellaneous receipts.”.

7               (2) MANDATORY STATE SUPPLEMENTARY PAY-  
8 MENTS.—Section 212(b)(3) of Public Law 93–66  
9 (42 U.S.C. 1382 note) is amended—

10               (A) by inserting “(A)” after “(3)”;

11               (B) by inserting “, plus an administration  
12 fee assessed in accordance with subparagraph  
13 (B) and any additional services fee charged in  
14 accordance with subparagraph (C)” before the  
15 period; and

16               (C) by adding after and below the end the  
17 following:

18       “(B)(i) The Secretary shall assess each State an ad-  
19 ministration fee in an amount equal to—

20               “(I) the number of supplementary payments  
21 made by the Secretary on behalf of the State under  
22 this subsection for any month in a fiscal year; multi-  
23 plied by

24               “(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).

3       “(D) All administration fees and additional services  
4 fees collected pursuant to this paragraph shall be depos-  
5 ited in the general fund of the Treasury of the United  
6 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.

17 **SEC. 13252. EXCLUSION FROM INCOME OF STATE RELOCA-**  
18 **TION ASSISTANCE.**

Section 5035(c) of the Omnibus Budget Reconcili-  
ation 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

25 (2) by adding at the end the following:

1       “(2) The amendments made by subsection (a) shall  
2 apply with respect to benefits for calendar months begin-  
3 ning on or after May 1, 1991.”.

4 **SEC. 13253. PREVENTION OF ADVERSE EFFECTS ON ELIGI-**  
5 **BILITY FOR, AND AMOUNT OF, BENEFITS**  
6 **WHEN SPOUSE OR PARENT OF BENEFICIARY**  
7 **IS ABSENT FROM THE HOUSEHOLD DUE TO**  
8 **ACTIVE MILITARY SERVICE.**

9       (a) ABSENT PERSON GENERALLY DEEMED TO BE  
10 LIVING IN THE HOUSEHOLD.—Section 1614(f) (42  
11 U.S.C. 1382c(f)) is amended by adding at the end the  
12 following:

13       “(4) For purposes of paragraphs (1) and (2), a  
14 spouse or parent (or spouse of such a parent) who is ab-  
15 sent from the household in which the individual lives due  
16 solely to a duty assignment as a member of the Armed  
17 Forces on active duty shall, in the absence of evidence to  
18 the contrary, be deemed to be living in the same household  
19 as the individual.”.

20       (b) EXCLUSION FROM INCOME OF HAZARDOUS DUTY  
21 PAY RECEIVED WHILE IN ACTIVE MILITARY SERVICE.—  
22 Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

23               (1) in paragraph (18), by striking “and” the  
24 2nd place such term appears;

1           (2) in paragraph (19), by striking the period  
2           and inserting “; and”; and

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

4           “(20) special pay received pursuant to section  
5           310 of title 37, United States Code.”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7           this section shall take effect on the 1st day of the 2nd  
8           month that begins after the date of the enactment of this  
9           Act.

10   **SEC. 13254. ELIGIBILITY FOR CHILDREN OF ARMED**  
11                   **FORCES PERSONNEL RESIDING OUTSIDE THE**  
12                   **UNITED STATES OTHER THAN IN FOREIGN**  
13                   **COUNTRIES.**

14           (a) IN GENERAL.—Section 1614(a)(1)(B)(ii) (42  
15           U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking “the  
16           District of Columbia” and all that follows to the period  
17           and inserting “and who, for the month before the parent  
18           reported for such assignment, received a benefit under this  
19           title”.

20           (b) EFFECTIVE DATE.—The amendment made by  
21           subsection (a) shall take effect on October 1, 1993.

1 **SEC. 13255. DEFINITION OF DISABILITY FOR CHILDREN**  
2 **UNDER AGE 18 APPLIED TO ALL INDIVIDUALS**  
3 **UNDER AGE 18.**

4 (a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C.  
5 1382c(a)(3)(A)) is amended by striking “a child” and in-  
6 serting “an individual”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply to determinations made on or  
9 after the date of the enactment of this Act.

10 **SEC. 13256. VALUATION OF CERTAIN IN-KIND SUPPORT**  
11 **AND MAINTENANCE WHEN THERE IS A COST**  
12 **OF LIVING ADJUSTMENT IN BENEFITS.**

13 (a) IN GENERAL.—Section 1611(c) (42 U.S.C.  
14 1382(c)) is amended—

15 (1) in paragraph (1), by striking “and (5)” and  
16 inserting “(5), and (6)”; and

17 (2) by redesignating paragraphs (6) and (7) as  
18 paragraphs (7) and (8), respectively; and

19 (3) by inserting after paragraph (5) the follow-  
20 ing:

21 “(6) The dollar amount in effect under subsection (b)  
22 as a result of any increase in benefits under this title by  
23 reason of section 1617 shall be used to determine the value  
24 of any in-kind support and maintenance required to be  
25 taken into account in determining the benefit payable  
26 under this title to an individual (and the eligible spouse,

1 if any, of the individual) for the 1st 2 months for which  
 2 the increase in benefits applies.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
 4 subsection (a) shall apply to benefits paid for months after  
 5 the calendar year 1993.

6 **SEC. 13257. EXCLUSION FROM INCOME OF CERTAIN**  
 7 **AMOUNTS RECEIVED BY INDIANS FROM IN-**  
 8 **TERESTS HELD IN TRUST.**

9 (a) IN GENERAL.—Section 8 of the Act of October  
 10 19, 1973, (25 U.S.C. 1408) is amended by inserting “,  
 11 and the first \$2,000 per year of income received by indi-  
 12 vidual Indians that is derived from such interests shall not  
 13 be considered income,” after “resource”.

14 (b) EFFECTIVE DATE.—The amendment made by  
 15 this section shall take effect on January 1, 1993.

16 **CHAPTER 4—AID TO FAMILIES WITH**  
 17 **DEPENDENT CHILDREN**

18 **SEC. 13261. 50 PERCENT FEDERAL MATCH OF STATE AD-**  
 19 **MINISTRATIVE COSTS.**

20 (a) IN GENERAL.—Section 403(a)(3) (42 U.S.C.  
 21 603(a)(3)) is amended by striking “the sum of” and all  
 22 that follows through the end of subparagraph (D) and in-  
 23 serting “50 percent of the total amounts expended during  
 24 such quarter as the Secretary has found necessary for the  
 25 proper and efficient administration of the State plan (in-



cluding any amounts expended by the State to carry out initial evaluations under section 486(a)),’’.

(b) OPTIONAL USE OF CERTAIN PROCEDURES TO VERIFY IMMIGRATION STATUS OF AFDC APPLICANTS.— Section 1137(d) (42 U.S.C. 1320b–7(d)) is amended—

(1) in each of paragraphs (3) and (4)(B)(i), by inserting ‘‘(or, in the case of the program specified in subsection (b)(1), may)’’ after ‘‘shall’’; and

(2) in paragraph (4), by inserting ‘‘(if required)’’ after ‘‘verified’’.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to payments made for calendar quarters beginning on or after April 1, 1994.

(2) DELAYED APPLICABILITY TO CERTAIN STATES.—

(A) IN GENERAL.—The Secretary of Health and Human Services may delay the applicability to a qualified State of the amendments made by subsection (a) until the 1st calendar quarter that begins after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this 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 PARTICIPA-  
TION 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 (1) by striking “3” and inserting “4”;

2 (2) in paragraph (1), by inserting “criteria for”  
3 after “develop”;

4 (3) in paragraph (2), by striking “for” and in-  
5 serting “with respect to”; and

6 (4) in the 2nd sentence, by striking “under this  
7 subsection” and inserting “with respect to the pro-  
8 gram under this part”.

9 **SEC. 13264. MEASUREMENT AND REPORTING OF WELFARE**

10 **PARTICIPATION.**

11 (a) CONGRESSIONAL POLICY.—The Congress hereby  
12 declares that—

13 (1) it is the policy and responsibility of the  
14 Federal Government to reduce the rate at which,  
15 and the degree to which, families depend on income  
16 from welfare programs, and the duration of welfare  
17 participation, to assist families toward self-suffi-  
18 ciency, and to increase the living standards of low-  
19 income families, consistent with other essential na-  
20 tional goals;

21 (2) it is the policy of the United States to  
22 strengthen families and improve the life prospects of  
23 their children, to ensure that children grow up in  
24 families that are economically self-sufficient, and to

1 underscore the responsibility of parents to support  
2 their children;

3 (3) the Federal Government should help welfare  
4 recipients as well as individuals at risk of welfare  
5 participation to improve their education and job  
6 skills, to obtain access to high quality child care and  
7 other necessary support services, and to take such  
8 other steps as may assist them to meet their respon-  
9 sibilities to become financially independent; and

10 (4) it is the purpose of this section to provide  
11 the public with generally accepted measures of wel-  
12 fare participation so that the public can track such  
13 participation over time and determine whether  
14 progress is being made in reducing the rate at  
15 which, and the degree to which, families depend on  
16 income from welfare programs, and the duration of  
17 welfare participation.

18 (b) DEVELOPMENT OF WELFARE PARTICIPATION  
19 MEASURES AND PREDICTORS.—

20 (1) IN GENERAL.—The Secretary of Health and  
21 Human Services (in this section referred to as the  
22 “Secretary”) in consultation with the Secretary of  
23 Agriculture shall develop—

24 (A) measures of—

1 (i) the rate at which, and the degree  
2 to which, families depend on income from  
3 welfare programs; and

4 (ii) the duration of welfare participa-  
5 tion; and

6 (B) predictors of welfare participation.

7 (2) INTERIM REPORT.—Not later than 2 years  
8 after the date of the enactment of this section, the  
9 Secretary shall provide an interim report containing  
10 conclusions resulting from such development, to—

11 (A) the Committee on Ways and Means of  
12 the House of Representatives;

13 (B) the Committee on Education and  
14 Labor of the House of Representatives;

15 (C) the Committee on Agriculture of the  
16 House of Representatives;

17 (D) the Committee on Energy and Com-  
18 merce of the House of Representatives;

19 (E) the Committee on Finance of the  
20 Senate;

21 (F) the Committee on Labor and Human  
22 Resources of the Senate; and

23 (G) the Committee on Agriculture, Nutri-  
24 tion, and Forestry of the Senate.

1       (c) ADVISORY BOARD ON WELFARE PARTICIPA-  
2 TION.—

3           (1) ESTABLISHMENT.—There is established an  
4 Advisory Board on Welfare Participation (in this  
5 section referred to as the “Board”).

6           (2) COMPOSITION.—The Board shall be com-  
7 posed of 12 members with equal numbers to be ap-  
8 pointed by the House of Representatives, the Senate,  
9 and the President. The Board shall be composed of  
10 experts in the fields of welfare research and statis-  
11 tical methodology, representatives of State and local  
12 welfare agencies, and organizations concerned with  
13 welfare issues.

14          (3) VACANCIES.—Any vacancy occurring in the  
15 membership of the Board shall be filled in the same  
16 manner as the original appointment for the position  
17 being vacated. The vacancy shall not affect the  
18 power of the remaining members to execute the  
19 duties of the Board.

20          (4) DUTIES.—Duties of the Board shall in-  
21 clude—

22           (A) providing advice and recommendations  
23 to the Secretary on the development of meas-  
24 ures of the rate at which, and the degree to  
25 which, families depend on income from welfare

1 programs, and the duration of welfare partici-  
2 pation; and

3 (B) providing advice on the development  
4 and presentation of the report required by sub-  
5 section (d).

6 (5) TRAVEL EXPENSES.—Members of the  
7 Board shall not be compensated, but shall receive  
8 travel expenses, including per diem in lieu of subsist-  
9 ence, at rates authorized for employees of agencies  
10 under subchapter I of chapter 57 of title 5, United  
11 States Code, for each day the member is engaged in  
12 the performance of duties away from the home or  
13 regular place of business of the member.

14 (6) DETAIL OF FEDERAL EMPLOYEES.—The  
15 Secretary shall detail, without reimbursement, any  
16 of the personnel of the Department of Health and  
17 Human Services to the Board to assist the Board in  
18 carrying out its duties. Any detail shall not interrupt  
19 or otherwise affect the civil service status or privi-  
20 leges of the Federal employee.

21 (7) VOLUNTARY SERVICE.—Notwithstanding  
22 section 1342 of title 31, United States Code, the  
23 Board may accept the voluntary services provided by  
24 a member of the Board.

1           (8) TERMINATION OF BOARD.—The Board shall  
2       be terminated at such time as the Secretary deter-  
3       mines the duties described in subsection (c)(4) have  
4       been completed, but in any case prior to the submis-  
5       sion of the 1st report required by subsection (d).

6       (d) ANNUAL WELFARE PARTICIPATION REPORTS.—

7           (1) PREPARATION.—The Secretary shall pre-  
8       pare annual reports on welfare participation in the  
9       United States.

10          (2) COVERAGE.—The report shall include anal-  
11       ysis of families and individuals receiving assistance  
12       under means-tested benefit programs, including the  
13       program of aid to families with dependent children  
14       under part A of title IV of the Social Security Act  
15       (42 U.S.C. 601 et seq.), the food stamp program  
16       under the Food Stamp Act of 1977 (7 U.S.C. 2011  
17       et seq.), and the supplemental security income pro-  
18       gram under title XVI of the Social Security Act (42  
19       U.S.C. 1381 et seq.), or as general assistance under  
20       programs administered by State and local govern-  
21       ments.

22          (3) CONTENTS.—Each such report shall set  
23       forth, for each means-tested benefit program de-  
24       scribed in paragraph (2)—

25                (A) measures of—



1 (i) the rate at which, and the degree  
2 to which, families depend on income from  
3 welfare programs; and

4 (ii) the duration of welfare participa-  
5 tion;

6 (B) trends in the measures;

7 (C) predictors of welfare participation;

8 (D) the causes of welfare participation;

9 (E) patterns of multiple program partici-  
10 pation;

11 (F) such other information as the Sec-  
12 retary deems relevant; and

13 (G) such recommendations for legislation,  
14 which shall not include proposals to reduce eli-  
15 gibility levels or impose barriers to program ac-  
16 cess, as the Secretary may determine to be nec-  
17 essary or desirable to reduce—

18 (i) the rate at which, and the degree  
19 to which, families depend on income from  
20 welfare programs; and

21 (ii) the duration of welfare participa-  
22 tion.

23 (4) SUBMISSION.—The Secretary shall submit  
24 such reports not later than 3 years after the date of  
25 the enactment of this section, and annually there-

1 after, to the committees specified in subsection  
2 (b)(2). Each such report shall be transmitted during  
3 the 1st 60 days of each regular session of the  
4 Congress.

5 **SEC. 13265. NEW HOPE DEMONSTRATION PROJECT.**

6 (a) IN GENERAL.—The Secretary of Health and  
7 Human Services (in this section referred to as the “Sec-  
8 retary”) shall provide for a demonstration project for a  
9 qualified program to be conducted in Milwaukee, Wiscon-  
10 sin, in accordance with this section.

11 (b) PAYMENTS.—For each calendar quarter in which  
12 there is a qualified program approved under this sub-  
13 section, the Secretary shall pay to the operator of the  
14 qualified program, for no more than 20 calendar quarters,  
15 an amount equal to the aggregate amount that would oth-  
16 erwise have been payable to the State with respect to par-  
17 ticipants in the program for such calendar quarter, in the  
18 absence of the program, for cash assistance and child care  
19 under part A of title IV of the Social Security Act and  
20 for administrative expenses related to such assistance. In  
21 calculating the amount of such payment, the expenses of  
22 the program incurred in evaluating the effects of the pro-  
23 gram may be treated as amounts necessary for the proper  
24 and efficient administration of the program, for purposes  
25 of part A of title IV of such Act.

1 (c) DEMONSTRATION PROJECT DESCRIBED.—For  
2 purposes of this section, the term “qualified program”  
3 means a program operated—

4 (1) by The New Hope Project, Inc., a private,  
5 not-for-profit corporation incorporated under the  
6 laws of the State of Wisconsin (in this section re-  
7 ferred to as the “operator”), which offers low-income  
8 residents of Milwaukee, Wisconsin, employment,  
9 wage supplements, child care, health care, and coun-  
10 seling and training for job retention or advancement;  
11 and

12 (2) in accordance with an application submitted  
13 by the operator of the program and approved by the  
14 Secretary based on the Secretary’s determination  
15 that the application satisfies the requirements of  
16 subsection (d).

17 (d) CONTENTS OF APPLICATION.—The operator of  
18 the qualified program shall provide, in its application to  
19 conduct a demonstration project for the program, that the  
20 following terms and conditions will be met:

21 (1) The operator will develop and implement an  
22 evaluation plan designed to provide reliable informa-  
23 tion on the impact and implementation of the pro-  
24 gram. The evaluation plan will include adequately

1        sized groups of project participants and control  
2        groups assigned at random.

3            (2) The operator will develop and implement a  
4        plan addressing the services and assistance to be  
5        provided by the program, the timing and determina-  
6        tion of payments from the Secretary to the operator  
7        of the program, and the roles and responsibilities of  
8        the Secretary and the operator with respect to meet-  
9        ing the requirements of this paragraph.

10           (3) The operator will specify a methodology for  
11        determining expenditures to be paid to the operator  
12        by the Secretary, with assistance from the Secretary  
13        in calculating the amount that would otherwise have  
14        been payable to the State in the absence of the pro-  
15        gram, pursuant to subsection (b).

16           (4) The operator will issue an interim and final  
17        report on the results of the evaluation described in  
18        paragraph (1) to the Secretary at such times as  
19        required by the Secretary.

20           (e) EFFECTIVE DATE.—This section shall take effect  
21        on the 1st day of the 1st calendar quarter that begins  
22        after the date of enactment of this Act.

1 **SEC. 13266. DELAY IN REQUIREMENT THAT OUTLYING**  
2 **AREAS OPERATE AN AFDC-UP PROGRAM.**

3 Section 401(g)(2) of the Family Support Act of 1988  
4 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by strik-  
5 ing “October 1, 1992” and inserting “the date of the re-  
6 peal of the limitations contained in section 1108(a) of the  
7 Social Security Act on payments to such jurisdictions for  
8 purposes of making maintenance payments under parts A  
9 and E of title IV of such Act”.

10 **SEC. 13267. ADULT IN FAMILY OR HOUSEHOLD ALLOWED**  
11 **TO ATTEST TO CITIZENSHIP STATUS OF FAM-**  
12 **ILY OR HOUSEHOLD MEMBERS.**

13 (a) IN GENERAL.—Section 1137(d)(1)(A) (42 U.S.C.  
14 1320b–7(d)(1)(A)) is amended—

15 (1) by inserting “(i)” after “(1)(A)”;

16 (2) by inserting “(other than the aid to families  
17 with dependent children program under part A of  
18 title IV of this Act)” after “any program listed in  
19 subsection (b)”;

20 (3) by adding at the end the following:

21 “(ii) The State shall require, as a condition of  
22 an individual’s eligibility for benefits under the aid  
23 to families with dependent children program under  
24 part A of title IV of this Act, a declaration in writ-  
25 ing, under penalty of perjury—

1           “(I) in the case of an individual who is an  
2           adult member of a family or household applying  
3           for or receiving such benefits, by such individ-  
4           ual or another adult member of such family or  
5           household on such individual’s behalf;

6           “(II) in the case of an individual who is a  
7           child, by an adult on the individual’s behalf; or

8           “(III) in the case of an individual born  
9           into a family or household receiving such bene-  
10          fits, by an adult member of such individual’s  
11          family or household on the individual’s behalf  
12          no later than the next redetermination of eligi-  
13          bility of such family or household following the  
14          birth of such individual,

15         stating whether the individual is a citizen or national  
16         of the United States, and, if that individual is not  
17         a citizen or national of the United States, that the  
18         individual is in a satisfactory immigration status.”.

19         (b) EFFECTIVE DATE.—The amendments made by  
20         subsection (a) shall become effective with respect to bene-  
21         fits provided on or after October 1, 1993.

1 **SEC. 13268. INCREASE IN STEPPARENT INCOME DIS-**  
2 **REGARD.**

3 (a) IN GENERAL.—Section 402(a)(31) (42 U.S.C.  
4 602(a)(31)) is amended by striking “\$75” and inserting  
5 “\$90”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall take effect on October 1, 1993, and  
8 shall apply to payments under part A of title IV of the  
9 Social Security Act for fiscal year 1994 and such pay-  
10 ments for succeeding fiscal years.

11 **SEC. 13269. EXTENSION OF NEW YORK STATE CHILD SUP-**  
12 **PORT DEMONSTRATION PROGRAM.**

13 Section 9122(g)(1) of the Omnibus Budget Reconcili-  
14 ation Act of 1987 (42 U.S.C. 602 note; 101 Stat. 1330–  
15 312) is amended by striking “five” and inserting “10”.

16 **SEC. 13270. EARLY CHILDHOOD DEVELOPMENT PROJECTS.**

17 Section 501(a) of the Family Support Act of 1988  
18 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by add-  
19 ing at the end the following:

20 “(4) For grants to States to conduct demonstration  
21 projects under this subsection, there are authorized to be  
22 appropriated not to exceed \$3,000,000 for each of the  
23 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



1 jobs skills if such program has been approved by the  
2 State agency;

3 “(5) there is a reduction in the number of  
4 hours worked by employees in lieu of temporary  
5 layoffs;

6 “(6) there is a plan of an employer (or an em-  
7 ployers association which is party to a collective bar-  
8 gaining agreement) approved by the State agency  
9 consisting of factors in this subsection or other fac-  
10 tors as the Secretary of Labor may find relevant;  
11 and

12 “(7) the employer continues to provide health  
13 benefits and pension benefits under a pension plan  
14 (as defined in section 3(35) of the Employee Retire-  
15 ment Income Security Act of 1974) to any employee  
16 whose workweek is reduced under such plan.

17 A short-time compensation program may also contain such  
18 other factors as the Secretary of Labor finds relevant.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Subparagraph (E) of section 3304(a)(4) of  
21 such Code is amended to read as follows:

22 “(E) amounts may be withdrawn for the  
23 payment of short-time compensation under a  
24 short-time compensation program approved by  
25 the Secretary of Labor:”.

1           (2) Paragraph (4) of section 3306(f) of such  
2       Code is amended to read as follows:

3           “(4) amounts may be withdrawn for the pay-  
4       ment of short-time compensation under a short-time  
5       compensation program approved by the Secretary of  
6       Labor.”.

7           (3) Section 303(a)(5) of the Social Security Act  
8       is amended by striking “the payment of short-time  
9       compensation under a plan approved by the Sec-  
10      retary of Labor” and inserting “the payment of  
11      short-time compensation under a short-time com-  
12      pensation program (as defined in section 3306(t) of  
13      the Internal Revenue Code of 1986) approved by the  
14      Secretary of Labor”.

15   **SEC. 13272. TECHNICAL AMENDMENT TO UNEMPLOYMENT**  
16                           **TRUST FUND.**

17       Paragraph (1) of section 905(b) of the Social Secu-  
18   rity Act is amended to read as follows:

19       “(b)(1) Except as provided in paragraph (3), the Sec-  
20   retary of the Treasury shall transfer (as of the close of  
21   each month), from the employment security administra-  
22   tion account to the extended unemployment compensation  
23   account established by subsection (a), an amount equal to  
24   20 percent of the amount by which—

1           “(A) the transfers to such account pursuant to  
2           section 901(b)(2) during such month, exceed

3           “(B) the payments during such month from the  
4           employment security administration account pursu-  
5           ant to section 901(b)(3) and (d).

6 If for any month the payments referred to in subpara-  
7 graph (B) exceed the transfers referred to in subpara-  
8 graph (A), proper adjustments shall be made in the  
9 amounts subsequently transferred.”.

10 **SEC. 13273. EXTENSION OF REPORTING DATE FOR ADVI-**  
11 **SORY COUNCIL.**

12           In the case of the first Advisory Council on Unem-  
13 ployment Compensation established under section 908 of  
14 the Social Security Act, subsection (f) of such section 908  
15 shall be applied—

16           (1) by substituting “3rd year” for “2d year” in  
17           paragraph (1), and

18           (2) by substituting “February 1, 1995” for  
19           “February 1, 1994” in paragraph (2).

20 **SEC. 13274. CLARIFICATION OF EMERGENCY UNEMPLOY-**  
21 **MENT BENEFITS PROVISIONS.**

22           (a) IN GENERAL.—Subclauses (II) and (III) of sec-  
23 tion 102(b)(2)(A)(v) of the Emergency Unemployment  
24 Compensation Act of 1991 are amended to read as follows:

1           “(II) The requirements of this  
2           subclause are met for any week if the  
3           national rate of total unemployment  
4           (seasonally adjusted) for each of the 2  
5           most recent calendar months (not  
6           averaged) for which data are pub-  
7           lished before the close of such week is  
8           less than 7 percent, and if the re-  
9           quirements of subclause (III) are not  
10          met for such week.

11          “(III) The requirements of this  
12          subclause are met for any week if the  
13          national rate of total unemployment  
14          (seasonally adjusted) for each of the 2  
15          most recent calendar months (not  
16          averaged) for which data are pub-  
17          lished before the close of such week is  
18          less than 6.8 percent.”.

19          (b) EFFECTIVE DATE.—The amendment made by  
20          subsection (a) shall apply as if included in the amend-  
21          ments made by section 101(b) of the Unemployment Com-  
22          pensation Amendments of 1992.

1 **SEC. 13275. MODIFICATIONS TO EXTENDED UNEMPLOY-**  
2 **MENT PROGRAM.**

3 (a) INCREASE IN REIMBURSEMENT RATE.—Sub-  
4 section (a) of section 204 of the Federal-State Extended  
5 Unemployment Compensation Act of 1970 is amended by  
6 striking “one-half” and inserting “75 percent”.

7 (b) REPEAL OF SPECIAL ELIGIBILITY REQUIRE-  
8 MENTS.—Subsection (a) of section 202 of such Act is  
9 amended—

10 (1) by striking paragraphs (3), (4), and (7),

11 (2) by redesignating paragraphs (5) and (6) as  
12 paragraphs (3) and (4), respectively, and

13 (3) by striking “paragraphs (3), (4), and (5)”  
14 in paragraph (4) (as redesignated by paragraph (1)  
15 of this subsection) and inserting “paragraph (3)”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendments made by  
18 this section shall apply to weeks beginning after Oc-  
19 tober 2, 1993.

20 (2) SPECIAL RULE.—In the case of any State  
21 the legislature of which has not been in session for  
22 at least 30 calendar days (whether or not successive)  
23 between the date of the enactment of this Act and  
24 October 1, 1993, the amendment made by sub-  
25 section (b) shall not be a requirement of the State  
26 law of such State before the date 30 calendar days

1 after the 1st day on which such legislature is in ses-  
2 sion on or after October 1, 1993.

3 **SEC. 13276. EXTENSION OF CURRENT FEDERAL UNEM-**  
4 **PLOYMENT RATE.**

5 Section 3301 of the Internal Revenue Code of 1986  
6 is amended—

7 (1) by striking “1996” in paragraph (1) and in-  
8 serting “1998”, and

9 (2) by striking “1997” in paragraph (2) and in-  
10 serting “1999”.

11 **SEC. 13277. DISCLOSURE OF INFORMATION TO RAILROAD**  
12 **RETIREMENT BOARD.**

13 Section 6103(l)(1)(C) of the Internal Revenue Code  
14 of 1986 is amended to read as follows:

15 “(C) taxes imposed by chapters 22 and  
16 23A, to the Railroad Retirement Board for pur-  
17 poses of its administration of the Railroad Re-  
18 tirement and Railroad Unemployment Insur-  
19 ance Acts.”.

1       **CHAPTER 6—TECHNICAL PROVISIONS**

2       **SEC. 13281. CORRECTIONS RELATED TO THE INCOME SE-**  
3                   **CURITY AND HUMAN RESOURCES PROVI-**  
4                   **SIONS OF THE OMNIBUS BUDGET RECONCILI-**  
5                   **ATION ACT OF 1990.**

6           (a)    AMENDMENT    RELATED    TO    SECTION  
7   5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget  
8   Reconciliation Act of 1990 (Public Law 101–508) is  
9   amended by striking “a semicolon” and inserting  
10 “‘; and’ ”.

11          (b)    REPEAL OF PROVISION INADVERTENTLY IN-  
12   CLUDED.—Section 5057 of the Omnibus Budget Rec-  
13   onciliation Act of 1990 (Public Law 101–508), and the  
14   amendment made by such section, are hereby repealed,  
15   and section 1139(d) of the Social Security Act shall be  
16   applied and administered as if such section 5057 had  
17   never been enacted.

18          (c)    AMENDMENT    RELATED    TO    SECTION  
19   5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus  
20   Budget Reconciliation Act of 1990 (Public Law 101–508;  
21   104 Stat. 1388–266) is amended to read as follows:

22                   “(B) TITLE XVI.—Section 1631(a)(2)(F)  
23                   (42 U.S.C. 1383(a)(2)(F)), as so redesignated  
24                   by subsection (c)(2) of this section, is amended  
25                   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



1           (3) in clause (iv) (as so redesignated), by strik-  
2           ing “(iii), and (iv)” and inserting “and (iii)”.

3           (f)    AMENDMENTS    RELATED    TO    SECTION  
4   5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C.  
5   1383(c)(1)(B)) is amended by striking “paragraph (1)”  
6   each place such term appears and inserting “subpara-  
7   graph (A)”.

8           (g)    AMENDMENT    RELATED    TO    SECTION  
9   5109(a)(2).—Section 1631 (42 U.S.C. 1383) is amended  
10   by redesignating the subsection (n) added by section  
11   5109(a)(2) of the Omnibus Budget Reconciliation Act of  
12   1990, as subsection (o).

13          (h)    AMENDMENTS    RELATED    TO    SECTION  
14   11115(b)(2).—Section 11115(b)(2) of the Omnibus Budg-  
15   et Reconciliation Act of 1990 (Public Law 101–508) is  
16   amended—

17               (1) in subparagraph (A), by striking “para-  
18               graph (8)” and inserting “paragraph (9)”;

19               (2) in subparagraph (B), by striking “para-  
20               graph (9)” and inserting “paragraph (10)”;

21               (3) in subparagraph (C), by redesignating the  
22               new paragraph added thereby as paragraph (11).

23          (i)    AMENDMENT    RELATED    TO    SECTION  
24   13101(d)(2).—Section 256(k)(2)(A) of the Balanced

1 Budget and Emergency Deficit Control Act of 1985 is  
2 amended—

3 (1) by striking “—” the 2nd place it appears  
4 and all that follows through “(I)” and

5 (2) by striking “; or” and all that follows  
6 through “(II)” and inserting “, except that a State  
7 may not be allotted an amount under this subpara-  
8 graph that exceeds”.

9 (j) EFFECTIVE DATE.—Each amendment made by  
10 this section shall take effect as if included in the provision  
11 of the Omnibus Budget Reconciliation Act of 1990 to  
12 which the amendment relates at the time such provision  
13 became law.

14 **SEC. 13282. TECHNICAL CORRECTIONS RELATED TO THE**  
15 **HUMAN RESOURCE AND INCOME SECURITY**  
16 **PROVISIONS OF THE OMNIBUS BUDGET REC-**  
17 **ONCILIATION ACT OF 1989.**

18 (a) AMENDMENT RELATING TO SECTION 8004(a).—  
19 Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is  
20 amended by striking “a fiscal” and inserting “the fiscal”.

21 (b) AMENDMENT RELATING TO SECTION 8006(a).—  
22 Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amend-  
23 ed by striking “474(a)(3)(B)” and inserting  
24 “474(a)(3)(C)”.

1       (c) AMENDMENT RELATING TO SECTION  
2 8007(b)(3).—Subparagraph (D) of section 475(5) (42  
3 U.S.C. 675(5)(D)) is amended by moving such subpara-  
4 graph 2 ems to the right so that the left margin of such  
5 subparagraph is aligned with the left margin of subpara-  
6 graph (C) of such section.

7       (d) EFFECTIVE DATE.—Each amendment made by  
8 this section shall take effect as if the amendment had been  
9 included in the provision of the Omnibus Budget Rec-  
10 onciliation Act of 1989 to which the amendment relates,  
11 at the time the provision became law.

12 **SEC. 13283. ELIMINATION OF OBSOLETE PROVISIONS RE-**  
13 **LATING TO TREATMENT OF THE EARNED IN-**  
14 **COME TAX CREDIT.**

15       (a) TREATMENT OF EITC AS EARNED INCOME.—  
16 Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended  
17 by striking subparagraph (C) and by redesignating sub-  
18 paragraphs (D) and (E) as subparagraphs (C) and (D),  
19 respectively.

20       (b) ADJUSTMENT OF BENEFITS DUE TO TREAT-  
21 MENT OF EITC AS EARNED INCOME.—Section 1631(b)  
22 (42 U.S.C. 1383(b)) is amended by striking paragraph (3)  
23 and by redesignating paragraphs (4) and (5) as para-  
24 graphs (3) and (4), respectively.

1 **SEC. 13284. REDESIGNATION OF CERTAIN PROVISIONS.**

2 Section 1631(e)(6) (42 U.S.C. 1383(e)(6)) is amend-  
3 ed by redesignating subparagraphs (1) and (2) as sub-  
4 paragraphs (A) and (B), respectively.

5 **Subtitle C—Medicare Program**

6 **SEC. 13400. REFERENCES IN SUBTITLE; TABLE OF CON-**  
7 **TENTS OF SUBTITLE.**

8 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
9 cept as otherwise specifically provided, whenever in this  
10 subtitle an amendment is expressed in terms of an amend-  
11 ment to or repeal of a section or other provision, the ref-  
12 erence shall be considered to be made to that section or  
13 other provision of the Social Security Act.

14 (b) REFERENCES TO OBRA.—In this subtitle, the  
15 terms “OBRA-1986”, “OBRA-1987”, “OBRA-1989”,  
16 and “OBRA-1990” refer to the Omnibus Budget Rec-  
17 onciliation Act of 1986 (Public Law 99-509), the Omni-  
18 bus Budget Reconciliation Act of 1987 (Public Law 100-  
19 203), the Omnibus Budget Reconciliation Act of 1989  
20 (Public Law 101-239), and the Omnibus Budget Rec-  
21 onciliation Act of 1990 (Public Law 101-508), respec-  
22 tively.

23 (c) TABLE OF CONTENTS OF SUBTITLE.—The table  
24 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. 13528. 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 erythropoietin.
- 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.

## 1 **CHAPTER 1—PROVISIONS RELATING TO**

## 2 **PART A**

### 3 **Subchapter A—Elimination of Inflation**

### 4 **Update for Services Provided Under Part A**

### 5 **SEC. 13401. INPATIENT HOSPITAL SERVICES AND HOSPICE**

### 6 **CARE.**

7 Section 1886(b)(3)(B)(iii) (42 U.S.C.

8 1395ww(b)(3)(B)(iii)) is amended—

9 (1) by striking “(iii) For purposes of this sub-  
 10 paragraph” and inserting “(iii)(I) Except as pro-  
 11 vided in subclause (II), for purposes of this subpara-  
 12 graph”, and

13 (2) by adding at the end the following new  
 14 subclause:

1       “(II) For purposes of this subparagraph and section  
 2 1814(i)(1)(C)(ii), the ‘market basket percentage increase’,  
 3 with respect to cost reporting periods and discharges oc-  
 4 ccurring in fiscal year 1994 or 1995, is 0 percent.”.

5 **SEC. 13402. LIMITS ON PER DIEM ROUTINE SERVICE COSTS**  
 6 **FOR EXTENDED CARE SERVICES.**

7       The Secretary of Health and Human Services shall  
 8 not provide for any increase, on the basis of inflation or  
 9 changes in the cost of goods and services, in the limits  
 10 on per diem routine service costs for extended care services  
 11 under section 1888 of the Social Security Act for cost re-  
 12 porting periods beginning during fiscal year 1994 or fiscal  
 13 year 1995.

14 **Subchapter B—Other Provisions Relating to**  
 15 **Part A**

16 **SEC. 13411. WAGE INDEX PROVISIONS.**

17       (a) WAGE INDEX HOLD HARMLESS PROTECTION.—

18           (1) IN GENERAL.—Section 1886(d)(8)(C) (42  
 19 U.S.C. 1395ww(d)(8)(C)) is amended by adding at  
 20 the end the following new clause:

21       “(iv) The application of subparagraph (B) or a deci-  
 22 sion of the Medicare Geographic Classification Review  
 23 Board or the Secretary under paragraph (1) may not re-  
 24 sult in a reduction in an urban area’s wage index if—



1           “(I) the urban area has a wage index below the  
2           wage index for rural areas in the State in which it  
3           is located; or

4           “(II) the urban area is located in a State that  
5           is composed of a single urban area.”.

6           (2) NO STANDARDIZED AMOUNT ADJUST-  
7           MENT.—The Secretary of Health and Human Serv-  
8           ices shall not revise the fiscal year 1992 or fiscal  
9           year 1993 standardized amounts pursuant to sub-  
10          sections (d)(3)(B) and (d)(8)(D) of section 1886 of  
11          the Social Security Act to account for the amend-  
12          ment made by paragraph (1).

13          (3) EFFECTIVE DATE.—The amendment made  
14          by paragraph (1) shall apply to discharges occur-  
15          ring—

16                (A) on or after October 1, 1991, in the  
17                case of hospitals located in an urban area de-  
18                scribed in section 1886(d)(8)(C)(iv)(I) of the  
19                Social Security Act (as added by paragraph  
20                (1)); and

21                (B) on or after the date of the enactment  
22                of this Act, in the case of hospitals located in  
23                an urban area described in section  
24                1886(d)(8)(C)(iv)(II) of the Social Security Act  
25                (as added by paragraph (1)).

1 (b) UPDATING STANDARDS FOR TREATING RURAL  
2 COUNTIES AS URBAN COUNTIES BASED ON RATES OF  
3 COMMUTATION.—

4 (1) IN GENERAL.—Section 1886(d)(8)(B) (42  
5 U.S.C. 1395ww(d)(8)(B)) is amended—

6 (A) by striking “standards” each place it  
7 appears and inserting “standards most recently  
8 used”, and

9 (B) by striking “published in the Federal  
10 Register on January 3, 1980”.

11 (2) HOLD HARMLESS FOR COUNTIES CUR-  
12 RENTLY TREATED AS URBAN.—Any hospital that is  
13 treated as being located in an urban metropolitan  
14 statistical area pursuant to section 1886(d)(8)(B) of  
15 the Social Security Act as of September 30, 1992,  
16 shall continue to be so treated notwithstanding the  
17 amendments made by paragraph (1).

18 (3) EFFECTIVE DATE.—The amendments made  
19 by paragraph (1) shall be effective on October 1,  
20 1993.

21 (c) USE OF OCCUPATIONAL MIX IN GUIDELINES.—

22 (1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I)  
23 (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by  
24 inserting “(to the extent the Secretary determines  
25 appropriate)” after “taking into account”.

1           (2) EFFECTIVE DATE.—The amendment made  
2       by paragraph (1) shall take effect as if included in  
3       the enactment of OBRA–1989.

4   **SEC. 13412. TRANSITION FOR HOSPITAL OUTLIER THRESH-**  
5                   **OLDS.**

6       Section 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A))  
7   is amended—

8           (1) in clause (i), by striking “The Secretary”  
9       and inserting “For discharges occurring during fis-  
10      cal years ending on or before September 30, 1997,  
11      the Secretary”; and

12          (2) by adding at the end the following new  
13      clauses:

14      “(v) The Secretary shall provide that—

15          “(I) the day outlier percentage for fiscal year  
16      1995 shall be 75 percent of the day outlier percent-  
17      age for fiscal year 1994;

18          “(II) the day outlier percentage for fiscal year  
19      1996 shall be 50 percent of the day outlier percent-  
20      age for fiscal year 1994; and

21          “(III) the day outlier percentage for fiscal year  
22      1997 shall be 25 percent of the day outlier percent-  
23      age for fiscal year 1994.

24      “(vi) For purposes of this subparagraph, the term  
25   ‘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

1           “(ii) consisting of surgery or any  
2           other service requiring the use of general  
3           anesthesia (other than surgical procedures  
4           specified by the Secretary under section  
5           1833(i)(1)(A)), unless the attending physi-  
6           cian certifies that the risk associated with  
7           transferring the patient to a hospital for  
8           such services outweighs the benefits of  
9           transferring the patient to a hospital for  
10          such services.”.

11           (2) LIMITATION ON AVERAGE LENGTH OF  
12          STAY.—Section 1820(f) (42 U.S.C. 1395i–4(f)) is  
13          amended by adding at the end the following new  
14          paragraph:

15           “(4) LIMITATION ON AVERAGE LENGTH OF IN-  
16          PATIENT STAYS.—The Secretary may terminate a  
17          designation of a rural primary care hospital under  
18          paragraph (1) if the Secretary finds that the average  
19          length of stay for inpatients at the facility during  
20          the previous year in which the designation was in ef-  
21          fect exceeded 72 hours. In determining the compli-  
22          ance of a facility with the requirement of the pre-  
23          vious sentence, there shall not be taken into account  
24          periods of stay of inpatients in excess of 72 hours  
25          to the extent such periods exceed 72 hours because

1 transfer to a hospital is precluded because of inclem-  
2 ent weather or other emergency conditions.”.

3 (3) CONFORMING AMENDMENT.—Section  
4 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by  
5 striking “such services” and all that follows and in-  
6 serting “the individual may reasonably be expected  
7 to be discharged or transferred to a hospital within  
8 72 hours after admission to the rural primary care  
9 hospital.”.

10 (4) GAO REPORTS.—Not later than 2 years  
11 after the date of the enactment of this Act, the  
12 Comptroller General shall submit reports to Con-  
13 gress on—

14 (A) the application of the requirements  
15 under section 1820(f) of the Social Security Act  
16 (as amended by this subsection) that rural pri-  
17 mary care hospitals provide inpatient care only  
18 to those individuals whose attending physicians  
19 certify may reasonably be expected to be dis-  
20 charged within 72 hours after admission and  
21 maintain an average length of inpatient stay  
22 during a year that does not exceed 72 hours;  
23 and

24 (B) the extent to which such requirements  
25 have resulted in such hospitals providing inpa-

1           tient care beyond their capabilities or have lim-  
2           ited the ability of such hospitals to provide  
3           needed services.

4           (c) DESIGNATION OF HOSPITALS.—

5           (1) PERMITTING DESIGNATION OF HOSPITALS  
6           LOCATED IN URBAN AREAS.—

7           (A) IN GENERAL.—Section 1820 (42  
8           U.S.C. 1395i-4) is amended—

9                   (i) by striking paragraph (1) of sub-  
10                  section (e) and redesignating paragraphs  
11                  (2) through (6) as paragraphs (1) through  
12                  (5); and

13                  (ii) in subsection (e)(1)(A) (as redes-  
14                  ignated by subparagraph (A))—

15                   (I) by striking “is located” and  
16                   inserting “except in the case of a hos-  
17                   pital located in an urban area, is lo-  
18                   cated”,

19                   (II) by striking “, (ii)” and in-  
20                   serting “or (ii)”,

21                   (III) by striking “or (iii)” and all  
22                   that follows through “section,”, and

23                   (IV) in subsection (i)(1)(B), by  
24                   striking “paragraph (3)” and insert-  
25                   ing “paragraph (2)”.

1 (B) NO CHANGE IN MEDICARE PROSPEC-  
2 TIVE PAYMENT.—Section 1886(d)(5)(D) (42  
3 U.S.C. 1395ww(d)(5)(D)) is amended—

4 (i) in clause (iii)(III), by inserting “lo-  
5 cated in a rural area and” after “that is”,  
6 and

7 (ii) in clause (v), by inserting “located  
8 in a rural area and” after “in the case of  
9 a hospital”.

10 (2) PERMITTING HOSPITALS LOCATED IN AD-  
11 JOINING STATES TO PARTICIPATE IN STATE PRO-  
12 GRAM.—

13 (A) IN GENERAL.—Section 1820 (42  
14 U.S.C. 1395i-4) is amended—

15 (i) by redesignating subsection (k) as  
16 subsection (l); and

17 (ii) by inserting after subsection (j)  
18 the following new subsection:

19 “(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN  
20 PARTICIPATING STATES.—Notwithstanding any other  
21 provision of this section—

22 “(1) for purposes of including a hospital or fa-  
23 cility as a member institution of a rural health net-  
24 work, a State may designate a hospital or facility  
25 that is not located in the State as an essential access



1 community hospital or a rural primary care hospital  
2 if the hospital or facility is located in an adjoining  
3 State and is otherwise eligible for designation as  
4 such a hospital;

5 “(2) the Secretary may designate a hospital or  
6 facility that is not located in a State receiving a  
7 grant under subsection (a)(1) as an essential access  
8 community hospital or a rural primary care hospital  
9 if the hospital or facility is a member institution of  
10 a rural health network of a State receiving a grant  
11 under such subsection; and

12 “(3) a hospital or facility designated pursuant  
13 to this subsection shall be eligible to receive a grant  
14 under subsection (a)(2).”.

15 (B) CONFORMING AMENDMENTS.—(i) Sec-  
16 tion 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is  
17 amended by striking “paragraph (3)” and in-  
18 serting “paragraph (3) or subsection (k)”.

19 (ii) Paragraphs (1)(A) and (2)(A) of sec-  
20 tion 1820(i) (42 U.S.C. 1395i-4(i)) are each  
21 amended—

22 (I) in clause (i), by striking “(a)(1)”  
23 and inserting “(a)(1) (except as provided  
24 in subsection (k))”, and

1 (II) in clause (ii), by striking “sub-  
2 paragraph (B)” and inserting “subpara-  
3 graph (B) or subsection (k)”.

4 (d) SKILLED NURSING SERVICES IN RURAL PRIMARY  
5 CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-  
6 4(f)(3)) is amended by striking “because the facility” and  
7 all that follows and inserting the following: “because, at  
8 the time the facility applies to the State for designation  
9 as a rural primary care hospital, there is in effect an  
10 agreement between the facility and the Secretary under  
11 section 1883 under which the facility’s inpatient hospital  
12 facilities are used for the furnishing of extended care serv-  
13 ices, except that the number of beds used for the furnish-  
14 ing of such services may not exceed the total number of  
15 licensed inpatient beds at the time the facility applies to  
16 the State for such designation (minus the number of inpa-  
17 tient beds used for providing inpatient care pursuant to  
18 paragraph (1)(F)). For purposes of the previous sentence,  
19 the number of beds of the facility used for the furnishing  
20 of extended care services shall not include any beds of a  
21 unit of the facility that is licensed as a distinct-part skilled  
22 nursing facility at the time the facility applies to the State  
23 for designation as a rural primary care hospital.”.

24 (e) PAYMENT FOR OUTPATIENT RURAL PRIMARY  
25 CARE HOSPITAL SERVICES.—

1           (1) IMPLEMENTATION OF PROSPECTIVE PAY-  
2           MENT SYSTEM.—Section 1834(g) (42 U.S.C.  
3           1395m(g)) is amended—

4                   (A) in paragraph (1), by striking “during  
5                   a year before 1993” and inserting “during a  
6                   year before the prospective payment system de-  
7                   scribed in paragraph (2) is in effect”; and

8                   (B) in paragraph (2), by striking “January  
9                   1, 1993,” and inserting “January 1, 1996,”.

10          (2) NO USE OF CUSTOMARY CHARGE IN DETER-  
11          MINING PAYMENT.—Section 1834(g)(1) (42 U.S.C.  
12          1395m(g)(1)) is amended by adding at the end the  
13          following:

14          “The amount of payment shall be determined under  
15          either method without regard to the amount of the  
16          customary or other charge.”.

17          (f) CLARIFICATION OF PHYSICIAN STAFFING RE-  
18          QUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—  
19          Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is  
20          amended by striking the period and inserting the follow-  
21          ing: “, except that in determining whether a facility meets  
22          the requirements of this subparagraph, subparagraphs (E)  
23          and (F) of that paragraph shall be applied as if any ref-  
24          erence to a ‘physician’ is a reference to a physician as de-  
25          fined in section 1861(r)(1).”.

1 (g) TECHNICAL AMENDMENTS RELATING TO PART  
2 A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILL-  
3 NESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1))  
4 is amended—

5 (A) by striking “inpatient hospital services” the  
6 first place it appears and inserting “inpatient hos-  
7 pital services or inpatient rural primary care hos-  
8 pital services”;

9 (B) by striking “inpatient hospital services” the  
10 second place it appears and inserting “such serv-  
11 ices”; and

12 (C) by striking “and inpatient rural primary  
13 care hospital services”.

14 (2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C.  
15 1395e(a), 1395e(b)(3)(A)) are each amended by striking  
16 “inpatient hospital services” each place it appears and in-  
17 serting “inpatient hospital services or inpatient rural pri-  
18 mary care hospital services”.

19 (3) Section 1813(b)(3)(B) (42 U.S.C.  
20 1395e(b)(3)(B)) is amended by striking “inpatient hos-  
21 pital services” and inserting “inpatient hospital services,  
22 inpatient rural primary care hospital services”.

23 (4) Section 1861(a) (42 U.S.C. 1395x(a)) is amend-  
24 ed—

1 (A) in paragraphs (1), by striking “inpatient  
2 hospital services” and inserting “inpatient hospital  
3 services, inpatient rural primary care hospital serv-  
4 ices”; and

5 (B) in paragraph (2), by striking “hospital”  
6 and inserting “hospital or rural primary care hos-  
7 pital”.

8 (h) AUTHORIZATION OF APPROPRIATIONS.—Section  
9 1820(k) (42 U.S.C. 1395i-4(k)) is amended by striking  
10 “1990, 1991, and 1992” and inserting “1990 through  
11 1995”.

12 (i) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect on the date of the enactment  
14 of this Act.

15 **SEC. 13414. RURAL HEALTH TRANSITION GRANT PROGRAM**  
16 **EXTENSION.**

17 Section 4005(e)(9) of OBRA-1987 is amended—

18 (1) by striking “1989 and” and inserting  
19 “1989,”; and

20 (2) by striking “1992” and inserting “1992  
21 and \$30,000,000 for each of fiscal years 1993  
22 through 1997”.

23 **SEC. 13415. REGIONAL REFERRAL CENTER EXTENSION.**

24 (a) EXTENSION OF CLASSIFICATION THROUGH FIS-  
25 CAL YEAR 1994.—Effective on the date of the enactment

1 of this Act, section 6003(d) of such Act (42 U.S.C.  
2 1395ww note) is amended by striking “October 1, 1992”  
3 and inserting “October 1, 1994”.

4 (b) PERMITTING HOSPITALS TO DECLINE RECLASSI-  
5 FICATION.—If any hospital fails to qualify as a rural refer-  
6 ral center under section 1886(d)(5)(C) of the Social Secu-  
7 rity Act as a result of a decision by the Medicare Geo-  
8 graphic Classification Review Board under section  
9 1886(d)(10) of such Act to reclassify the hospital as being  
10 located in an urban area for fiscal year 1993 or fiscal year  
11 1994, the Secretary of Health and Human Services  
12 shall—

13 (1) notify such hospital of such failure to  
14 qualify,

15 (2) provide an opportunity for such hospital to  
16 decline such reclassification, and

17 (3) if the hospital declines such reclassification,  
18 administer the Social Security Act (other than sec-  
19 tion 1886(d)(8)(D)) for such fiscal year as if the de-  
20 cision by the Review Board had not occurred.

21 (c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT  
22 FOR HOSPITALS LOSING CLASSIFICATION.—

23 (1) IN GENERAL.—In the case of an affected  
24 regional referral center (as described in paragraph  
25 (2)), the Secretary of Health and Human Services

1 shall make a lump sum payment to the center equal  
2 to the difference between the aggregate payment  
3 made to the center under section 1886 of such Act  
4 (excluding outlier payments under subsection  
5 (d)(5)(A) of such section) during the period of appli-  
6 cability described in paragraph (3) and the aggre-  
7 gate payment that would have been made to the cen-  
8 ter under such section if, during the period of appli-  
9 cability, the center was classified a regional referral  
10 center under section 1886(d)(5)(C) of such Act.

11 (2) AFFECTED CENTERS DESCRIBED.—In para-  
12 graph (1), an “affected regional referral center” is  
13 a hospital classified as regional referral center under  
14 section 1886(d)(5)(C) of the Social Security Act as  
15 of September 30, 1992, that was not classified as  
16 such a center after such date but would have been  
17 so classified if the reference in section 6003(d) of  
18 OBRA–1989 to “October 1, 1992,” had been  
19 deemed a reference to “October 1, 1994,”.

20 (3) PERIOD OF APPLICABILITY.—In paragraph  
21 (1), the “period of applicability” is the period that  
22 begins on October 1, 1992, and ends on the date of  
23 the enactment of this Act.

1 **SEC. 13416. MEDICARE-DEPENDENT, SMALL RURAL HOS-**  
 2 **PITAL PAYMENT EXTENSION.**

3 (a) EXTENSION OF ADDITIONAL PAYMENTS.—Effec-  
 4 tive on the date of the enactment of this Act, section  
 5 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amend-  
 6 ed—

7 (1) in clause (i) in the matter preceding  
 8 subclause (I)—

9 (A) by inserting “(or portion thereof)”  
 10 after “cost reporting period”, and

11 (B) by striking “March 31, 1993,” and all  
 12 that follows and inserting the following: “Sep-  
 13 tember 30, 1994, in the case of a subsection (d)  
 14 hospital which is a medicare-dependent, small  
 15 rural hospital, payment under paragraph (1)(A)  
 16 shall be equal to the sum of the amount deter-  
 17 mined under clause (ii) and the amount deter-  
 18 mined under paragraph (1)(A)(iii).”;

19 (2) by redesignating clauses (ii) and (iii) as  
 20 clauses (iii) and (iv); and

21 (3) by inserting after clause (i) the following  
 22 new clause:

23 “(ii) The amount determined under this clause is—

24 “(I) for discharges occurring during the first 3  
 25 12-month cost reporting periods that begin on or  
 26 after April 1, 1990, the amount by which the hos-



1       pital's target amount for the cost reporting period  
2       (as defined in subsection (b)(3)(D)) exceeds the  
3       amount determined under paragraph (1)(A)(iii); and  
4       “(II) for discharges occurring during any subse-  
5       quent cost reporting period (or portion thereof), 50  
6       percent of the amount by which the hospital's target  
7       amount for the cost reporting period (as defined in  
8       subsection (b)(3)(D)) exceeds the amount deter-  
9       mined under paragraph (1)(A)(iii).”.

10       (b) PERMITTING HOSPITALS TO DECLINE RECLASSI-  
11       FICATION.—If any hospital fails to qualify as a medicare-  
12       dependent, small rural hospital under section  
13       1886(d)(5)(G)(i) of the Social Security Act as a result of  
14       a decision by the Medicare Geographic Classification Re-  
15       view Board under section 1886(d)(10) of such Act to re-  
16       classify the hospital as being located in an urban area for  
17       fiscal year 1993 or fiscal year 1994, the Secretary of  
18       Health and Human Services shall—

19               (1) notify such hospital of such failure to  
20       qualify,

21               (2) provide an opportunity for such hospital to  
22       decline such reclassification, and

23               (3) if the hospital declines such reclassification,  
24       administer the Social Security Act (other than sec-

1       tion 1886(d)(8)(D)) for such fiscal year as if the de-  
2       cision by the Review Board had not occurred.

3       (c) REQUIRING LUMP-SUM RETROACTIVE PAY-  
4       MENT.—

5           (1) IN GENERAL.—In the case of a hospital  
6       treated as a medicare dependent, small rural hos-  
7       pital under section 1886(d)(5)(G) of the Social Se-  
8       curity Act, the Secretary of Health and Human  
9       Services shall make a lump sum payment to the hos-  
10      pital equal to the difference between the aggregate  
11      payment made to the hospital under section 1886 of  
12      such Act (excluding outlier payments under sub-  
13      section (d)(5)(A) of such section) during the period  
14      of applicability described in paragraph (2) and the  
15      aggregate payment that would have been made to  
16      the hospital under such section if, during the period  
17      of applicability, section 1886(d)(5)(G) of such Act  
18      had been applied as if—

19           (A) the reference in clause (i) to “March  
20      31, 1993,” had been deemed a reference to  
21      “September 30, 1994,”; and

22           (B) the amendments made by subsection  
23      (a) had been in effect.

24           (2) PERIOD OF APPLICABILITY.—In paragraph  
25      (1), the “period of applicability” is, with respect to

1 a hospital, the period that begins on the first day of  
2 the hospital's first 12-month cost reporting period  
3 that begins after April 1, 1992, and ends on the  
4 date of the enactment of this Act.

5 **SEC. 13417. EXTENSION OF REGIONAL FLOOR.**

6 Section 1886(d)(1)(A)(iii) (42 U.S.C.  
7 1395ww(d)(1)(A)(iii)) is amended by striking "September  
8 30, 1993" and inserting "September 30, 1996".

9 **SEC. 13418. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.**

10  
11 Section 4008(i)(1) of OBRA-1990 is amended by  
12 adding at the end the following new sentence: "The Sec-  
13 retary shall continue any such demonstration project until  
14 at least December 31, 1995."

15 **SEC. 13419. HEMOPHILIA PASS-THROUGH EXTENSION.**

16 Effective as if included in the enactment of OBRA-  
17 1989, section 6011(d) of such Act is amended by striking  
18 "2 years after the date of enactment of this Act" and  
19 inserting "September 30, 1994".

20 **SEC. 13420. STATE HOSPITAL PAYMENT PROGRAMS.**

21 In the case of a State hospital reimbursement system  
22 that meets the requirements of section 1814(b)(3) of the  
23 Social Security Act, no other provision of law shall be con-  
24 strued as preventing the system from providing that pay-

1 ment for services covered under the system be made on  
2 the basis of rates provided for under the system.

3 **SEC. 13421. PSYCHOLOGY SERVICES IN HOSPITALS.**

4 Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is  
5 amended by striking “physician;” and inserting “physi-  
6 cian, except that a patient receiving qualified psychologist  
7 services (as defined in subsection (ii)) may be under the  
8 care of a clinical psychologist with respect to such services  
9 to the extent permitted under State law;”.

10 **SEC. 13422. GRADUATE MEDICAL EDUCATION PAYMENTS IN**  
11 **HOSPITAL-OWNED COMMUNITY HEALTH CEN-**  
12 **TERS.**

13 Section 1886(d)(5)(B)(iv) (42 U.S.C.  
14 1395ww(d)(5)(B)(iv)) is amended by inserting after “the  
15 hospital” the following: “or providing services at any en-  
16 tity receiving a grant under section 330 of the Public  
17 Health Service Act that is under the ownership or control  
18 of the hospital (if the hospital incurs all, or substantially  
19 all, of the costs of the services furnished to the hospital  
20 by such interns and residents)”.

21 **SEC. 13423. TREATMENT OF CERTAIN MILITARY FACILI-**  
22 **TIES.**

23 (a) COVERAGE OF SERVICES PROVIDED IN CERTAIN  
24 UNIFORMED SERVICES TREATMENT FACILITIES.—

1           (1) IN GENERAL.—The Secretary of Health and  
2       Human Services may not take any recoupment ac-  
3       tion to recover amounts that were paid by the Unit-  
4       ed States under title XVIII of the Social Security  
5       Act to the facilities described in paragraph (2) (or  
6       to other individuals or entities with whom such fa-  
7       cilities had entered into agreements to provide serv-  
8       ices under such title) for services provided during  
9       the period beginning October 1, 1986, and ending  
10      December 31, 1989, except to the extent that funds  
11      were obligated to the Uniformed Services Treatment  
12      Facilities program to fulfill such an action pursuant  
13      to title VI of the Department of Defense Appropria-  
14      tions Act, 1993.

15           (2) FACILITIES DESCRIBED.—The facilities re-  
16      ferred to in paragraph (1) are the hospitals de-  
17      scribed in section 248c of title 42, United States  
18      Code, that are located in Boston, Massachusetts;  
19      Baltimore, Maryland; and Seattle, Washington.

20           (b) STUDY OF JOINT MEDICAL FACILITIES.—

21           (1) STUDY.—The Secretary of Health and  
22      Human Services, in consultation with the Secretary  
23      of Defense and the Secretary of Veterans Affairs,  
24      shall conduct a study of the feasibility and desirabil-  
25      ity of establishing joint medical facilities among the

1 Department of Defense, the Department of Veter-  
2 ans' Affairs, and other public and private entities,  
3 and shall include in such study an analysis of the  
4 need to make changes in the medicare and medicaid  
5 programs (including facility certification standards  
6 under such programs) in order to facilitate the es-  
7 tablishment of such joint medical facilities.

8 (2) REPORT.—Not later than October 1, 1993,  
9 the Secretary of Health and Human Services shall  
10 submit a report to Congress on the study conducted  
11 under paragraph (1).

12 **SEC. 13424. EPILEPSY DRG.**

13 (a) IN GENERAL.—The Secretary of Health and  
14 Human Services shall review the diagnosis-related groups  
15 established pursuant to section 1886(d)(4) of the Social  
16 Security Act that are assigned to discharges of patients  
17 with intractable epilepsy, including patients whose admis-  
18 sions involve intensive neurodiagnostic monitoring, and  
19 shall revise, for discharges occurring on or after October  
20 1, 1994, the assignment of discharges to such groups as  
21 the Secretary considers appropriate to account for the re-  
22 source requirements of such patients.

23 (b) CONSULTATION REQUIREMENTS.—In carrying  
24 out subsection (a), the Secretary shall consult with the  
25 Prospective Payment Assessment Commission and na-

1 tional organizations representing individuals with epilepsy  
2 or individuals and entities providing specialized medical  
3 services to such individuals related to the treatment of  
4 epilepsy.

5 **SEC. 13425. SKILLED NURSING FACILITY WAGE INDEX.**

6 (a) IN GENERAL.—Not later than 1 year after the  
7 date of the enactment of this Act, the Secretary of Health  
8 and Human Services shall begin to collect data on em-  
9 ployee compensation and paid hours of employment in  
10 skilled nursing facilities for the purpose of constructing  
11 a skilled nursing facility wage index adjustment to the  
12 routine service cost limits required under section  
13 1888(a)(4) of the Social Security Act.

14 (b) PROPAC REPORT.—The Prospective Payment  
15 Assessment Commission shall, by March 1, 1994, study  
16 and report to the Congress on the impact of applying rou-  
17 tine per diem cost limits for skilled nursing facilities on  
18 a regional basis.

19 **SEC. 13426. HOSPICE NOTIFICATION TO BENEFICIARIES.**

20 (a) HOSPITALS.—Section 1861(ee)(2)(D) (42 U.S.C.  
21 1395x(ee)(2)(D)) is amended by inserting “, including  
22 hospice services,” after “post-hospital services”.

23 (b) NURSING FACILITIES.—Section 1819(c)(1)(B)  
24 (42 U.S.C. 1395i–3(c)(1)(B)) is amended—

25 (1) by striking “and” at the end of clause (ii);

1           (2) by striking the period at the end of clause  
2           (iii) and inserting “; and”; and

3           (3) by inserting after clause (iii) the following  
4           new clause:

5                       “(iv) inform each resident who is enti-  
6                       tled to benefits under this title, orally and  
7                       in writing at the time of admission to the  
8                       facility, of the entitlement of individuals to  
9                       hospice care under section 1812(a)(4) (un-  
10                      less there is no hospice program providing  
11                      hospice care for which payment may be  
12                      made under this title within the geographic  
13                      area of the facility and it is not the com-  
14                      mon practice of the facility to refer pa-  
15                      tients to hospice programs located outside  
16                      such geographic area).”.

17           (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to services furnished on or after  
19 the first day of the first month beginning more than one  
20 year after the date of the enactment of this Act.

21 **SEC. 13427. REDUCTION IN PART A PREMIUM FOR CERTAIN**  
22 **INDIVIDUALS WITH 30 OR MORE QUARTERS**  
23 **OF SOCIAL SECURITY COVERAGE.**

24           (a) IN GENERAL.—Section 1818(d) (42 U.S.C.  
25 1395i-2(d)) is amended—



1 (1) in the second sentence of paragraph (2), by  
 2 striking “Such amount” and inserting “Subject to  
 3 paragraph (4), the amount of an individual’s month-  
 4 ly premium under this section”; and

5 (2) by adding at the end the following new  
 6 paragraph:

7 “(4)(A) In the case of an individual described in sub-  
 8 paragraph (B), the monthly premium for a month shall  
 9 be reduced by the applicable reduction percent specified  
 10 in the following table:

| <b>“For a month in:</b>       | <b>The applicable reduction percent is:</b> |
|-------------------------------|---|
| 1994 .....                    | 25 percent                                  |
| 1995 .....                    | 30 percent                                  |
| 1996 .....                    | 35 percent                                  |
| 1997 .....                    | 40 percent                                  |
| 1998 or subsequent year ..... | 45 percent.                                 |

11 “(B) An individual described in this subparagraph  
 12 with respect to a month is an individual who establishes  
 13 to the satisfaction of the Secretary that, as of the last  
 14 day of the previous month, the individual—

15 “(i) had at least 30 quarters of coverage under  
 16 title II;

17 “(ii) was married (and had been married for  
 18 the previous 1 year period) to an individual who had  
 19 at least 30 quarters of coverage under such title;

20 “(iii) had been married to an individual for a  
 21 period of at least 1 year (at the time of the individ-

1       ual's death) if at such time the individual had at  
2       least 30 quarters of coverage under such title; and

3       “(iv) is divorced from an individual and had  
4       been married to the individual for a period of at  
5       least 10 years (at the time of the divorce) if at such  
6       time the individual had at least 30 quarters of cov-  
7       erage under such title.”.

8       (b) EFFECTIVE DATE.—The amendments made by  
9       this section shall apply to monthly premiums under section  
10      1818 of the Social Security Act for months beginning with  
11      January 1, 1994.

12      **SEC. 13428. PERIODIC UPDATES TO SALARY EQUIVALENCY**  
13                              **GUIDELINES FOR PHYSICAL THERAPY AND**  
14                              **RESPIRATORY THERAPY SERVICES.**

15      (a) IN GENERAL.—Section 1861(v)(5) (42 U.S.C.  
16      1395x(v)(5)) is amended by adding at the end the follow-  
17      ing new subparagraph:

18      “(C) Using the most recent available data, the Sec-  
19      retary shall update, not less often than every 3 years, the  
20      salary equivalency guidelines used under subparagraph  
21      (A) with respect to physical therapy and respiratory  
22      therapy services.”.

23      (b) EFFECTIVE DATE.—The Secretary of Health and  
24      Human Services shall first update the salary equivalency  
25      guidelines, under the amendment made by subsection (a),

1 by not later than December 31, 1993. Such updated  
2 guidelines shall apply to cost reporting periods beginning  
3 on or after July 1, 1993.

4 **SEC. 13429. EXTENSION OF DEADLINE FOR APPLICATION**  
5 **FOR GEOGRAPHIC CLASSIFICATION FOR CER-**  
6 **TAIN RECLASSIFIED HOSPITALS.**

7 Notwithstanding section 1886(d)(10)(C)(ii) of the  
8 Social Security Act, a hospital may submit an application  
9 to the Medicare Geographic Classification Review Board  
10 requesting a change in geographic classification for fiscal  
11 year 1994 after the first day of fiscal year 1993 if—

12 (1) the hospital's geographic classification for  
13 fiscal year 1994 was changed from urban to rural as  
14 a result of the issuance of the Revised Statistical  
15 Definitions for Metropolitan Areas established by  
16 the Office of Management and Budget on December  
17 28, 1992 (pursuant to OMB Bulletin No. 93-05);  
18 and

19 (2) the hospital submits the application not  
20 later than 60 days after the date of the enactment  
21 of this Act.

1 **SEC. 13430. CLARIFICATION OF DRG PAYMENT WINDOW EX-**  
2 **PANSION; MISCELLANEOUS AND TECHNICAL**  
3 **CORRECTIONS.**

4 (a) CLARIFICATION OF DRG PAYMENT WINDOW EX-  
5 PANSION.—The first sentence of section 1886(a)(4) (42  
6 U.S.C. 1395ww(a)(4)) is further amended by striking  
7 “and includes” and inserting “and (in the case of a sub-  
8 section (d) hospital) includes”.

9 (b) TECHNICAL CORRECTION RELATING TO RESI-  
10 DENT ASSESSMENT IN NURSING HOMES.—Section  
11 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i–3(b)(3)(C)(i)(I)) is  
12 amended by striking “not later than” before “14 days”.

13 (c) CLERICAL CORRECTIONS.—(1) Section  
14 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended  
15 by striking “1990,,” and inserting “1990,”.

16 (2) Section 1816(f)(2)(A)(ii) (42 U.S.C.  
17 1396h(f)(2)(A)(ii)) is amended by striking “such agency”  
18 and inserting “such agency’s”.

19 (3) Section 1886(d)(1)(A)(iii) (42 U.S.C.  
20 1395ww(d)(1)(A)(iii)) is amended by striking “, the sum  
21 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.”.

1 **SEC. 13432. ELIMINATION OF COST-OF-LIVING ADJUST-**  
2 **MENTS FOR CERTAIN ITEMS AND SERVICES.**

3 (a) CLINICAL LABORATORY SERVICES.—Section  
4 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is  
5 amended—

6 (1) by striking “and” at the end of subclause  
7 (II),

8 (2) by striking the period at the end of  
9 subclause (III) and inserting “, and”, and

10 (3) by adding at the end the following new  
11 subclause:

12 “(IV) the annual adjustment in the fee sched-  
13 ules determined under clause (i) for each of the  
14 years 1994 and 1995 shall be 0 percent.”.

15 (b) DURABLE MEDICAL EQUIPMENT.—Section  
16 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

17 (1) in subparagraph (A), as amended by  
18 13469(a), by striking “and” at the end;

19 (2) in subparagraph (B)—

20 (A) by striking “a subsequent year” and  
21 inserting “1993”, and

22 (B) by striking “June of the previous  
23 year.” and inserting “June 1992,”; and

24 (3) by adding at the end the following new sub-  
25 paragraphs:

1           “(C) for 1994 and 1995, no percentage  
2           change, and

3           “(D) for a subsequent year, the percentage  
4           increase in the consumer price index for all  
5           urban consumers (U.S. city average) for the 12-  
6           month period ending with June of the previous  
7           year.”.

8           (c)   ORTHOTICS    AND    PROSTHETICS.—Section  
9   1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

10           (1) in clause (i), by striking “and”;

11           (2) in clause (ii), by striking “a subsequent  
12           year” and inserting “1992 and 1993”; and

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

15                   “(iii) for 1994 and 1995, 0 percent,  
16                   and

17                   “(iv) for a subsequent year, the per-  
18                   centage increase in the consumer price  
19                   index for all urban consumers (United  
20                   States city average) for the 12-month pe-  
21                   riod ending with June of the previous  
22                   year;”.

23           (d) REASONABLE CHARGE LIMITS FOR ENTERAL  
24   AND PARENTERAL NUTRIENTS, SUPPLIES AND EQUIP-  
25   MENT.—In determining the amount of payment under

1 part B of title XVIII of the Social Security Act during  
2 1994 and 1995, the charges determined to be reasonable  
3 with respect to parenteral and enteral nutrients, supplies,  
4 and equipment may not exceed the charges determined to  
5 be reasonable with respect to such nutrients, supplies, and  
6 equipment during 1993.

7 **SEC. 13433. AMBULATORY SURGICAL CENTER SERVICES.**

8 (a) ELIMINATION OF INFLATION UPDATE.—The Sec-  
9 retary of Health and Human Services shall not provide  
10 for any inflation update in the payment amounts under  
11 subparagraphs (A) and (B) of section 1833(i)(2) of the  
12 Social Security Act for fiscal year 1994 or for fiscal year  
13 1995.

14 (b) CONFORMING AMENDMENT.—Section  
15 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)), as added by  
16 section 13453(a)(2)(B), is amended by striking “fiscal  
17 year 1995” and inserting “fiscal year 1996”.

18 **SEC. 13434. OTHER ITEMS AND SERVICES UNDER PART B.**

19 (a) RURAL HEALTH CLINIC SERVICES; FEDERALLY-  
20 QUALIFIED HEALTH CENTER SERVICES; COMPREHEN-  
21 SIVE OUTPATIENT REHABILITATION FACILITY SERV-  
22 ICES.—In determining the amount of payment made for  
23 rural health clinic services, Federally qualified health cen-  
24 ter services, or comprehensive outpatient rehabilitation fa-  
25 cility 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

1           in the relative value for visits and consulta-  
2           tions.”.

3           (b) ASSURING BUDGET NEUTRALITY.—Section  
4 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by add-  
5 ing at the end the following new subparagraph:

6                   “(E) BUDGET NEUTRALITY ADJUST-  
7           MENTS.—The Secretary—

8                   “(i) shall reduce the relative values  
9                   for all services (other than anesthesia serv-  
10                  ices) established under this paragraph  
11                  (and, in the case of anesthesia services, the  
12                  conversion factor established by the Sec-  
13                  retary for such services) by such percent-  
14                  age as the Secretary determines to be nec-  
15                  essary so that, beginning in 1996, the  
16                  amendment made by section 13441(a) of  
17                  the Omnibus Budget Reconciliation Act of  
18                  1993 would not result in expenditures  
19                  under this section that exceed the amount  
20                  of such expenditures that would have been  
21                  made if such amendment had not been  
22                  made, and

23                  “(ii) shall reduce the amounts deter-  
24                  mined under subsection (a)(2)(B)(i)(I) by  
25                  such percentage as the Secretary deter-

1            mines to be required to assure that, taking  
2            into account the reductions made under  
3            clause (i), the amendment made by section  
4            13441(a) of the Omnibus Budget Rec-  
5            onciliation Act of 1993 would not result in  
6            expenditures under this section in 1993  
7            that exceed the amount of such expendi-  
8            tures that would have been made if such  
9            amendment had not been made.”.

10        (c) CONFORMING AMENDMENTS.—Section 1848 (42  
11 U.S.C. 1395w-4) is amended—

12            (1) in subsection (a)(2)(B)(i)(I), by inserting  
13            “and as adjusted under subsection (c)(2)(E)(ii)”  
14            after “for 1993”;

15            (2) in subsection (c)(2)(A)(i), by adding at the  
16            end the following: “Such relative values are subject  
17            to adjustment under subparagraph (E)(i).”; and

18            (3) in subsection (i)(1)(B), by adding at the  
19            end “including adjustments under subsection  
20            (c)(2)(E).”.

21        (d) EFFECTIVE DATE.—The amendments made by  
22        this section shall apply to services furnished on or after  
23        January 1, 1994.

1 **SEC. 13442. PAYMENTS FOR NEW PHYSICIANS AND PRACTI-**  
2 **TIONERS.**

3 (a) EQUAL TREATMENT OF NEW PHYSICIANS AND  
4 PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C.  
5 1395w-4(a)) is amended by striking paragraph (4).

6 (2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is  
7 amended by striking subparagraph (F).

8 (b) BUDGET NEUTRALITY ADJUSTMENT.—Notwith-  
9 standing any other provision of law, the Secretary of  
10 Health and Human Services shall reduce the following val-  
11 ues and amounts for 1993 (to be applied for that year  
12 and subsequent years) by such uniform percentage as the  
13 Secretary determines to be required to assure that the  
14 amendments made by subsection (a) will not result in ex-  
15 penditures under part B of title XVIII of the Social Secu-  
16 rity Act in 1993 that exceed the amount of such expendi-  
17 tures that would have been made if such amendments had  
18 not been made:

19 (1) The relative values established under section  
20 1848(c) of such Act for services (other than anesthe-  
21 sia services) and, in the case of anesthesia services,  
22 the conversion factor established under section 1848  
23 of such Act for such services.

24 (2) The amounts determined under section  
25 1848(a)(2)(B)(i)(I) of such Act.

1           (3) The prevailing charges or fee schedule  
2           amounts to be applied under such part for services  
3           of a health care practitioner (as defined in section  
4           1842(b)(4)(F)(ii)(I) of such Act, as in effect before  
5           the date of the enactment of this Act).

6           (c) CONFORMING AMENDMENTS.—Section 1848 (42  
7           U.S.C. 1395w-4), as amended by section 13441(c), is  
8           amended—

9           (1) in subsection (a)(2)(B)(i)(I), by inserting  
10          “and section 13442(b) of the Omnibus Budget Rec-  
11          onciliation Act of 1993” after “(c)(2)(E)(ii)” after  
12          “for 1993”;

13          (2) in subsection (c)(2)(A)(i), by inserting “and  
14          section 13442(b) of the Omnibus Budget Reconcili-  
15          ation Act of 1993” after “under subparagraph  
16          (E)(i)”;

17          (3) in subsection (i)(1)(B), by inserting “and  
18          section 13442(b) of the Omnibus Budget Reconcili-  
19          ation Act of 1993” after “under subsection  
20          (c)(2)(E)”.

21          (d) EFFECTIVE DATE.—The amendments made by  
22          subsection (a) shall apply to services furnished on or after  
23          January 1, 1994.

1 **SEC. 13443. RETAINING PAYMENT FOR ACTUAL ANESTHE-**  
2 **SIA TIME.**

3 (a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B)  
4 (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at  
5 the end the following: “The Secretary may not modify the  
6 methodology in effect as of January 1, 1992, for determin-  
7 ing the amount of time that may be billed for such services  
8 under this section.”.

9 (b) SERVICES OF CERTIFIED REGISTERED NURSE  
10 ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C.  
11 1395l(l)(1)(B)) is amended by adding at the end the fol-  
12 lowing: “The Secretary may not modify the methodology  
13 in effect as of January 1, 1992, for determining the  
14 amount of time that may be billed for such services under  
15 this section.”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall take apply to services furnished on or  
18 after the date of the enactment of this Act.

19 **SEC. 13444. GEOGRAPHIC COST OF PRACTICE INDEX RE-**  
20 **FINEMENTS.**

21 (a) REQUIRING CONSULTATION WITH REPRESENTA-  
22 TIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC AD-  
23 JUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C.  
24 1395w-4(e)(1)(C)) is amended by striking “shall review”  
25 and inserting “shall, in consultation with appropriate rep-  
26 resentatives of physicians, review”.

1       (b) USE OF MOST RECENT DATA IN GEOGRAPHIC  
2 ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–  
3 4(e)(1)) is amended by adding at the end the following  
4 new subparagraph:

5               “(D) USE OF RECENT DATA.—In estab-  
6               lishing indices and index values under this  
7               paragraph, the Secretary shall use the most re-  
8               cent data available relating to practice ex-  
9               penses, malpractice expenses, and physician  
10              work effort in different fee schedule areas.”.

11       (c) DEADLINE FOR INITIAL REVIEW AND REVI-  
12 SION.—The Secretary of Health and Human Services  
13 shall first review and revise geographic adjustment factors  
14 under section 1848(e)(1)(C) of the Social Security Act by  
15 not later than January 1, 1995. Not later than April 1,  
16 1994, the Secretary shall study and report to report to  
17 the Committee on Finance of the Senate and the Commit-  
18 tee on Ways and Means and the Committee on Energy  
19 and Commerce of the House of Representatives on the  
20 construction of the geographic cost of practice index under  
21 section 1848(e)(1)(A)(i) of such Act.

22       (d) REPORT ON REVIEW PROCESS.—Not later than  
23 1 year after the date of the enactment of this Act, the  
24 Secretary of Health and Human Services shall study and  
25 report to the Committee on Finance of the Senate and



1 the Committee on Ways and Means and the Committee  
2 on Energy and Commerce of the House of Representatives  
3 on—

4 (1) the data necessary to review and revise the  
5 indices established under section 1848(e)(1)(A) of  
6 the Social Security Act, including—

7 (A) the shares allocated to physicians'  
8 work effort, practice expenses (other than mal-  
9 practice expenses), and malpractice expenses;

10 (B) the weights assigned to the input com-  
11 ponents of such shares; and

12 (C) the index values assigned to such com-  
13 ponents;

14 (2) any limitations on the availability of data  
15 necessary to review and revise such indices at least  
16 every three years;

17 (3) ways of addressing such limitations, with  
18 particular attention to the development of alternative  
19 data sources for input components for which current  
20 index values are based on data collected less fre-  
21 quently than every three years; and

22 (4) the costs of developing more accurate and  
23 timely data.

24 (e) DEVELOPMENT OF CRITERIA FOR USE IN DE-  
25 TERMINING PAYMENT LOCALITIES.—The Physician Pay-

1 ment Review Commission shall conduct a study to develop  
2 criteria that would be used to refine the fee schedule areas  
3 that are used within States, in applying geographic adjust-  
4 ment factors for computing payment amounts, under sec-  
5 tion 1848 of the Social Security Act. The Commission  
6 shall include a report on such study in its recommenda-  
7 tions submitted to the Congress under section 1845(b) of  
8 such Act in 1994.

9 **SEC. 13445. EXTRA-BILLING.**

10 (a) ENFORCEMENT AND UNIFORM APPLICATION.—

11 (1) ENFORCEMENT.—Paragraph (1) of section  
12 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read  
13 as follows:

14 “(1) LIMITATION ON ACTUAL CHARGES.—

15 “(A) IN GENERAL.—In the case of a  
16 nonparticipating physician or nonparticipating  
17 supplier or other person (as defined in section  
18 1842(i)(2)) who does not accept payment on an  
19 assignment-related basis for a physician’s serv-  
20 ice furnished with respect to an individual en-  
21 rolled under this part, the following rules apply:

22 “(i) APPLICATION OF LIMITING  
23 CHARGE.—No person may bill or collect an  
24 actual charge for the service in excess of

1 the limiting charge described in paragraph  
2 (2) for such service.

3 “(ii) NO LIABILITY FOR EXCESS  
4 CHARGES.—No person is liable for pay-  
5 ment of any amounts billed for the service  
6 in excess of such limiting charge.

7 “(iii) CORRECTION OF EXCESS  
8 CHARGES.—If such a physician, supplier,  
9 or other person bills, but does not collect,  
10 an actual charge for a service in violation  
11 of clause (i), the physician, supplier, or  
12 other person shall reduce on a timely basis  
13 the actual charge billed for the service to  
14 an amount not to exceed the limiting  
15 charge for the service.

16 “(iv) REFUND OF EXCESS COLLEC-  
17 TIONS.—If such a physician, supplier, or  
18 other person collects an actual charge for  
19 a service in violation of clause (i), the phy-  
20 sician, supplier, or other person shall pro-  
21 vide on a timely basis a refund to the indi-  
22 vidual charged in the amount by which the  
23 amount collected exceeded the limiting  
24 charge for the service. The amount of such  
25 a refund shall be reduced to the extent the

1 individual has an outstanding balance owed  
2 by the individual to the physician.

3 “(B) SANCTIONS.—If a physician, supplier,  
4 or other person—

5 “(i) knowingly and willfully bills or  
6 collects for services in violation of subpara-  
7 graph (A)(i) on a repeated basis, or

8 “(ii) fails to comply with clause (iii)  
9 or (iv) of subparagraph (A) on a timely  
10 basis,

11 the Secretary may apply sanctions against the  
12 physician, supplier, or other person in accord-  
13 ance with paragraph (2) of section 1842(j). In  
14 applying this subparagraph, paragraph (4) of  
15 such section applies in the same manner as  
16 such paragraph applies to such section and any  
17 reference in such section to a physician is  
18 deemed also to include a reference to a supplier  
19 or other person under this subparagraph.

20 “(C) TIMELY BASIS.—For purposes of this  
21 paragraph, a correction of a bill for an excess  
22 charge or refund of an amount with respect to  
23 a violation of subparagraph (A)(i) in the case of  
24 a service is considered to be provided ‘on a  
25 timely basis’, if the reduction or refund is made

1 not later than 30 days after the date the physi-  
2 cian, supplier, or other person is notified by the  
3 carrier under this part of such violation and of  
4 the requirements of subparagraph (A).”.

5 (2) UNIFORM APPLICATION OF EXTRA-BILLING  
6 LIMITS TO PHYSICIANS’ SERVICES.—

7 (A) IN GENERAL.—Section 1848(g)(2)(C)  
8 (42 U.S.C. 1395w-4(g)(2)(C)) is amended by  
9 inserting “or for nonparticipating suppliers or  
10 other persons” after “nonparticipating physi-  
11 cians”.

12 (B) CONFORMING DEFINITION.—Section  
13 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amend-  
14 ed—

15 (i) by striking “, and the term” and  
16 inserting “; the term”, and

17 (ii) by inserting before the period at  
18 the end the following: “; and the term  
19 ‘nonparticipating supplier or other person’  
20 means a supplier or other person (exclud-  
21 ing a provider of services) that is not a  
22 participating physician or supplier (as de-  
23 fined in subsection (h)(1))”.

1 (b) PRE-PAYMENT SCREENING OF CLAIMS.—Sub-  
2 paragraph (G) of section 1842(b)(3) (42 U.S.C.  
3 1395u(b)(3)) is amended to read as follows:

4 “(G) will, for a service that is furnished with  
5 respect to an individual enrolled under this part,  
6 that is not paid on an assignment-related basis, and  
7 that is subject to a limiting charge under section  
8 1848(g)—

9 “(i) determine, prior to making payment,  
10 whether the amount billed for such service ex-  
11 ceeds the limiting charge applicable under sec-  
12 tion 1848(g)(2);

13 “(ii) notify the physician, supplier, or other  
14 person periodically (but not less often than once  
15 every 30 days) of determinations that amounts  
16 billed exceeded such applicable limiting charges;  
17 and

18 “(iii) provide for prompt response to in-  
19 quiries of physicians, suppliers, and other per-  
20 sons concerning the accuracy of such limiting  
21 charges for their services;”.

22 (c) INFORMATION ON EXTRA-BILLING LIMITS.—

23 (1) PART OF EXPLANATION OF MEDICARE BEN-  
24 EFITS.—Section 1842(h)(7) (42 U.S.C.  
25 1395u(h)(7)) is amended—

1 (A) by striking “and” at the end of sub-  
2 paragraph (B),

3 (B) in subparagraph (C), by striking “shall  
4 include” and by striking the period at the end  
5 and inserting “, and”, and

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

8 “(D) in the case of services for which the billed  
9 amount exceeds the limiting charge imposed under  
10 section 1848(g), information regarding such applica-  
11 ble limiting charge (including information concern-  
12 ing the right to a refund under section  
13 1848(g)(1)(A)(iv)).”.

14 (2) REPORT ON CHARGES IN EXCESS OF LIMIT-  
15 ING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C.  
16 1395w-4(g)(6)(B)) is amended by inserting “the ex-  
17 tent to which actual charges exceed limiting charges,  
18 the number and types of services involved, and the  
19 average amount of excess charges and” after “report  
20 to the Congress”.

21 (d) APPLYING THE LIMITING CHARGE TO  
22 NONPHYSICIAN SERVICES PROVIDED UNDER THE PHYSI-  
23 CIAN FEE SCHEDULE.—Section 1848 (42 U.S.C. 1395w-  
24 4) is amended—

1           (1) in subsection (a)(3), by inserting “AND SUP-  
2       PLIERS” after “PHYSICIANS”, and by inserting “or a  
3       nonparticipating supplier or other person” after  
4       “nonparticipating physician” and by adding at the  
5       end the following: “In the case of physicians’ serv-  
6       ices (including services which the Secretary excludes  
7       pursuant to subsection (j)(3)) of a nonparticipating  
8       physician, supplier, or other person for which pay-  
9       ment is made under this part on a basis other than  
10      the fee schedule amount, the payment shall be based  
11      on 95 percent of the payment basis for such services  
12      furnished by a participating physician, supplier, or  
13      other person.”;

14          (2) in subsection (g)(1)(A), as amended by sub-  
15      section (a), in the matter before clause (i), by insert-  
16      ing “(including services which the Secretary excludes  
17      pursuant to subsection (j)(3))” after “a physician’s  
18      service”;

19          (3) in subsection (g)(2)(D), by inserting “(or, if  
20      payment under this part is made on a basis other  
21      than the fee schedule under this section, 95 percent  
22      of the other payment basis)” after “subsection (a)”;

23          (4) in subsection (g)(3)(B)—

24              (A) by inserting after the first sentence the  
25      following: “ No person is liable for payment of



1 any amounts billed for such a service in viola-  
2 tion of the previous sentence.”, and

3 (B) in the last sentence, by striking “pre-  
4 vious sentence” and inserting “first sentence”;  
5 (5) in subsection (h)—

6 (A) by inserting “or nonparticipating sup-  
7 plier or other person furnishing physicians’  
8 services (as defined in section 1848(j)(3))”  
9 after “physician” the first place it appears,

10 (B) by inserting “, supplier, or other per-  
11 son” after “physician” the second place it ap-  
12 pears, and

13 (C) by inserting “, suppliers, and other  
14 persons” after “physicians” the second place it  
15 appears; and

16 (6) in subsection (j)(3), by inserting “, except  
17 for purposes of subsections (a)(3), (g), and (h)”  
18 after “tests and”.

19 (e) CLARIFICATION OF MANDATORY ASSIGNMENT  
20 RULES FOR CERTAIN PRACTITIONERS.—

21 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.  
22 1395u(b)), as amended by section 13449(e), is  
23 amended by adding at the end the following new  
24 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

1 (iii) in subsection (r), by striking  
2 paragraph (3) and redesignating para-  
3 graph (4) as paragraph (3).

4 (B) Section 1842(b)(12) (42 U.S.C.  
5 1395u(b)(12)) is amended by striking subpara-  
6 graph (C).

7 (f) MISCELLANEOUS AND TECHNICAL AMEND-  
8 MENTS.—Section 1833 (42 U.S.C. 1395l) is amended—  
9 (1) in subsection (a)(1), as amended by section  
10 13479(e)(2)—

11 (A) by striking “and” before “(O)”, and

12 (B) by inserting before the semicolon at  
13 the end the following: “, and (P) with respect  
14 to services described in clauses (i), (ii) and (iv)  
15 of section 1861(s)(2)(K), the amounts paid are  
16 subject to the provisions of section  
17 1842(b)(12)”; and

18 (2) in subsection (h)(5)(D)—

19 (A) by striking “paragraphs (2) and (3)”  
20 and by inserting “paragraph (2)”, and

21 (B) by adding at the end the following:  
22 “Paragraph (4) of such section shall apply in  
23 this subparagraph in the same manner as such  
24 paragraph applies to such section.”.

25 (g) EFFECTIVE DATES.—

1           (1) ENFORCEMENT AND UNIFORM APPLICA-  
2           TION; MISCELLANEOUS AND TECHNICAL AMEND-  
3           MENTS.—The amendments made by subsections (a),  
4           (d), and (f) shall apply to services furnished on or  
5           after the date of the enactment of this Act; except  
6           that such amendments made by subsections (a) and  
7           (d) shall not apply to services of a nonparticipating  
8           supplier or other person furnished before January 1,  
9           1994.

10          (2) CARRIER DETERMINATIONS.—The amend-  
11          ments made by subsection (b) shall apply to con-  
12          tracts as of January 1, 1994.

13          (3) EOMBS.—The amendments made by sub-  
14          section (c)(1) shall apply to explanations of benefits  
15          provided on or after January 1, 1994.

16          (4) REPORT.—The amendment made by sub-  
17          section (c)(2) shall apply to reports for years begin-  
18          ning with 1994.

19          (5) PRACTITIONERS.—The amendments made  
20          by subsection (e) shall apply to services furnished on  
21          or after January 1, 1994.

22   **SEC. 13446. RELATIVE VALUES FOR PEDIATRIC SERVICES.**

23          (a) IN GENERAL.—The Secretary of Health and  
24          Human Services shall fully develop, by not later than July  
25          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.

1 **SEC. 13447. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.**

2 (a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C.  
3 1395w-4(j)(3)) is amended by inserting “(2)(G),” after  
4 “(2)(D),”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall apply to services furnished on or after  
7 January 1, 1995.

8 **SEC. 13448. ADMINISTRATION OF CLAIMS RELATING TO**  
9 **PHYSICIANS’ SERVICES.**

10 (a) LIMITATION ON CARRIER USER FEES.—Section  
11 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at  
12 the end the following new paragraph:

13 “(4) Neither a carrier nor the Secretary may impose  
14 a fee under this title—

15 “(A) for the filing of claims related to physi-  
16 cians’ services,

17 “(B) for an error in filing a claim relating to  
18 physicians’ services or for such a claim which is  
19 denied,

20 “(C) for any appeal under this title with respect  
21 to physicians’ services,

22 “(D) for applying for (or obtaining) a unique  
23 identifier under subsection (r), or

24 “(E) for responding to inquiries respecting phy-  
25 sicians’ services or for providing information with re-  
26 spect to medical review of such services.”.

1 (b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE  
2 BILLING ARRANGEMENTS.—

3 (1) IN GENERAL.—Clause (D) of section  
4 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by  
5 section 13449(f), is amended to read as follows:  
6 “(D) payment may be made to a physician for physi-  
7 cians’ services (and services furnished incident to  
8 such services) furnished by a second physician to pa-  
9 tients of the first physician if (i) the first physician  
10 is unavailable to provide the services; (ii) the services  
11 are furnished pursuant to an arrangement between  
12 the two physicians that (I) is informal and recip-  
13 rocal, or (II) involves per diem or other fee-for-time  
14 compensation for such services; (iii) the services are  
15 not provided by the second physician over a continu-  
16 ous period of more than 60 days; and (iv) the claim  
17 form submitted to the carrier for such services in-  
18 cludes the second physician’s unique identifier (pro-  
19 vided under the system established under subsection  
20 (r)) and indicates that the claim meets the require-  
21 ments of this clause for payment to the first physi-  
22 cian”.

23 (2) EFFECTIVE DATE.—The amendment made  
24 by paragraph (1) shall apply to services furnished on  
25 or after the first day of the first month beginning



1 more than 60 days after the date of the enactment  
2 of this Act.

3 **SEC. 13449. MISCELLANEOUS AND TECHNICAL CORREC-**  
4 **TIONS.**

5 (a) OVERVALUED PROCEDURES (SECTION 4101 OF  
6 OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) (42  
7 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

8 (A) by striking “, simple and subcutaneous”,

9 (B) by striking “; small” and inserting “and  
10 small”,

11 (C) by striking “treatments;” the first place it  
12 appears and inserting “and”,

13 (D) by striking “lobectomy;”,

14 (E) by striking “enterectomy; colectomy; chole-  
15 cystectomy;”,

16 (F) by striking “; transurerethral resection”  
17 and inserting “and resection”, and

18 (G) by striking “sacral laminectomy;”.

19 (2) Section 4101(b)(2) of OBRA-1990 is amended—

20 (A) in the matter before subparagraph (A), by  
21 striking “1842(b)(16)” and inserting  
22 “1842(b)(16)(B)”, and

23 (B) in subparagraph (B)—

24 (i) by striking “, simple and subcutane-  
25 ous”,

1 (ii) by striking “(HCPCS codes 19160 and  
2 19162)” and inserting “(HCPCS code 19160)”,  
3 and

4 (iii) by striking all that follows “(HCPCS  
5 codes 92250” and inserting “and 92260).”.

6 (b) RADIOLOGY SERVICES (SECTION 4102 OF  
7 OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C.  
8 1395m(b)(4)) is amended by redesignating subparagraphs  
9 (E) and (F) as subparagraphs (F) and (G), respectively.  
10 (2) Section 1834(b)(4)(D) (42 U.S.C.  
11 1395m(b)(4)(D)) is amended—

12 (A) in the matter before clause (i), by striking  
13 “shall be determined as follows:” and inserting  
14 “shall, subject to clause (vii), be reduced to the ad-  
15 justed conversion factor for the locality determined  
16 as follows:”,

17 (B) in clause (iv), by striking “LOCAL ADJUST-  
18 MENT.—Subject to clause (vii), the conversion factor  
19 to be applied to” and inserting “ADJUSTED CONVER-  
20 SION FACTOR.—The adjusted conversion factor for”,

21 (C) in clause (vii), by striking “under this sub-  
22 paragraph”, and

23 (D) in clause (vii), by inserting “reduced under  
24 this subparagraph by” after “shall not be”.

1       (3) Section 4102(c)(2) of OBRA-1990 is amended  
2 by striking “radiology services” and all that follows and  
3 inserting “nuclear medicine services.”.

4       (4) Section 4102(d) of OBRA-1990 is amended by  
5 striking “new paragraph” and inserting “new subpara-  
6 graph”.

7       (5) Section 1834(b)(4)(E) (42 U.S.C.  
8 1395m(b)(4)(E)) is amended by inserting “RULE FOR  
9 CERTAIN SCANNING SERVICES.—” after “(E)”.

10       (6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-  
11 4(a)(2)(D)(iii)) is amended by striking “that are subject  
12 to section 6105(b) of the Omnibus Budget Reconciliation  
13 Act of 1989” and by striking “provided under such sec-  
14 tion” and inserting “provided under section 6105(b) of the  
15 Omnibus Budget Reconciliation Act of 1989”.

16       (c) ANESTHESIA SERVICES (SECTION 4103 OF  
17 OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is  
18 amended by striking “REDUCTION IN FEE SCHEDULE”  
19 and inserting “REDUCTION IN PREVAILING CHARGES”.

20       (2) Section 1842(q)(1)(B) (42 U.S.C.  
21 1395u(q)(1)(B)) is amended—

22               (A) in the matter before clause (i), by striking  
23 “shall be determined as follows:” and inserting  
24 “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”.

1 (f) RECIPROCAL BILLING ARRANGEMENTS (SECTION  
2 4110 OF OBRA-1990).—Section 1842(b)(6)(D) (42  
3 U.S.C. 1395u(b)(6)(D)) is amended—

4 (1) by striking “visit services (including emer-  
5 gency visits and related services)” and inserting  
6 “physicians’ services (and services furnished incident  
7 to such services)”;

8 (2) by striking “on an occasional, reciprocal  
9 basis” and inserting “under an arrangement that is  
10 informal and reciprocal or involves per diem or other  
11 fee-for-time compensation for services”;

12 (3) by striking “visit” in subclauses (i), (ii),  
13 and (iv); and

14 (4) in subclause (iii), by striking “the claim”  
15 and all that follows through the comma at the end  
16 and inserting “the claim meets the requirements of  
17 this clause for payment to the first physician”.

18 (g) STUDY OF AGGREGATION RULE FOR CLAIMS OF  
19 SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF  
20 OBRA-1990).—Section 4113 of OBRA-1990 is amend-  
21 ed—

22 (1) by inserting “of the Social Security Act”  
23 after “1869(b)(2)”;

24 (2) by striking “December 31, 1992” and in-  
25 serting “December 31, 1993”.

1 (h) STATEWIDE FEE SCHEDULES (SECTION 4117 OF  
 2 OBRA-1990).—Section 4117 of OBRA-1990 is amend-  
 3 ed—

4 (1) in subsection (a)—

5 (A) by striking “IN GENERAL.—”, and

6 (B) by striking “, if the” and all that fol-  
 7 lows through “1991, ”; and

8 (2) by striking subsections (b), (c), and (d).

9 (i) OTHER MISCELLANEOUS AND TECHNICAL  
 10 AMENDMENTS.—(1) The heading of section 1834(f) (42  
 11 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

12 (2)(A) Section 4105(b) of OBRA-1990 is amended—

13 (i) in paragraph (2), by striking “amendments”  
 14 and inserting “amendment”, and

15 (ii) in paragraph (3), by striking “amendments  
 16 made by paragraphs (1) and (2)” and inserting  
 17 “amendment made by paragraph (1)”.

18 (B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-  
 19 4(f)(2)(C)) is amended by inserting “PERFORMANCE  
 20 STANDARD RATES OF INCREASE FOR FISCAL YEAR  
 21 1991.—” after “(C)”.

22 (C) Section 4105(d) of OBRA-1990 is amended by  
 23 inserting “PUBLICATION OF PERFORMANCE STANDARD  
 24 RATES.—” after “(d)”.

1       (3)     Section     1842(b)(4)(F)     (42     U.S.C.  
2     1395u(b)(4)(F)) is amended—

3             (A) in clause (i), by striking “prevailing  
4     charge” the first place it appears and inserting  
5     “customary charge”; and

6             (B) in clause (ii)(III), by striking “second,  
7     third, and fourth” and inserting “first, second, and  
8     third”.

9       (4)     Section     1842(b)(4)(F)(ii)(I)     (42     U.S.C.  
10    1395u(b)(4)(F)(ii)(I)) is amended by striking “respiratory  
11   therapist,”.

12       (5) Section 4106(c) of OBRA–1990 is amended by  
13   inserting “of the Social Security Act” after  
14   “1848(d)(1)(B)”.

15       (6) Section 4114 of OBRA–1990 is amended by  
16   striking “patients” the second place it appears.

17       (7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–  
18   4(e)(1)(C)) is amended by inserting “date of the” after  
19   “since the”.

20       (8) Section 4118(f)(1)(D) of OBRA–1990 is amend-  
21   ed by striking “is amended”.

22       (9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is  
23   amended by striking “subsection (f)(5)(A)” and inserting  
24   “subsection (f)(5)(A))”.

1 (10) Section 1845(e) (42 U.S.C. 1395w-1(e)) is  
2 amended—

3 (A) by striking paragraph (2); and

4 (B) by redesignating paragraphs (3), (4), and  
5 (5) as paragraphs (2), (3), and (4).

6 (11) Section 4118(j)(2) of OBRA-1990 is amended  
7 by striking “In section” and inserting “Section”.

8 (12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-  
9 4(i)(3)) is amended by striking the space before the period  
10 at the end.

11 (B) Section 1834(a)(10)(B) (42 U.S.C.  
12 1395m(a)(10)(B)) is amended—

13 (i) by striking “apply to” and inserting “would  
14 otherwise apply to”, and

15 (ii) by inserting before the period at the end  
16 “but for the application of section 1848(i)(3)”.

17 (j) EFFECTIVE DATE.—The amendments made by  
18 this section and the provisions of this section shall take  
19 effect as if included in the enactment of OBRA-1990.

20 **Subchapter C—Ambulatory Surgical Center**  
21 **Services**

22 **SEC. 13451. DESIGNATION OF CERTAIN HOSPITALS AS EYE**  
23 **OR EYE AND EAR HOSPITALS.**

24 (a) IN GENERAL.—Section 1833(i) (42 U.S.C.  
25 1395l(i)) is amended—



1 (1) in subparagraph (B)(ii)—

2 (A) by striking “the last sentence of this  
3 clause” and inserting “paragraph (4)”, and

4 (B) by striking the last sentence; and

5 (2) by inserting after paragraph (3) the follow-  
6 ing new paragraph:

7 “(4)(A) In the case of a hospital that—

8 “(i) makes application to the Secretary and  
9 demonstrates that it specializes in eye services or eye  
10 and ear services (as determined by the Secretary),

11 “(ii) receives more than 30 percent of its total  
12 revenues from outpatient services, and

13 “(iii) on October 1, 1987—

14 “(I) was an eye specialty hospital or an eye  
15 and ear specialty hospital, or

16 “(II) was operated as an eye or eye and  
17 ear unit (as defined in subparagraph (B)) of a  
18 general acute care hospital which, on the date  
19 of the application described in clause (i), oper-  
20 ates less than 20 percent of the beds that the  
21 hospital operated on October 1, 1987, and has  
22 sold or otherwise disposed of a substantial por-  
23 tion of the hospital’s other acute care oper-  
24 ations,

1 the cost proportion and ASC proportion in effect under  
2 subclauses (I) and (II) of paragraph (2)(B)(ii) for cost  
3 reporting periods beginning in fiscal year 1988 shall re-  
4 main in effect for cost reporting periods beginning on or  
5 after October 1, 1988, and before January 1, 1995.

6 “(B) For purposes of this subparagraph (A)(iii)(II),  
7 the term ‘eye or eye and ear unit’ means a physically sepa-  
8 rate or distinct unit containing separate surgical suites de-  
9 voted solely to eye or eye and ear services.”.

10 (b) EFFECTIVE DATE.—The amendments made by  
11 subsection (a) shall apply to portions of cost reporting  
12 periods beginning on or after January 1, 1994.

13 **SEC. 13452. TREATMENT OF INTRAOCULAR LENSES.**

14 (a) EXTENSION OF CAP ON PAYMENTS THROUGH  
15 1994.—

16 (1) IN GENERAL.—Section 4151(c)(3) of  
17 OBRA–1990 is amended by striking “December 31,  
18 1992” and inserting “December 31, 1994”.

19 (2) EFFECTIVE DATE.—The amendment made  
20 by paragraph (1) this subsection shall be effective as  
21 if included in the enactment of OBRA–1990.

22 (b) STUDY OF COSTS OF INTRAOCULAR LENSES.—

23 (1) STUDY.—The Secretary of Health and  
24 Human Services shall conduct a study, based on re-  
25 cent data, of the acquisition costs to providers of

1 intraocular lenses provided to individuals enrolled  
2 under part B of the medicare program and shall in-  
3 clude in the study an analysis of the impact of the  
4 availability of new technology lenses on such costs.

5 (2) REPORT.—Not later than 1 year after the  
6 date of the enactment of this Act, the Secretary  
7 shall submit a report on the study conducted under  
8 paragraph (1) to the Committee on Finance of the  
9 Senate and the Committees on Ways and Means and  
10 Energy and Commerce of the House of Representa-  
11 tives, and shall include in the report any rec-  
12 ommendations the Secretary considers appropriate  
13 regarding the determination of payment amounts for  
14 intraocular lenses under part B of the medicare  
15 program.

16 **SEC. 13453. TECHNICAL AMENDMENTS.**

17 (a) PAYMENT AMOUNTS FOR SERVICES FURNISHED  
18 IN AMBULATORY SURGICAL CENTERS.—

19 (1) USE OF SURVEY TO DETERMINE INCURRED  
20 COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C.  
21 1395l(i)(2)(A)(i)) is amended by striking the comma  
22 at the end and inserting the following: “, as deter-  
23 mined in accordance with a survey (based upon a  
24 representative sample of procedures and facilities)  
25 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.”.

1       (b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW  
2 TECHNOLOGY INTRAOCULAR LENSES.—

3           (1) ESTABLISHMENT OF PROCESS FOR REVIEW  
4 OF AMOUNTS.—Not later than 1 year after the date  
5 of the enactment of this Act, the Secretary of  
6 Health and Human Services (in this subsection re-  
7 ferred to as the “Secretary”) shall develop and im-  
8 plement a process under which interested parties  
9 may request review by the Secretary of the appro-  
10 priateness of the reimbursement amount provided  
11 under section 1833(i)(2)(A)(iii) of the Social Secu-  
12 rity Act with respect to a class of new technology  
13 intraocular lenses. For purposes of the preceding  
14 sentence, an intraocular lens may not be treated as  
15 a new technology lens unless it has been approved  
16 by the Food and Drug Administration.

17           (2) FACTORS CONSIDERED.—In determining  
18 whether to provide an adjustment of payment with  
19 respect to a particular lens under paragraph (1), the  
20 Secretary shall take into account whether use of the  
21 lens is likely to result in reduced risk of  
22 intraoperative or postoperative complication or trau-  
23 ma, accelerated postoperative recovery, reduced in-  
24 duced 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—

1 (A) by striking “for reporting” and insert-  
 2 ing “for portions of cost reporting”; and

3 (B) by striking “and on or before” and in-  
 4 serting “and ending on or before”.

5 (2) EFFECTIVE DATE.—The amendments made  
 6 by paragraph (1) shall take effect as if included in  
 7 the enactment of OBRA–1990.

8 (d) TECHNICAL CORRECTION RELATED TO CATA-  
 9 RACT SURGERY.—Effective as if included in the enact-  
 10 ment of OBRA–1990, section 4151(c)(3) of such Act is  
 11 amended by striking “for the insertion of an intraocular  
 12 lens” and inserting “for an intraocular lens inserted”.

### 13 **Subchapter D—Durable Medical Equipment**

#### 14 **SEC. 13461. CERTIFICATION OF SUPPLIERS.**

15 (a) REQUIREMENTS.—

16 (1) IN GENERAL.—Section 1834 (42 U.S.C.  
 17 1395m) is amended by adding at the end the follow-  
 18 ing new subsection:

19 “(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL  
 20 EQUIPMENT AND SUPPLIES.—

21 “(1) ISSUANCE AND RENEWAL OF SUPPLIER  
 22 NUMBER.—

23 “(A) PAYMENT.—Except as provided in  
 24 subparagraph (C), no payment may be made  
 25 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-

1 cal equipment and supplies selected in accord-  
2 ance with the standards described in subpara-  
3 graph (B). The Secretary shall publish the cri-  
4 teria as part of the instructions provided to fis-  
5 cal intermediaries and carriers under this part  
6 and no further publication, including publica-  
7 tion in the Federal Register, shall be required.

8 “(B) STANDARDS FOR SELECTING ITEMS  
9 SUBJECT TO CRITERIA.—The Secretary may se-  
10 lect an item for coverage under the criteria de-  
11 veloped and established under subparagraph  
12 (A) if the Secretary finds that—

13 “(i) the item is frequently purchased  
14 or rented by beneficiaries;

15 “(ii) the item is frequently subject to  
16 a determination that such item is not  
17 medically necessary; or

18 “(iii) the coverage or utilization cri-  
19 teria applied to the item (as of the date of  
20 the enactment of this subsection) is not  
21 consistent among carriers.

22 “(C) ANNUAL REVIEW AND EXPANSION OF  
23 ITEMS SUBJECT TO CRITERIA.—The Secretary  
24 shall annually review the coverage and utiliza-  
25 tion of items of medical equipment and supplies

1 to determine whether items not included among  
2 the items selected under subparagraph (A)  
3 should be made subject to uniform national cov-  
4 erage and utilization review criteria, and, if ap-  
5 propriate, shall develop and apply such criteria  
6 to such additional items.

7 “(4) DEFINITION.—The term ‘medical equip-  
8 ment and supplies’ means—

9 “(A) durable medical equipment (as de-  
10 fined in section 1861(n));

11 “(B) prosthetic devices (as described in  
12 section 1861(s)(8));

13 “(C) orthotics and prosthetics (as de-  
14 scribed in section 1861(s)(9));

15 “(D) surgical dressings (as described in  
16 section 1861(s)(5));

17 “(E) such other items as the Secretary  
18 may determine; and

19 “(F) for purposes of paragraphs (1) and  
20 (3)—

21 “(i) home dialysis supplies and equip-  
22 ment (as described in section  
23 1861(s)(2)(F)), and

24 “(ii) immunosuppressive drugs (as de-  
25 scribed in section 1861(s)(2)(J)).”.

1       (2) CONFORMING AMENDMENT.—Effective October  
2 1, 1993, paragraph (16) of section 1834(a) (42 U.S.C.  
3 1395m(a)) is repealed.

4       (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON  
5 UTILIZATION OF ITEMS.—Not later than July 1, 1995,  
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 representatives  
19 of suppliers of durable medical equipment under  
20 part B of the medicare program and individuals en-  
21 titled to benefits under such program on the basis  
22 of disability, shall conduct a study of the effects of  
23 the methodology for determining payments for items  
24 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.



1 **SEC. 13462. PROHIBITION AGAINST CARRIER FORUM SHOP-**  
2 **PING.**

3 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.  
4 1395m(a)(12)) is amended to read as follows:

5 “(12) USE OF CARRIERS TO PROCESS  
6 CLAIMS.—

7 “(A) DESIGNATION OF REGIONAL CAR-  
8 RIER.—The Secretary may designate, by regu-  
9 lation under section 1842, one carrier for one  
10 or more entire regions to process all claims  
11 within the region for covered items under this  
12 section.

13 “(B) PROHIBITION AGAINST CARRIER  
14 SHOPPING.—(i) No supplier of a covered item  
15 may present or cause to be presented a claim  
16 for payment under this part unless such claim  
17 is presented to the appropriate regional carrier  
18 (as designated by the Secretary).

19 “(ii) For purposes of clause (i), the term  
20 ‘appropriate regional carrier’ means the carrier  
21 having jurisdiction over the geographic area  
22 that includes the permanent residence of the  
23 patient to whom the item is furnished.”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) shall apply to items furnished on or after  
26 October 1, 1993.

1       (c) CLARIFICATION OF AUTHORITY TO DESIGNATE  
2 CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing  
3 in this subsection or the amendment made by this sub-  
4 section may be construed to restrict the authority of the  
5 Secretary of Health and Human Services to designate re-  
6 gional carriers or modify claims jurisdiction rules with re-  
7 spect to items or services under part B of the medicare  
8 program that are not covered items under section 1834(a)  
9 of the Social Security Act or prosthetic devices or orthotics  
10 and prosthetics under section 1834(h) of such Act.

11 **SEC. 13463. RESTRICTIONS ON CERTAIN MARKETING AND**  
12 **SALES ACTIVITIES.**

13       (a) PROHIBITING UNSOLICITED TELEPHONE CON-  
14 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-  
15 MENT TO MEDICARE BENEFICIARIES.—

16           (1) IN GENERAL.—Section 1834(a) (42 U.S.C.  
17 1395m(a)) is amended by adding at the end the fol-  
18 lowing new paragraph:

19           “(17) PROHIBITION AGAINST UNSOLICITED  
20 TELEPHONE CONTACTS BY SUPPLIERS.—

21           “(A) IN GENERAL.—A supplier of a cov-  
22 ered item under this subsection may not contact  
23 an individual enrolled under this part by tele-  
24 phone regarding the furnishing of a covered  
25 item to the individual (other than a covered

1 item the supplier has already furnished to the  
2 individual) unless—

3 “(i) the individual gives permission to  
4 the supplier to make contact by telephone  
5 for such purpose; or

6 “(ii) the supplier has furnished a cov-  
7 ered item under this subsection to the indi-  
8 vidual during the 15-month period preced-  
9 ing the date on which the supplier contacts  
10 the individual for such purpose.

11 “(B) PROHIBITING PAYMENT FOR ITEMS  
12 FURNISHED SUBSEQUENT TO UNSOLICITED  
13 CONTACTS.—If a supplier knowingly contacts  
14 an individual in violation of subparagraph (A),  
15 no payment may be made under this part for  
16 any item subsequently furnished to the individ-  
17 ual by the supplier.

18 “(C) EXCLUSION FROM PROGRAM FOR  
19 SUPPLIERS ENGAGING IN PATTERN OF UNSO-  
20 LICITED CONTACTS.—If a supplier knowingly  
21 contacts individuals in violation of subpara-  
22 graph (A) to such an extent that the supplier’s  
23 conduct establishes a pattern of contacts in vio-  
24 lation of such subparagraph, the Secretary shall  
25 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

1 under this part may not be made for that  
2 item and the patient has agreed to pay for  
3 that item.

4 “(B) SANCTIONS.—If a supplier knowingly  
5 and willfully fails to make refunds in violation  
6 of subparagraph (A), the Secretary may apply  
7 sanctions against the supplier in accordance  
8 with section 1842(j)(2).

9 “(C) NOTICE.—Each carrier with a con-  
10 tract in effect under this part with respect to  
11 suppliers of covered items shall send any notice  
12 of denial of payment for covered items by rea-  
13 son of paragraph (17)(B) and for which pay-  
14 ment is not requested on an assignment-related  
15 basis to the supplier and the patient involved.

16 “(D) TIMELY BASIS DEFINED.—A refund  
17 under subparagraph (A) is considered to be on  
18 a timely basis only if—

19 “(i) in the case of a supplier who does  
20 not request reconsideration or seek appeal  
21 on a timely basis, the refund is made with-  
22 in 30 days after the date the supplier re-  
23 ceives a denial notice under subparagraph  
24 (C), or

1                   “(ii) in the case in which such a re-  
2                   consideration or appeal is taken, the re-  
3                   fund is made within 15 days after the date  
4                   the supplier receives notice of an adverse  
5                   determination on reconsideration or ap-  
6                   peal.”.

7           (b) CONFORMING AMENDMENT.—Section 1834(h)(3)  
8   (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-  
9   graph (12)” and inserting “Paragraphs (12) and (17)”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11   subsections (a) and (b) shall apply to items furnished after  
12   the expiration of the 60-day period that begins on the date  
13   of the enactment of this Act.

14   **SEC. 13464. ANTI-KICKBACK CLARIFICATION.**

15          (a) IN GENERAL.—Section 1128B(b)(3)(B) (42  
16   U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting be-  
17   fore the semicolon “(except that in the case of a contract  
18   supply arrangement between any entity and a supplier of  
19   medical supplies and equipment (as defined in section  
20   1834(i)(4), but not including items described in subpara-  
21   graph (F) of such section), such employment shall not be  
22   considered bona fide to the extent that it includes tasks  
23   of a clerical and cataloging nature in transmitting to sup-  
24   pliers assignment rights of individuals eligible for benefits

1 under part B of title XVIII, or performance of  
2 warehousing or stock inventory functions)”.  
3

4 (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall apply with respect to services fur-  
6 nished on or after the first day of the first month that  
7 begins after the expiration of the 60-day period beginning  
8 on the date of the enactment of this Act.

9 **SEC. 13465. LIMITATIONS ON BENEFICIARY LIABILITY FOR**  
10 **NONCOVERED SERVICES.**

11 (a) IN GENERAL.—Section 1834(i) (42 U.S.C.  
12 1395m(i)), as added by section 13461(a)(1), is amended—

13 (1) by redesignating paragraph (4) as para-  
14 graph (5), and

15 (2) by inserting after paragraph (3) the follow-  
16 ing new paragraph:

17 “(4) LIMITATION ON PATIENT LIABILITY.—If a  
18 supplier of medical equipment and supplies (as de-  
19 fined in paragraph (5))—

20 “(A) furnishes an item or service to a ben-  
21 eficiary for which no payment may be made by  
22 reason of paragraph (1);

23 “(B) furnishes an item or service to a ben-  
24 eficiary for which payment is denied in advance  
under subsection (a)(15); or

1           “(C) furnishes an item or service to a ben-  
2           eficiary for which payment is denied under sec-  
3           tion 1862(a)(1);

4           any expenses incurred for items and services fur-  
5           nished to an individual by such a supplier not on an  
6           assigned basis shall be the responsibility of such  
7           supplier. The individual shall have no financial re-  
8           sponsibility for such expenses and the supplier shall  
9           refund on a timely basis to the individual (and shall  
10          be liable to the individual for) any amounts collected  
11          from the individual for such items or services. The  
12          provisions of subsection (a)(18) shall apply to re-  
13          funds required under the previous sentence in the  
14          same manner as such provisions apply to refunds  
15          under such subsection.”.

16          (2)     CONFORMING     AMENDMENT.—Section  
17          1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)), as  
18          amended by section 13464(a), is amended by strik-  
19          ing “1834(i)(4)” and inserting “1834(i)(5)”.

20          (b) EFFECTIVE DATE.—The amendments made by  
21          subsection (a) shall apply to items or services furnished  
22          on or after October 1, 1993.



1 **SEC. 13466. ADJUSTMENTS FOR INHERENT REASONABLE-**  
2 **NESS.**

3 (a) ADJUSTMENTS MADE TO FINAL PAYMENT  
4 AMOUNTS.—

5 (1) IN GENERAL.—Section 1834(a)(10)(B) (42  
6 U.S.C. 1395m(a)(10)(B)) is amended by adding at  
7 the end the following: “In applying such provisions  
8 to payments for an item under this subsection, the  
9 Secretary shall make adjustments to the payment  
10 basis for the item described in paragraph (1)(B) if  
11 the Secretary determines (in accordance with such  
12 provisions and on the basis of prices and costs appli-  
13 cable at the time the item is furnished) that such  
14 payment basis is not inherently reasonable.”.

15 (2) EFFECTIVE DATE.—The amendment made  
16 by paragraph (1) shall take effect on the date of the  
17 enactment of this Act.

18 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

19 (1) IN GENERAL.—In accordance with section  
20 1834(a)(10)(B) of the Social Security Act (as  
21 amended by subsection (a)), the Secretary of Health  
22 and Human Services shall determine whether the  
23 payment amounts for the items described in para-  
24 graph (2) are not inherently reasonable, and shall  
25 adjust such amounts in accordance with such section  
26 if the amounts are not inherently reasonable.

1           (2) ITEMS DESCRIBED.—The items referred to  
2       in paragraph (1) are decubitus care equipment,  
3       transcutaneous electrical nerve stimulators, and any  
4       other items considered appropriate by the Secretary.

5   **SEC. 13467. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

6       (a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C.  
7   1395m(a)(3)(A)) is amended by striking “ventilators, as-  
8   pirators, IPPB machines, and nebulizers” and inserting  
9   “ventilators and IPPB machines”.

10      (b) PAYMENT FOR ACCESSORIES RELATING TO  
11   NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A)  
12   (42 U.S.C. 1395m(a)) is amended—

13           (1) by striking “or” at the end of clause (i),  
14           (2) by adding “or” at the end of clause (ii), and  
15           (3) by inserting after clause (ii) the following  
16   new clause:

17                   “(iii) which is an accessory used in  
18                   conjunction with a nebulizer or aspirator,”.

19      (c) EFFECTIVE DATE.—The amendments made by  
20   this section shall apply to items furnished on or after Jan-  
21   uary 1, 1994.

22   **SEC. 13468. PAYMENT FOR OSTOMY SUPPLIES AND OTHER**  
23                   **SUPPLIES.**

24      (a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES,  
25   AND UROLOGICALS.—

1           (1) IN GENERAL.—Section 1834(h)(1) (42  
2       U.S.C. 1395m(h)(1)) is amended by adding at the  
3       end the following new subparagraph:

4           “(E) EXCEPTION FOR CERTAIN ITEMS.—  
5       Payment for ostomy supplies, tracheostomy  
6       supplies, and urologicals shall be made in ac-  
7       cordance with subparagraphs (B) and (C) of  
8       section 1834(a)(2).”.

9           (2) CONFORMING AMENDMENT.—Section  
10      1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is  
11      amended by striking “subparagraph (C),” and in-  
12      serting “subparagraphs (C) and (E),”.

13          (3) EFFECTIVE DATE.—The amendments made  
14      by this subsection shall apply to items furnished on  
15      or after January 1, 1994.

16      (b) SURGICAL DRESSINGS.—

17          (1) IN GENERAL.—Section 1834 (42 U.S.C.  
18      1395m), as amended by section 13461(a), is amend-  
19      ed by adding at the end the following new sub-  
20      section:

21      “(j) PAYMENT FOR SURGICAL DRESSINGS.—

22          “(1) IN GENERAL.—Payment under this sub-  
23      section for surgical dressings (described in section  
24      1861(s)(5)) shall be made in a lump sum amount

1 for the purchase of the item in an amount equal to  
2 80 percent of the lesser of—

3 “(A) the actual charge for the item; or

4 “(B) a payment amount determined in ac-  
5 cordance with the methodology described in  
6 subparagraphs (B) and (C) of subsection (a)(2)  
7 (except that in applying such methodology, the  
8 national limited payment amount referred to in  
9 such subparagraphs shall be initially computed  
10 based on local payment amounts using average  
11 reasonable charges for the 12-month period  
12 ending December 31, 1992, increased by the  
13 covered item updates described in such sub-  
14 section for 1993 and 1994).

15 “(2) EXCEPTIONS.—Paragraph (1) shall not  
16 apply to surgical dressings that are—

17 “(A) furnished as an incident to a physi-  
18 cian’s professional service; or

19 “(B) furnished by a home health agency.”.

20 (2) CONFORMING AMENDMENT.—Section  
21 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by  
22 sections 13478(e)(2) and 13445(e)(1), is amended—

23 (A) by striking “and” before “(P)”, and

24 (B) by inserting before the semicolon at  
25 the end the following: “, and (Q) with respect

1 to surgical dressings, the amounts paid shall be  
2 the amounts determined under section  
3 1834(j);”.

4 (3) EFFECTIVE DATE.—The amendments made  
5 by this subsection shall apply to items furnished on  
6 or after January 1, 1994.

7 (c) REDUCTION IN PAYMENTS FOR TENS DE-  
8 VICES.—

9 (1) IN GENERAL.—Section 1834(a)(1)(D) (42  
10 U.S.C. 1395m(a)(1)(D)) is amended by striking “15  
11 percent” the second place it appears and inserting  
12 “45 percent”.

13 (2) EFFECTIVE DATE.—The amendment made  
14 by paragraph (1) shall apply to items furnished on  
15 or after January 1, 1994.

16 **SEC. 13469. MISCELLANEOUS AND TECHNICAL CORREC-**  
17 **TIONS.**

18 (a) UPDATES TO PAYMENT AMOUNTS.—Subpara-  
19 graph (A) of section 1834(a)(14) (42 U.S.C.  
20 1395m(a)(14)) is amended to read as follows:

21 “(A) for 1991 and 1992, the percentage  
22 increase in the consumer price index for all  
23 urban consumers (U.S. city average) for the 12-  
24 month period ending with June of the previous  
25 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

1 no cost to policyholders of a medicare sup-  
2 plemental policy (as defined in section  
3 1882(g)(1));

4 “(iii) the item has been subject to a  
5 consistent pattern of overutilization; or

6 “(iv) a high proportion of claims for  
7 payment for such item under this part may  
8 not be made because of the application of  
9 section 1862(a)(1).

10 “(B) ITEMS SUBJECT TO SPECIAL CARRIER  
11 SCRUTINY.—Payment may not be made under  
12 this part for any item contained in the list de-  
13 veloped by the Secretary under subparagraph  
14 (A) unless the carrier has subjected the claim  
15 for payment for the item to special scrutiny or  
16 has followed the procedures described in para-  
17 graph (11)(C) with respect to the item.”.

18 (2) ADVANCE DETERMINATION BY CARRIERS.—  
19 Effective January 1, 1994, section 1834(a)(11) (42  
20 U.S.C. 1395m(a)) is amended by adding at the end  
21 the following new subparagraph:

22 “(C) CARRIER DETERMINATIONS FOR CER-  
23 TAIN ITEMS IN ADVANCE.—A carrier shall de-  
24 termine in advance whether payment for an  
25 item may not be made under this subsection be-

1           cause of the application of section 1862(a)(1)  
2           if—

3                   “(i) the item is a customized item  
4                   (other than inexpensive items specified by  
5                   the Secretary); or

6                   “(ii) the item is a specified covered  
7                   item under subparagraph (B).”.

8           (3) INCLUSION IN CARRIER PERFORMANCE  
9           EVALUATIONS.—Effective for standards applied for  
10          contract years beginning after the date of the enact-  
11          ment of this Act, section 1842(c) (42 U.S.C.  
12          1395u(c)), as amended by section 13448(a), is  
13          amended by adding at the end the following new  
14          paragraph:

15          “(5) Each contract under this section which provides  
16          for the disbursement of funds, as described in subsection  
17          (a)(1)(B), shall require the carrier to meet criteria devel-  
18          oped by the Secretary to measure the timeliness of carrier  
19          responses to requests for payment of items described in  
20          section 1834(a)(11)(C).”.

21          (4) APPLICATION TO PROSTHETIC DEVICES AND  
22          ORTHOTICS AND PROSTHETICS.—Section 1834(h)(3)  
23          (42 U.S.C. 1395m(h)(3)) is amended by striking  
24          “paragraph (10) and paragraph (11)” and inserting  
25          “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-

1           ment index for suppliers of durable medical  
2           equipment under the medicare program and an  
3           analysis of the impact of such proposed index  
4           on payments under the medicare program; and

5           (B) the Comptroller General shall submit a  
6           report to the Committees on Energy and Com-  
7           merce and Ways and Means of the House of  
8           Representatives and the Committee on Finance  
9           of the Senate analyzing on a geographic basis  
10          the supplier costs of durable medical equipment  
11          under the medicare program.

12          (d) OXYGEN RETESTING.—Section 1834(a)(5)(E)  
13          (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55”  
14          and inserting “56”.

15          (e) OTHER MISCELLANEOUS AND TECHNICAL  
16          AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990  
17          is amended by striking “amendment made by subsection  
18          (a)” and inserting “amendments made by this sub-  
19          section”.

20          (2) Section 4152(c)(2) of OBRA–1990 is amended  
21          by striking “1395m(a)(7)(A)” and inserting  
22          “1395m(a)(7)”.

23          (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.  
24          1395m(a)(7)(A)(iii)(II)) is amended by striking “clause  
25          (v)” and inserting “clause (vi)”.

1       (4)     Section     1834(a)(7)(C)(i)     (42     U.S.C.  
2     1395m(a)(7)(C)(i)) is amended by striking “or paragraph  
3     (3)”.

4       (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is  
5     amended by striking subparagraph (D).

6       (6) Section 4153(c)(1) of OBRA–1990 is amended  
7     by striking “1834(a)” and inserting “1834(h)”.

8       (7) Section 4153(d)(2) of OBRA–1990 is amended  
9     by striking “Reconiliation” and inserting “Reconcili-  
10    ation”.

11      (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is  
12     amended by striking paragraph (6).

13      (B) Section 1834(a) (42 U.S.C. 1395m(a)) is amend-  
14     ed—

15           (i) in subparagraphs (A) and (B) of paragraph  
16     (1), by striking “(2) through (7)” each place it  
17     appears and inserting “(2) through (5) and (7)”;

18           (ii) in paragraph (7), by striking “(2) through  
19     (6)” and inserting “(2) through (5)”;

20           (iii) in paragraph (8), by striking “paragraphs  
21     (6) and (7)” each place it appears in the matter pre-  
22     ceding subparagraph (A) and in subparagraph (C)  
23     and inserting “paragraph (7)”;

24           (iv) in paragraph (8)(A)(i), by striking “de-  
25     scribed—” and all that follows and inserting “de-

1 scribed in paragraph (7) equal to the average of the  
2 purchase prices on the claims submitted on an as-  
3 signment-related basis for the unused item supplied  
4 during the 6-month period ending with December  
5 1986.”.

6 (9) The amendments made by this subsection shall  
7 take effect as if included in the enactment of OBRA-1990.

## 8 **Subchapter E—Other Provisions**

### 9 **SEC. 13471. CLARIFYING PAYMENTS FOR MEDICALLY DI-** 10 **RECTED CERTIFIED REGISTERED NURSE AN-** 11 **ESTHETIST SERVICES.**

12 (a) IN GENERAL.—Section 1833(l)(4)(B) (42 U.S.C.  
13 1395l(l)(4)(B)) is amended to read as follows:

14 “(B) Except as provided in subparagraph (D), the  
15 conversion factor used to determine the amount paid  
16 under the fee schedule under this subsection for services  
17 furnished by a certified registered nurse anesthetist who  
18 is medically directed—

19 “(i) in a year after 1993 and before 1997, shall  
20 be \$10.75, or

21 “(ii) in a subsequent calendar year, shall be the  
22 previous year’s conversion factor increased by the  
23 update determined under section 1848(d)(3) for  
24 physician anesthesia services for that year.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to services furnished on or after  
3 January 1, 1994.

4 **SEC. 13472. EXTENSION OF ALZHEIMER'S DISEASE DEM-**  
5 **ONSTRATION PROJECTS.**

6 Section 9342 of OBRA-1986, as amended by section  
7 4164(a)(2) of OBRA-1990, is amended—

8 (1) in subsection (c)(1), by striking “4 years”  
9 and inserting “5 years”; and

10 (2) in subsection (f), —

11 (A) by striking “\$55,000,000” and insert-  
12 ing “\$58,000,000”, and

13 (B) by striking “\$3,000,000” and insert-  
14 ing “\$5,000,000”.

15 **SEC. 13473. ORAL CANCER DRUGS.**

16 (a) NEW COVERAGE OF CERTAIN SELF-ADMINIS-  
17 TERED ANTICANCER DRUGS.—Section 1861(s)(2) (42  
18 U.S.C. 1395(s)(2)), as amended by section  
19 13478(f)(8)(B), is amended—

20 (1) by striking “and” at the end of subpara-  
21 graph (N);

22 (2) by adding “and” at the end of subpara-  
23 graph (O); and

24 (3) by adding at the end the following new sub-  
25 paragraph:

1           “(P) an oral drug (which is approved by the  
2       Federal Food and Drug Administration) prescribed  
3       for use as an anticancer chemotherapeutic agent for  
4       a given indication, and containing an active ingredi-  
5       ent (or ingredients), which is the same indication  
6       and active ingredient (or ingredients) as a drug  
7       which the carrier determines would be covered pur-  
8       suant to subparagraph (A) or (B) if the drug could  
9       not be self-administered;”.

10       (b) UNIFORM COVERAGE OF “OFF-LABEL”  
11 ANTICANCER DRUGS.—Section 1861(t) (42 U.S.C.  
12 1395x(t)) is amended—

13           (1) by inserting “(1)” after “(t)”;

14           (2) by striking “(m)(5) of this section” and in-  
15       serting “(m)(5) and paragraph (2)”;

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

18       “(2)(A) For purposes of paragraph (1), the term  
19 ‘drugs’ also includes any drugs or biologicals used in an  
20 anticancer chemotherapeutic regimen for a medically ac-  
21 cepted indication (as described in subparagraph (B)).

22       “(B) In subparagraph (A), the term ‘medically ac-  
23 cepted indication’, with respect to the use of a drug, in-  
24 cludes 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

1 of expressly covering under the medicare program  
2 the patient care costs for beneficiaries enrolled in  
3 clinical trials of new cancer therapies, where the pro-  
4 tocol for the trial has been approved by the National  
5 Cancer Institute or meets similar scientific and ethi-  
6 cal standards, including approval by an institutional  
7 review board. The study shall include—

8 (A) an estimate of the cost of such cov-  
9 erage, taking into account the extent to which  
10 medicare currently pays for such patient care  
11 costs in practice;

12 (B) an assessment of the extent to which  
13 such clinical trials represent the best available  
14 treatment for the patients involved and of the  
15 effects of participation in the trials on the  
16 health of such patients;

17 (C) an assessment of whether progress in  
18 developing new anticancer therapies would be  
19 assisted by medicare coverage of such patient  
20 care costs; and

21 (D) an evaluation of whether there should  
22 be special criteria for the admission of medicare  
23 beneficiaries (on account of their age or phys-  
24 ical condition) to clinical trials for which medi-  
25 care would pay the patient care costs.



1           (2) REPORT.—Not later than 2 years after the  
2       date of the enactment of this Act, the Secretary of  
3       Health and Human Services shall submit a report  
4       on the study conducted under paragraph (1) to the  
5       Committee on Ways and Means and the Committee  
6       on Energy and Commerce of the House of Rep-  
7       resentatives and the Committee on Finance of the  
8       Senate. Such report shall include recommendations  
9       as to the coverage under the medicare program of  
10      patient care costs of beneficiaries enrolled in clinical  
11      trials of new cancer therapies.

12      (d) EFFECTIVE DATE.—The amendments made by  
13      subsections (a) and (b) shall apply to items furnished on  
14      or after January 1, 1994.

15      **SEC. 13474. PART B PREMIUM PAYMENTS FOR LATE EN-**  
16                                   **ROLLMENT.**

17      (a) LIMITATION ON MEDICARE PART B LATE EN-  
18      ROLLMENT PENALTY.—

19           (1) IN GENERAL.—Section 1839 (42 U.S.C.  
20      1395r) is amended by adding at the end the follow-  
21      ing new subsection:

22      “(g) The percent increase in premiums under sub-  
23      section (b) due to late enrollment under this part shall  
24      not exceed 25 percent in the case of an individual who  
25      is an annuitant described in subparagraph (A) or (B) of

1 section 8901(3) of title 5, United States Code (including  
2 an individual or survivor described in section  
3 8906(g)(2)(A) of such title) for a month if—

4 “(1) during the individual’s initial enrollment  
5 period under section 1837(d)—

6 “(A) the individual was enrolled in a group  
7 health plan (as defined in section  
8 1862(b)(1)(A)(v)) that provided coverage of  
9 items and services for which payment may be  
10 made under this part, and

11 “(B) the individual elected not to enroll (or  
12 to be deemed enrolled) under this section; and

13 “(2) due to a change of coverage under such  
14 plan, there is no coverage during the month under  
15 such plan with respect to items and services for  
16 which payment may be made under this part unless  
17 the individual is enrolled under this part.”.

18 (2) EFFECTIVE DATE.—The amendment made  
19 by paragraph (1) shall apply to premiums for  
20 months beginning with January 1992.

21 (b) PAYMENT OF PART B PREMIUM LATE ENROLL-  
22 MENT PENALTIES BY STATES.—Section 1839 (42 U.S.C.  
23 1395r), as amended by subsection (a), is further amended  
24 by adding at the end the following new subsection:

1       “(h)(1) Upon the request of a State, the Secretary  
 2 may enter into an agreement with the State under which  
 3 the State agrees to pay on a quarterly or other periodic  
 4 basis to the Secretary (to be deposited in the Treasury  
 5 to the credit of the Federal Supplementary Medical Insur-  
 6 ance Trust Fund) an amount equal to the amount of the  
 7 part B late enrollment premium increases with respect to  
 8 the premiums for eligible individuals (as defined in para-  
 9 graph (3)(A)).

10       “(2) No part B late enrollment premium increase  
 11 shall apply to an eligible individual for premiums for  
 12 months for which the amount of such an increase is pay-  
 13 able under an agreement under paragraph (1).

14       “(3) In this subsection:

15               “(A) The term ‘eligible individual’ means an in-  
 16 dividual who is enrolled under this part B and who  
 17 is within a class of individuals specified in the agree-  
 18 ment under paragraph (1).

19               “(B) The term ‘part B late enrollment premium  
 20 increase’ means any increase in a premium as a re-  
 21 sult of the application of subsection (b).”.

22 **SEC. 13475. COVERAGE OF SERVICES OF SPEECH-LAN-**  
 23 **GUAGE PATHOLOGISTS AND AUDIOLOGISTS.**

24       (a) SERVICES DEFINED.—Section 1861 (42 U.S.C.  
 25 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—

1           “(i) is licensed (or is otherwise certified) as  
2           a speech-language pathologist by the State in  
3           which the individual furnishes such services, or

4           “(ii) in the case of an individual who fur-  
5           nishes services in a State which does not pro-  
6           vide for the licensing (or other form of certifi-  
7           cation) of speech-language pathologists, has  
8           successfully completed a national clinical com-  
9           petency examination in speech-language pathol-  
10          ogy approved by the Secretary.

11          “(B) The term ‘qualified audiologist’ means an  
12          individual with a master’s or doctoral degree in  
13          audiology who has performed not less than 9 months  
14          of supervised full-time audiology services after ob-  
15          taining such degree and who—

16               “(i) is licensed (or is otherwise certified) as  
17               an audiologist by the State in which the individ-  
18               ual furnishes such services, or

19               “(ii) in the case of an individual who fur-  
20               nishes services in a State which does not pro-  
21               vide for the licensing (or other form of certifi-  
22               cation) of audiologists, has successfully com-  
23               pleted a national clinical competency examina-  
24               tion in audiology approved by the Secretary.”.

1 (b) CONFORMING AMENDMENTS RELATING TO MED-  
2 ICARE TREATMENT OF SPEECH AND LANGUAGE SERV-  
3 ICES.—

4 (1) EXTENDED CARE SERVICES.—Section  
5 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by  
6 striking “, occupational, or speech therapy” and in-  
7 serting “or occupational therapy or speech-language  
8 pathology services”.

9 (2) HOME HEALTH SERVICES.—Section  
10 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by  
11 striking “, occupational, or speech therapy” and in-  
12 serting “or occupational therapy or speech-language  
13 pathology services”.

14 (3) OUTPATIENT PHYSICAL THERAPY SERV-  
15 ICES.—The fourth sentence of section 1861(p) (42  
16 U.S.C. 1395x(p)) is amended by striking “speech  
17 pathology services” and inserting “speech-language  
18 pathology services”.

19 (4) COMPREHENSIVE OUTPATIENT REHABILITA-  
20 TION FACILITY SERVICES.—Section 1861(cc)(1)(B)  
21 (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking  
22 “speech pathology services” and inserting “speech-  
23 language pathology services”.

24 (5) HOSPICE CARE.—Section 1861(dd)(1)(B)  
25 (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking

1 “therapy or speech-language pathology” and insert-  
2 ing “therapy, or speech-language pathology serv-  
3 ices”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on January 1, 1994.

6 **SEC. 13476. EXTENSION OF MUNICIPAL HEALTH SERVICE**  
7 **DEMONSTRATION PROJECTS.**

8 Section 9215 of the Consolidated Omnibus Budget  
9 Reconciliation Act of 1985, as amended by section 6135  
10 of OBRA-1989, is amended—

11 (1) by striking “December 31, 1993” and in-  
12 serting “December 31, 1997”, and

13 (2) in the second sentence, by inserting after  
14 “beneficiary costs,” the following: “costs to the med-  
15 icaid program and other payers, access to care, out-  
16 comes, beneficiary satisfaction, utilization differences  
17 among the different populations served by the  
18 projects,”.

19 **SEC. 13477. TREATMENT OF CERTAIN INDIAN HEALTH PRO-**  
20 **GRAMS AND FACILITIES AS FEDERALLY-**  
21 **QUALIFIED HEALTH CENTERS.**

22 (a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C.  
23 1395x(aa)(4)) is amended—

24 (1) by striking “or” at the end of subparagraph  
25 (B);

1           (2) by striking the period at the end of sub-  
2       paragraph (C) and inserting “; or”; and

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

5           “(D) is an outpatient health program or facility  
6       operated by a tribe or tribal organization under the  
7       Indian Self-Determination Act or by an urban In-  
8       dian organization receiving funds under title V of  
9       the Indian Health Care Improvement Act.”.

10       (b) EFFECTIVE DATE.—The amendment made by  
11       subsection (a) shall apply to services furnished on or after  
12       January 1, 1994.

13       **SEC. 13478. MISCELLANEOUS AND TECHNICAL CORREC-**  
14                               **TIONS.**

15       (a) REVISION OF INFORMATION ON PART B CLAIMS  
16       FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is  
17       amended—

18           (1) by striking “provider number” and inserting  
19       “unique physician identification number”; and

20           (2) by striking “and indicate whether or not the  
21       referring physician is an interested investor (within  
22       the meaning of section 1877(h)(5))”.

23       (b) CONSULTATION FOR SOCIAL WORKERS.—Effec-  
24       tive with respect to services furnished on or after January  
25       1, 1991, section 6113(c) of OBRA–1989 is amended—



1           (1) by inserting “and clinical social worker  
2       services” after “psychologist services”; and

3           (2) by striking “psychologist” the second and  
4       third place it appears and inserting “psychologist or  
5       clinical social worker”.

6       (c) REPORTS ON HOSPITAL OUTPATIENT PAY-  
7       MENT.—(1) OBRA–1989 is amended by striking section  
8       6137.

9       (2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is  
10      amended—

11           (A) by striking paragraph (6); and

12           (B) in paragraph (7)—

13               (i) by striking “systems” each place it ap-  
14               pears and inserting “system”; and

15               (ii) by striking “paragraphs (1) and (6)”  
16               and inserting “paragraph (1)”.

17       (d) RADIOLOGY AND DIAGNOSTIC SERVICES PRO-  
18       VIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1)  
19       Effective as if included in the enactment of OBRA–1989,  
20       section 1833(n)(1)(B)(i)(II) (42 U.S.C.  
21       1395l(n)(1)(B)(i)(II)) is amended—

22           (A) by inserting “and for services described in  
23       subsection (a)(2)(E)(ii) furnished on or after Janu-  
24       ary 1, 1992” after “1989”; and

1 (B) by striking “1842(b)” and inserting  
2 “1842(b) (or, in the case of services furnished on or  
3 after January 1, 1992, under section 1848)”.

4 (2) Effective as if included in the enactment of  
5 OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.  
6 1395l(n)(1)(B)(i)(II)) is amended by striking “January 1,  
7 1989” and inserting “April 1, 1989”.

8 (e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL  
9 AREAS (SECTION 4155 OF OBRA–1990).—(1) Section  
10 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is  
11 amended—

12 (A) by striking “subsection (aa)(3)” and insert-  
13 ing “subsection (aa)(5)”; and

14 (B) by striking “subsection (aa)(4)” and insert-  
15 ing “subsection (aa)(6)”.

16 (2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is  
17 amended—

18 (A) by striking “and” before “(N)”; and

19 (B) with respect to the matter inserted by sec-  
20 tion 4155(b)(2)(B) of OBRA–1990—

21 (i) by striking “(M)” and inserting “, and  
22 (O)”, and

23 (ii) by transferring and inserting it (as  
24 amended) immediately before the semicolon at  
25 the end.

1       (3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is  
2 amended—

3           (A) by striking “ambulatory” each place it ap-  
4 pears and inserting “or ambulatory”; and

5           (B) by striking “center,” and inserting “cen-  
6 ter”.

7       (4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A))  
8 is amended by striking “subsection (a)(1)(M)” and insert-  
9 ing “subsection (a)(1)(O)”.

10       (5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is  
11 amended by striking “subsection (s)(2)(K)(i)” and insert-  
12 ing “clauses (i) or (iii) of subsection (s)(2)(K)”.

13       (6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is  
14 amended by striking “this Act” and inserting “this title”.

15       (7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is  
16 amended by striking “1861(s)(2)(K)(i)” and inserting  
17 “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

18       (8) Section 1866(a)(1)(H) (42 U.S.C.  
19 1395cc(a)(1)(H)) is amended by striking  
20 “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or  
21 1861(s)(2)(K)(iii)”.

22       (f) OTHER MISCELLANEOUS AND TECHNICAL  
23 AMENDMENTS.—

24           (1) IMMEDIATE ENROLLMENT IN PART B BY IN-  
25 DIVIDUALS COVERED BY AN EMPLOYMENT-BASED

1 PLAN.—(A) Subparagraphs (A) and (B) of section  
2 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amend-  
3 ed—

4 (i) by striking “beginning with the first  
5 day of the first month in which the individual  
6 is no longer enrolled” and inserting “including  
7 each month during any part of which the indi-  
8 vidual is enrolled”; and

9 (ii) by striking “and ending seven months  
10 later” and inserting “ending with the last day  
11 of the eighth consecutive month in which the in-  
12 dividual is at no time so enrolled”.

13 (B) Paragraphs (1) and (2) of section 1838(e)  
14 (42 U.S.C. 1395q(e)) are amended to read as fol-  
15 lows:

16 “(1) in any month of the special enrollment pe-  
17 riod in which the individual is at any time enrolled  
18 in a plan (specified in subparagraph (A) or (B), as  
19 applicable, of section 1837(i)(3)) or in the first  
20 month following such a month, the coverage period  
21 shall begin on the first day of the month in which  
22 the individual so enrolls (or, at the option of the in-  
23 dividual, on the first day of any of the following  
24 three months), or

1           “(2) in any other month of the special enroll-  
2           ment period, the coverage period shall begin on the  
3           first day of the month following the month in which  
4           the individual so enrolls.”.

5           (C) The amendments made by subparagraphs  
6           (A) and (B) shall take effect on the first day of the  
7           first month that begins after the expiration of the  
8           120-day period that begins on the date of the enact-  
9           ment of this Act.

10           (2) BLEND AMOUNTS FOR AMBULATORY SUR-  
11           GICAL CENTER PAYMENTS.—Subclauses (I) and (II)  
12           of section 1833(i)(3)(B)(ii) (42 U.S.C.  
13           1395l(i)(3)(B)(ii)) are each amended—

14                   (A) by striking “for reporting” and insert-  
15                   ing “for portions of cost reporting”; and

16                   (B) by striking “and on or before” and in-  
17                   serting “and ending on or before”.

18           (3) CLINICAL DIAGNOSTIC LABORATORY TESTS  
19           (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5)  
20           of OBRA–1990 is amended by striking “(1)(A)” and  
21           inserting “(1)(A),”.

22           (4) SEPARATE PAYMENT UNDER PART B FOR  
23           CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—  
24           Section 4157(a) of OBRA–1990 is amended by  
25           striking “(a) SERVICES OF” and all that follows

1 through “Section” and inserting “(a) TREATMENT  
2 OF SERVICES OF CERTAIN HEALTH PRACTITION-  
3 ERS.—Section”.

4 (5) CERTIFIED REGISTERED NURSE ANES-  
5 THETISTS (SECTION 4160 OF OBRA-1990).—Section  
6 1833(l)(4)(B)(ii)(VII) (42 U.S.C.  
7 1395l(l)(4)(B)(ii)(VII)) is amended by striking  
8 “1997” and inserting “1996”.

9 (6) COMMUNITY HEALTH CENTERS AND RURAL  
10 HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—  
11 (A) The fourth sentence of section 1861(aa)(2) (42  
12 U.S.C. 1395x(aa)(2)) is amended—

13 (i) by striking “certification” the first  
14 place it appears and inserting “approval”; and

15 (ii) by striking “the Secretary’s approval  
16 or disapproval of the certification” and insert-  
17 ing “Secretary’s approval or disapproval”.

18 (B) Section 4161(a)(7)(B) of OBRA-1990 is  
19 amended by inserting “and to the Committee on Fi-  
20 nance of the Senate” after “Representatives”.

21 (7) SCREENING MAMMOGRAPHY (SECTION 4163  
22 OF OBRA-1990).—Section 4163 of OBRA-1990 is  
23 amended—

24 (A) by adding at the end of subsection (d)  
25 the following new paragraph:

1           “(3) The amendment made by paragraph  
2           (2)(A)(iv) shall apply to screening pap smears per-  
3           formed on or after July 1, 1990.”; and

4           (B) in subsection (e), by striking “The  
5           amendments” and inserting “Except as pro-  
6           vided in subsection (d)(3), the amendments”.

7           (8) INJECTABLE DRUGS FOR TREATMENT OF  
8           OSTEOPOROSIS.—

9           (A) CLARIFICATION OF DRUGS COV-  
10          ERED.—The section 1861(jj) (42 U.S.C.  
11          1395x(jj)) inserted by section 4156(a)(2) of  
12          OBRA-1990 is amended—

13           (i) in the matter preceding paragraph  
14           (1), by striking “a bone fracture related  
15           to”; and

16           (ii) in paragraph (1), by striking “pa-  
17           tient” and inserting “individual has suf-  
18           fered a bone fracture related to post-meno-  
19           pausal osteoporosis and that the individ-  
20           ual”.

21          (B) LIMITING COVERAGE TO DRUGS PRO-  
22          VIDED BY HOME HEALTH AGENCIES.—(i) The  
23          section 1861(jj) (42 U.S.C. 1395x(jj)) inserted  
24          by section 4156(a)(2) of OBRA-1990 is

1 amended by striking “if” and inserting “by a  
2 home health agency if”.

3 (ii) Section 1861(m)(5) (42 U.S.C.  
4 1395x(m)(5)) is amended by striking “but ex-  
5 cluding” and inserting “and a covered  
6 osteoporosis drug (as defined in subsection  
7 (kk), but excluding other”.

8 (iii) Section 1861(s)(2) (42 U.S.C.  
9 1395x(s)(2)) is amended—

10 (I) by adding “and” at the end of  
11 subparagraph (N), and

12 (II) by striking subparagraph (O) and  
13 redesignating subparagraph (P) as sub-  
14 paragraph (O).

15 (C) PAYMENT BASED ON REASONABLE  
16 COST.—Section 1833(a)(2) (42 U.S.C.  
17 1395l(a)(2)) is amended—

18 (i) in subparagraph (A), by striking  
19 “health services” and inserting “health  
20 services (other than covered osteoporosis  
21 drug (as defined in section 1861(kk)))”;

22 (ii) by striking “and” at the end of  
23 subparagraph (D);

24 (iii) by striking the semicolon at the  
25 end and inserting “; and”; and



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

3 “(F) with respect to covered osteoporosis  
 4 drug (as defined in section 1861(kk)) furnished  
 5 by a home health agency, 80 percent of the rea-  
 6 sonable cost of such service, as determined  
 7 under section 1861(v);”.

8 (D) APPLICATION OF PART B DEDUCT-  
 9 IBLE.—Section 1833(b)(2) (42 U.S.C.  
 10 1395l(b)(2)) is amended by striking “services”  
 11 and inserting “services (other than covered  
 12 osteoporosis drug (as defined in section  
 13 1861(kk)))”.

14 (E) COVERED OSTEOPOROSIS DRUG (SEC-  
 15 TION 4156 OF OBRA–1990).—Section 1861 (42  
 16 U.S.C. 1395x) is amended, in the subsection  
 17 (jj) inserted by section 4156(a)(2) of OBRA–  
 18 1990, by striking “(jj) The term” and inserting  
 19 “(kk) The term”.

20 (9) OTHER MISCELLANEOUS AND TECHNICAL  
 21 CORRECTIONS (SECTION 4164 OF OBRA–1990).—

22 (A) OWNERSHIP DISCLOSURE REQUIRE-  
 23 MENTS.—(i) Section 1124A(a)(2)(A) (42  
 24 U.S.C. 1320a–3a(a)(2)(A)) is amended by  
 25 striking “of the Social Security Act”.

1           (ii) Section 4164(b)(4) of OBRA-1990 is  
2           amended by striking “paragraph” and inserting  
3           “paragraphs”.

4           (B) DIRECTORY OF UNIQUE PHYSICIAN  
5           IDENTIFIER NUMBERS.—Section 4164(c) of  
6           OBRA-1990 is amended by striking “publish”  
7           and inserting “publish, and shall periodically  
8           update,”.

9           (g) EFFECTIVE DATE.—Except as otherwise provided  
10          in this section, the amendments made by this section shall  
11          take effect as if included in the enactment of OBRA-1990.

12                   **Subchapter F—Part B Premium**

13          **SEC. 13481. PART B PREMIUM.**

14          Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

15               (1) in paragraph (1)(A), by inserting “and for  
16               each month in 1996 and 1997” after “January  
17               1991”, and

18               (2) in paragraph (2), by striking “1991” and  
19               inserting “1998”.

1     **CHAPTER 3—PROVISIONS RELATING TO**  
2                     **PARTS A AND B**

3             **Subchapter A—Elimination of Updates**

4     **SEC. 13501. ELIMINATION OF COST-OF-LIVING UPDATE IN**  
5                     **PER RESIDENT AMOUNTS FOR DIRECT MEDI-**  
6                     **CAL EDUCATION.**

7             Section 1886(h)(2)(D) (42 U.S.C. 1395ww(h)(2)(D))  
8     is amended by inserting “(other than in the case of cost  
9     reporting periods beginning during fiscal year 1994 or fis-  
10    cal year 1995)” after “updated”.

11    **SEC. 13502. ELIMINATION OF INFLATION UPDATE IN COST**  
12                     **LIMITS FOR HOME HEALTH SERVICES.**

13             The Secretary of Health and Human Services shall  
14     not provide for any increase, on the basis of inflation or  
15     changes in the cost of goods and services, in the per visit  
16     cost limits for home health services under section  
17     1861(v)(1)(L) of the Social Security Act for cost reporting  
18     periods beginning during fiscal year 1994 or fiscal year  
19     1995.

20    **Subchapter B—Medicare Secondary Payer**  
21                     **Provisions**

22    **SEC. 13511. EXTENSION OF TRANSFER OF DATA.**

23             (a) EXTENSION OF DATA MATCH PROGRAM.—

1           (1) Section 1862(b)(5)(C)(iii) of the Social Se-  
2           curity Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amend-  
3           ed by striking “1995” and inserting “1998”.

4           (2) Section 6103(l)(12)(F) of the Internal Rev-  
5           enue Code of 1986 is amended—

6                   (A) in clause (i), by striking “1995” and  
7                   inserting “1998”,

8                   (B) in clause (ii)(I), by striking “1994”  
9                   and inserting “1997”, and

10                   (C) in clause (ii)(II), by striking “1995”  
11                   and inserting “1998”.

12           (b) SECONDARY PAYER EXEMPTION FOR MEMBERS  
13           OF RELIGIOUS ORDERS.—Effective as if included in the  
14           enactment of OBRA–1989, section 6202(e)(2) of such Act  
15           is amended by adding at the end the following: “Such  
16           amendment also shall apply to items and services fur-  
17           nished before such date with respect to secondary payer  
18           cases which the Secretary of Health and Human Services  
19           had not identified as of such date.”.

20           (c) PERMITTING THE USE OF MINIMUM INCOME  
21           THRESHOLDS.—

22                   (1) Section 6103(l)(12)(B)(i) of the Internal  
23                   Revenue Code of 1986 is amended by inserting “,  
24                   above an amount (if any) specified by the Secretary

1 of Health and Human Services,” after “section  
2 3401(a))”.

3 (2) The matter in section 6103(l)(12)(B)(ii) of  
4 such Code preceding subclause (I) is amended by in-  
5 serting “, above an amount (if any) specified by the  
6 Secretary of Health and Human Services,” after  
7 “wages”.

8 (3) The heading to section 6103(l)(12) of such  
9 Code is amended by striking “TAXPAYER IDENTITY”  
10 and inserting “RETURN”.

11 **SEC. 13512. 3-YEAR EXTENSION OF MEDICARE SECONDARY**  
12 **PAYER TO DISABLED BENEFICIARIES.**

13 Section 1862(b)(1)(B)(iii) (42 U.S.C.  
14 1395y(b)(1)(B)(iii)) is amended by striking “1995” and  
15 inserting “1998”.

16 **SEC. 13513. 3-YEAR EXTENSION OF 18-MONTH RULE FOR**  
17 **ESRD BENEFICIARIES.**

18 Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is  
19 amended by striking “1996” and inserting “1999”.

20 **SEC. 13514. MEDICARE SECONDARY PAYER REFORMS.**

21 (a) IMPROVING IDENTIFICATION OF MEDICARE SEC-  
22 ONDARY PAYER SITUATIONS.—

23 (1) SURVEY OF BENEFICIARIES.—

1 (A) IN GENERAL.—Section 1862(b)(5) (42  
2 U.S.C. 1395y(b)(5)) is amended by adding at  
3 the end the following new subparagraph:

4 “(D) OBTAINING INFORMATION FROM  
5 BENEFICIARIES.—Before an individual applies  
6 for benefits under part A or enrolls under part  
7 B, the Administrator shall mail the individual a  
8 questionnaire to obtain information on whether  
9 the individual is covered under a primary plan  
10 and the nature of the coverage provided under  
11 the plan, including the name, address, and iden-  
12 tifying number of the plan.”.

13 (B) DISTRIBUTION OF QUESTIONNAIRE BY  
14 CONTRACTOR.—The Secretary of Health and  
15 Human Services shall enter into an agreement  
16 with an entity not later than November 1,  
17 1993, to distribute the questionnaire described  
18 in section 1862(b)(5)(D) of the Social Security  
19 Act (as added by subparagraph (A)).

20 (C) NO MEDICARE SECONDARY PAYER DE-  
21 NIAL BASED ON FAILURE TO COMPLETE QUES-  
22 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.  
23 1395y(b)(2)) is amended by adding at the end  
24 the following new subparagraph:

1           “(C) TREATMENT OF QUESTIONNAIRES.—

2           The Secretary may not fail to make payment  
3           under subparagraph (A) solely on the ground  
4           that an individual failed to complete a question-  
5           naire concerning the existence of a primary  
6           plan.”.

7           (2) MANDATORY SCREENING BY PROVIDERS  
8           AND SUPPLIERS UNDER PART B.—

9           (A) IN GENERAL.—Section 1862(b) (42  
10          U.S.C. 1395y(b)) is amended by adding at the  
11          end the following new paragraph:

12          “(6) SCREENING REQUIREMENTS FOR PROVID-  
13          ERS AND SUPPLIERS.—

14          “(A) IN GENERAL.—Notwithstanding any  
15          other provision of this title, no payment may be  
16          made for any item or service furnished under  
17          part B unless the entity furnishing such item or  
18          service completes (to the best of its knowledge  
19          and on the basis of information obtained from  
20          the individual to whom the item or service is  
21          furnished) the portion of the claim form relat-  
22          ing to the availability of other health benefit  
23          plans.

24          “(B) PENALTIES.—An entity that know-  
25          ingly, willfully, and repeatedly fails to complete









































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































































