A BILL

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

MAY 25, 1993

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.
H. R. 2264

[Report No. 103-111]

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

IN THE HOUSE OF REPRESENTATIVES
MAY 25, 1993

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

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

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Omnibus Budget Re-
cconciliation Act of 1993”.

SEC. 2. TABLE OF CONTENTS.
The table of contents is as follows:
TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the “Agricultural Reconciliation Act of 1993”.

(b) Table of Contents.—The table of contents of this title is as follows:

Sec. 1001. Short title and table of contents.

Subtitle A—Commodity Programs

Sec. 1101. Wheat program.
Sec. 1102. Feed grain program.
Sec. 1103. Upland cotton program.
Sec. 1104. Rice program.
Sec. 1105. Dairy program.
Sec. 1106. Tobacco program.
Sec. 1107. Sugar program.
Sec. 1108. Oilseeds program.
Sec. 1109. Peanut program.
Sec. 1110. Honey program.
Sec. 1111. Wool and mohair program.
Sec. 1112. Conforming amendments to continue deficit reduction activities in crop years after 1995.

Subtitle B—Restructuring of Loan Programs

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

Subtitle C—Food Stamp Program

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

CHAPTER 1—ENSURING ADEQUATE FOOD ASSISTANCE

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

CHAPTER 2—PROMOTING SELF SUFFICIENCY

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

CHAPTER 3—SIMPLIFYING THE PROVISION OF FOOD ASSISTANCE

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

CHAPTER 4—IMPROVING PROGRAM INTEGRITY

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

CHAPTER 5—IMPROVING FOOD STAMP PROGRAM MANAGEMENT

Sec. 1351. Clarification of categorical eligibility.
Sec. 1352. Technical amendments related to electronic benefit transfer.
Sec. 1353. Disqualification of recipients for trading firearms, ammunition, explosives, or controlled substances for coupons.
Sec. 1354. Uncapped civil money penalty for trafficking in coupons.
Sec. 1355. Uncapped civil money penalty for selling firearms, ammunition, explosives, or controlled substances for coupons.
Sec. 1356. Modifying the food stamp quality control system.

CHAPTER 6—UNIFORM REIMBURSEMENT RATES

Sec. 1361. Uniform reimbursement rates.

CHAPTER 7—IMPLEMENTATION AND EFFECTIVE DATES

Sec. 1371. Implementation and effective dates.

Subtitle D—Miscellaneous Provisions

Sec. 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 ACRES.—

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

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

(b) CONTINUATION OF DEFICIT REDUCTION ACTIVITIES IN CROP YEARS AFTER 1995.—
(1) **Agricultural Act of 1949.**—Section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a) is further amended—

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

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

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

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

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

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

(2) **Food, Agriculture, Conservation, and Trade Act of 1990.—**Title III of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3382) is amended—

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

SEC. 1102. FEED GRAIN PROGRAM.

(a) Five Percent Reduction in Payment Acres.— 

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

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

(b) Continuation of Deficit Reduction Activities in Crop Years After 1995.—

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

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

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

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

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

(E) in the headings of subsections (e)(1)(G) and (e)(1)(H), by striking “1995” both places it appears and inserting “1998”; and
(F) in subsection (g)(1), by striking “and 1995” and inserting “through 1998”.

(2) Food, Agriculture, Conservation, and Trade Act of 1990.—Section 402 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444b note) is amended—

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

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

(3) Recourse Loan Program for Silage.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is amended by striking “1996” and inserting “1999”.

SEC. 1103. UPLAND COTTON PROGRAM.

(a) Five Percent Reduction in Payment Acres.—

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

(2) Application of Amendment.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of upland cotton.
(b) Continuation of Deficit Reduction Activities in Crop Years After 1995.—


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

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

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

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

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

(2) Agricultural Adjustment Act of 1938.—Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by
striking “1995” each place it appears and inserting “1998”.

(3) Food, Agriculture, Conservation, and Trade Act of 1990.—Title V of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3421) is amended—

(A) in section 502 (7 U.S.C. 1342 note), by striking “1995” and inserting “1998”; 
(B) in section 503 (7 U.S.C. 1444 note), by striking “1995” and inserting “1998”; and
(C) in section 505 (7 U.S.C. 1342 note)—
   (i) in the section heading, by striking “1996” and inserting “1999”; and
   (ii) by striking “1996” and inserting “1999”.

SEC. 1104. RICE PROGRAM.

(a) Five Percent Reduction in Payment Acres.—

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

(2) Application of Amendment.—The amendment made by paragraph (1) shall apply beginning with the 1994 crop of rice.
(b) Continuation of Deficit Reduction Activities in Crop Years After 1995.—Such section is further amended—

1. in the section heading, by striking “1995” and inserting “1998”;
2. in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking “1995” each place it appears and inserting “1998”;
3. in subsection (a)(5)(D)(i), by striking “1996” and inserting “1999”;
4. in the heading of subsection (c)(1)(B)(ii), by striking “AND 1995” and inserting “THROUGH 1998”; and
5. in subsection (c)(1)(B)(ii), by striking “and 1995” and inserting “through 1998”.

Sec. 1105. Dairy Program.

(a) Allocation of Purchase Prices for Butter and Nonfat Dry Milk.—

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

(A) in the first sentence of subparagraph (A), by striking “The Secretary” and inserting “Subject to subparagraph (B), the Secretary”;
(B) by redesignating subparagraph (B) as subparagraph (C); and

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

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

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

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

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

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

(1) by striking “and” at the end of subparagraph (A); and

(2) by striking the period at the end of subparagraph (B) and inserting “; and”; and
(3) by adding at the end the following new sub-
paragraph:

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

(c) **Continuation of Deficit Reduction Activities in Fiscal Years After 1995.**—

(1) **In general.**—Section 204 of the Agricul-
tural Act of 1949 (7 U.S.C. 1446e) is further
amended—

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

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

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

(2) **Transfer to Military and Veterans
Hospitals.**—Subsections (a) and (b) of section 202
of such Act (7 U.S.C. 1446a) are amended by strik-
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•ing “1995” both places it appears and inserting “1998”.

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

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

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

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

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

SEC. 1106. TOBACCO PROGRAM.

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

“(A) in the case of the 1991 through 1993 crops of tobacco, .5 percent of the national average
price support level for each such crop as otherwise provided for in this section; and

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

(b) Continuation of Deficit Reduction Activities in Fiscal Years After 1995.—Such subsection is further amended by striking “1995” and inserting “1998”.

(c) Acreage-Poundage Quotas for Tobacco.—

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

(A) by inserting “Definitions.—” after “(a)”;

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

“(2) Farm Acreage Allotment.—The term ‘farm acreage allotment’ for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by dividing the farm marketing quota by the farm yield.
“(3) Farm Yield.—The term ‘farm yield’ means the yield per acre for a farm determined according to regulations issued by the Secretary and which would be expected to result in a quality of tobacco acceptable to the tobacco trade.

“(4) Farm Marketing Quota.—

“(A) In general.—The term ‘farm marketing quota’ for a farm for a marketing year means a number that is equal to the number of pounds of tobacco determined by multiplying—

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

“(ii) the national factor.

“(B) Adjustment.—The farm marketing quota determined under subparagraph (A) for a marketing year shall be increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediate preceding marketing year (if marketing quotas were in effect for that year under the program established by this section) is less than or exceeds the farm marketing quota for such year.
Notwithstanding the preceding sentence, the farm marketing quota for a marketing year shall not be increased under this subparagraph for undermarketing by an amount in excess of the farm marketing quota determined for the farm for the immediately preceding year prior to any increase for undermarketing or decrease for overmarketing. If due to excess marketing in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction shall be made for the subsequent marketing year or years.

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

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

"(B) the sum of the farm marketing quotas (prior to any adjustments for undermarketing or overmarketing) for the immediate preceding marketing year for all farms for which marketing quotas for the kind of to-
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bacco involved will be determined for such suc-
ceeding marketing year.”.

(2) **Conforming Amendments.**—Such section
is further amended—

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

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

(C) in subsection (d)—

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

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

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

(D) in subsection (e)—

(i) in the first sentence, by striking
“No farm acreage allotment or farm yield
shall be established” and inserting “A farm marketing quota and farm yield shall not be established”;

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

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

and

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

(E) in subsection (g)—

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

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

(3) FARM MARKETING QUOTA REDUCTIONS.—

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

“(f) CAUSES FOR FARM MARKETING QUOTA REDUCTIONS.—(1) When an acreage-poundage program is in ef-
fect for any kind of tobacco under this section, the farm marketing quota next established for a farm shall be re-
duced by the amount of such kind of tobacco produced on the farm—

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

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

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

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

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

“(3) The reduction required under this subsection
shall be in addition to any other adjustments made pursu-
ant to this section.
“(4) In establishing farm marketing quotas for other farms owned by the owner displaced by acquisition of the owner’s land by any agency, as provided in section 378 of this Act, increases or decreases in such farm marketing quotas as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency.

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

SEC. 1107. SUGAR PROGRAM.

(a) Ten Percent Increase in Marketing Assessment.—Subsection (i) of section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

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

“(A) in the case of marketings during fiscal years 1992 and 1993, .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugar-
cane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

“(B) in the case of marketings during fiscal years 1994 through 1999, .198 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).”;

and

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

“(A) in the case of marketings during fiscal years 1992 and 1993, .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

“(B) in the case of marketings during fiscal years 1994 through 1999, .2123 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.”.
(b) Continuation of Deficit Reduction Activities in Crop Years After 1995.—

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

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

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

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

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

Sec. 1108. Oilseeds Program.

(a) Continuation of Deficit Reduction Activities in Crop Years After 1995.—Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in the section heading, by striking “1995” and inserting “1998”; and
(2) in subsections (b), (c), (e)(1), and (n), by striking "1995" each place it appears and inserting "1998".

SEC. 1109. PEANUT PROGRAM.

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

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

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

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

``(h) ADDITIONAL MARKETING ASSESSMENT.—

``(1) TWO PERCENT ASSESSMENT.—In addition to the marketing assessment required by subsection (g), the Secretary shall also provide for a nonrefundable marketing assessment applicable to each of the 1993 through 1998 crops of peanuts and collected and paid in accordance with this subsection. The assessment shall be on a per pound basis in an amount equal to 2 percent of the national average quota or additional peanut support rate per pound, as applicable, for the applicable crop. No peanuts shall be
assessed more than 2 percent of the applicable support rate under this subsection.

“(2) First Purchasers.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

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

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

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

“(3) Other Private Marketings.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment under this subsection and shall remit the
assessment by such time as is specified by the Secretary.

“(4) Loan Peanuts.—In the case of peanuts that are pledged as collateral for a price support loan made under this section, 1/2 of the assessment under this subsection shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts as provided in subparagraph (B) of paragraph (2). For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds under this subsection shall be treated as having been paid to the producer.

“(5) Reserve Account.—

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

“(i) the total amount remitted to the Commodity Credit Corporation under paragraphs (2) and (3) as the payment of the marketing assessment applicable to that crop of peanuts under this subsection; and
“(ii) the total amount deducted from
the proceeds of a price support loan or
paid by first purchasers under paragraph
(4) as the payment of the marketing as-
se ssment applicable to that crop of peanuts
under this subsection.

“(B) Use of reserve account.—The
Secretary shall use amounts in the reserve ac-
count established in this paragraph to cover
losses incurred by the Commodity Credit Cor-
poration on the sale or disposal of peanuts.

“(6) Application of other provisions.—
Paragraphs (2)(B), (5), and (6) of subsection (g)
shall apply with respect to the marketing assessment
required by this subsection.”.

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

(b) Continuation of Deficit Reduction Activi-
ties in Crop Years After 1995.—

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

(A) in the section heading, by striking
“1995” and inserting “1998”;
(B) in subsections (a)(1), (a)(2), (b)(1), and (g)(1), by striking “1995” each place it appears and inserting “1998”; and

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

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

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

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

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

(B) in section 358b (7 U.S.C. 1358b)—

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

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

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

(D) in section 358e (7 U.S.C. 1359a)—
(i) in the section heading, by striking “1995” and inserting “1998”; and
(ii) in subsection (i), by striking “1995” and inserting “1998”.

(3) Food, Agriculture, Conservation, and Trade Act of 1990.—Title VIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3459) is amended—

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

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

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

(c) Assessment Under Peanut Marketing Agreement.—Section 8b(b)(1) of the Agricultural Adjustment Act (7 U.S.C. 608b(b)(1)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by striking “and” at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting “; and”; and

(3) by adding at the end the following new subparagraph:
“(C) any assessment imposed under such agreement shall apply to peanut handlers (as that term is defined by the Secretary) who have not entered into such an agreement with the Secretary in addition to those handlers who have entered into such agreement.”.

(d) Customs Treatment of Certain Peanut Products.—

(1) Temporary Additional Duties.—Subchapter I of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical order the following new headings:

<table>
<thead>
<tr>
<th>9901.11.10</th>
<th>Peanut paste (provided for in subheading 2007.99.65)</th>
<th>55¢/kg</th>
<th>No change</th>
<th>55¢/kg</th>
<th>On or before 7/31/96</th>
</tr>
</thead>
<tbody>
<tr>
<td>9901.11.12</td>
<td>Peanut butter (provided for in subheading 2008.11.00)</td>
<td>55¢/kg</td>
<td>No change</td>
<td>55¢/kg</td>
<td>On or before 7/31/96</td>
</tr>
</tbody>
</table>

(2) Inclusion of Peanut Butter in Quota.—Heading 9904.20.20 of the Harmonized Tariff Schedule of the United States is amended by striking out “(except peanut butter)”.

(3) Effective Dates.—

(A) Temporary Additional Duties.—The amendment made by paragraph (1) applies with respect to entries and withdrawals from warehouse for consumption made on or after
the 15th day after the date of the enactment of this Act.

(B) QUOTA AMENDMENT.—The amendment made by paragraph (2) applies with respect to entries and withdrawals from warehouse for consumption made after July 31, 1996.

SEC. 1110. HONEY PROGRAM.

(a) REDUCED SUPPORT RATE.—Subsection (a) of section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446h) is amended by striking “53.8 cents” and inserting “50 cents”.

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

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

(2) by striking subparagraph (D); and

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

“(D) $125,000 in the 1994 crop year;

“(E) $100,000 in the 1995 crop year;

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

“(G) $50,000 in each of the 1997 and subsequent crop years.”.
(c) Continuation of Deficit Reduction Activities.—Subsections (a), (c)(1), and (j) of such section are amended by striking “1995” each place it appears and inserting “1998”.

(d) Termination of Assessment.—Subsection (i)(1) of such section is amended by striking “1995” and inserting “1993”.

SEC. 1111. Wool and Mohair Program.

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

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

(2) by striking subparagraph (D); and

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

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

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

“(F) $75,000 for 1996 marketing year;

and

“(G) $50,000 for each of the 1997 and subsequent marketing years.”.
(b) **Marketing Charges.**— Section 706 of National Wool Act of 1954 (7 U.S.C. 1785) is amended by inserting after the second sentence the following new sentence: “In determining the net sales proceeds and national payment rates for shorn wool and shorn mohair the Secretary shall not deduct marketing charges for commissions, coring, or grading.”.

(c) **Continuation of Deficit Reduction Activities in Crop Years After 1995.**— Subsections (a) and (b)(2) of section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) are amended by striking “1995” both places it appears and inserting “1998”.

(d) **Termination of Marketing Assessment.**— Section 704(c) of the National Wool Act of 1954 (7 U.S.C. 1783(c)) is amended by striking “1995” and inserting “1992”.

(e) **Technical and Conforming Amendments.**—

(1) **Policy of Congress.**— Section 702 of the National Wool Act of 1954 (7 U.S.C. 1781) is amended—

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

(B) by striking “as a measure of national security and to promote” and inserting “that as a method to promote”.
(2) Elimination of Obsolete Provision.—

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

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

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

(C) by striking paragraph (3).

(3) Advertising and Sales Promotion Programs.—Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended—

(A) by inserting “(a)” after “Sec. 708.”; and

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

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

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

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

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

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

(c) DISASTER PAYMENTS.—Section 208 of the Agricultural Act of 1949 (7 U.S.C. 1446i) is amended—
(1) in the section heading, by striking "1995" and inserting "1998";
(2) in subsection (d), by striking "1995" and inserting "1998".

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

(1) in section 402(b) (7 U.S.C. 1422(b)), by striking "1995" and inserting "1998";
(2) in section 403(c) (7 U.S.C. 1423(c)), by striking "1995" and inserting "1998";
(3) in section 406(b) (7 U.S.C. 1426(b))—
(A) by striking "1995" each place it appears and inserting "1998"; and
(B) by striking "1996" each place it appears and inserting "1999"; and
(4) in section 408(k)(3) (7 U.S.C. 1428(k)(3)), by striking "1995" and inserting "1998".

(e) Acreage Base and Yield System.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking "1995" each place it appears and inserting "1998";
(2) in subsections (b)(1) and (b)(2) of section 505 (7 U.S.C. 1465), by striking “1995” each place it appears and inserting “1998”; and

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

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


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

(3) in section 1001C(a) (7 U.S.C. 1308–3(a)), by striking “1995” both places it appears and inserting “1998”;
(4) in section 1017(b) (7 U.S.C. 1385 note), by striking “1995” and inserting “1998”; and

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

(1) in subsections (a) and (b) of section 1153, by striking “1995” each place it appears and inserting “1998”; and
(2) in section 1154(b)(1)(A), by striking “1995” both places it appears and inserting “1998”.

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

**Subtitle B—Restructuring of Loan Programs**

**Sec. 1201. Restructuring of Certain Loan Programs.**
(a) **Loan Programs Under the Rural Electrification Act of 1936.**—
(1) **INSURED LOAN PROGRAMS.**— Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended—

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

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

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

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by all utilities in the State in which the borrower provides service.

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

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

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

"(2) Municipal rate loans.—

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

"(B) Interest rate.—

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

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

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

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

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

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

“(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or
“(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the borrower provides service; and

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

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

“(C) Loan Term.—

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

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

“(D) Call Provision.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

“(3) Other Source of Credit Not Required in Certain Cases.—The Administrator may not require any applicant for a loan made
under this subsection who is eligible for a loan under
paragraph (1) to obtain a loan from another source
as a condition of approving the application for the
loan or advancing any amount under the loan.

“(d) INSURED TELEPHONE LOANS.—

“(1) HARDSHIP LOANS.—

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

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

“(ii) The applicant is capable of pro-
ducing net income or margins, after inter-
est payments on the loan applied for, of
not less than 100 percent (but not more
than 300 percent) of the interest require-
ments on all of the outstanding and pro-
posed loans of the applicant.

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

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

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

"(2) COST-OF-MONEY LOANS.—

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

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

“(ii) The applicant is capable of pro-
ducing net income or margins, after inter-
est payments on the loan applied for, of
not less than 100 percent (but not more
than 500 percent) of the interest require-
ments on all of the outstanding and pro-
posed loans of the applicant.

“(iii) The Administrator has approved
a telecommunications modernization plan
for the State under paragraph (3), and, if
the plan was developed by telephone bor-
rowers under this title, the applicant is a
participant in the plan.
“(B) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan.

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

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

“(ii) if the applicant is eligible therefor, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 408, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 408 for the fiscal year.
“(D) Effect of Lack of Funds.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 306.

“(3) State Telecommunications Modernization Plans.—

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

“(B) Requirements.—A telecommunications modernization plan must, at a minimum, meet the following objectives:
“(i) The plan must provide for the elimination of party line service.

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

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

“(iv) The plan must provide for—

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

“(aa) multiple voices;

“(bb) video images; and

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

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

“(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.
"(C) Finality of Approval.—A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved.

(2) Rural Telephone Bank Loan Program.—Section 408 of the Rural Electrification Act of 1936 (7 U.S.C. 948) is amended—

(A) in subsection (a)—

(i) by striking "(1)" and all that follows through "(3)" and inserting "(1) for the purchase and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and personal customer premise equipment) directly related to the furnishing, improvement, or extension of rural telecommunications service or the acquisition of a rural telecommunications capability, and (2)"; and

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

(B) in subsection (b)—

(i) by amending paragraph (4) to read as follows:
“(4)(A) The Governor of the telephone bank may make a loan under this section only to an applicant therefor who meets the following requirements:

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

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

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

(ii) in paragraph (8)—

(I) by inserting “(A)” after “(8)”;

(II) by striking “if such prepayment is not made later than September 30, 1988” and inserting “except for any prepayment penalty provided
for in a loan agreement entered into
before the date of the enactment of
the Omnibus Budget Reconciliation
Act of 1993’’; and
(III) by adding at the end the
following:
“(B) If a borrower prepays part or all of a loan
made under this section, then, notwithstanding sec-
tion 407(b), the Governor of the telephone bank
shall—
“(i) use the full amount of the prepayment
to repay obligations of the telephone bank is-
sued pursuant to section 407(b) before October
1, 1991, to the extent any such obligations are
outstanding; and
“(ii) in repaying such obligations, first
repay the advances bearing the greatest rate of
interest.’’; and
(iii) by adding at the end the follow-
ing:
“(9) On request of any applicant for a loan
under this section during any fiscal year, the Gov-
ernor of the telephone bank shall—
“(A) consider the application to be for a loan under this section and a loan under section 305(d)(2); and

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

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

and

(C) by adding at the end the following:

“(e) Loans and advances made under this section on or after November 5, 1990, shall bear interest at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before the date of the enactment of this subsection.”.
(3) **Funding.**—Section 314 of such Act (7 U.S.C. 940d) is amended to read as follows:

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"SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

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

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

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

and

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

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

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

and

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

"(3) TELEPHONE HARDSHIP LOANS.—For loans under section 305(d)(1)—
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“(A) for fiscal year 1994, $125,000,000;
and
“(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

“(4) TELEPHONE COST-OF-MONEY LOANS.—For loans under section 305(d)(2)—
“(A) for fiscal year 1994, $198,000,000;
and
“(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

“(b) ADJUSTMENT PERCENTAGE DEFINED.—As used in subsection (a), the term ‘adjustment percentage’ means, with respect to a fiscal year, the percentage (if any) by which—
“(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on July 31 of the immediately preceding fiscal year;
“exceeds
“(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on July 31, 1993.
“(c) MANDATORY LEVELS.—The Administrator shall make insured loans under this title from the Rural Electrification and Telephone Revolving Fund established under section 301, for the purposes, in the amounts, and for the periods of time specified in subsection (a), as provided in advance in appropriations Acts.

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

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

(5) MISCELLANEOUS AMENDMENTS.—

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

(i) by inserting “(a)” before “The Administrator”;

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

(iii) by adding at the end the following:

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

(B) Section 4 of such Act (7 U.S.C. 904) is amended by inserting “and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management and energy conservation programs” after “central station service’’.

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

(i) by inserting “(a)” before “The Admin-
(ii) by designating the 2nd undesigned paragraph as subsection (b); and

(iii) by adding at the end the following:

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

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

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

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

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

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

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

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

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

(i) by inserting “(a) No Consideration of Borrower’s Level of General Funds.—” before “The Administrator”; and

(ii) by adding at the end the following:

“(b) No Loan Origination Fees.—The Administrator and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan under this Act.”.

(I) Title III of such Act (7 U.S.C. 931-940d) is amended by inserting after section 306B the following:
SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS FOR LOANS, LOAN GUARANTEES, AND LIEN ACCOMMODATIONS.

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

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

"The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this Act whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator."

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

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

SEC. 1202. REORGANIZATION OF RURAL DEVELOPMENT
FUNCTIONS.

(a) Administration of Rural Electrification
Act of 1936 Transferred to the Rural Develop-
ment Administration.—

(1) In general.—The Rural Electrification
Act of 1936 (7 U.S.C. 901 et seq.) is amended by
striking all after the enacting clause that precedes
section 2 and inserting the following:

“SECTION 1. SHORT TITLE; ADMINISTRATION OF ACT.

“(a) Short Title.—This Act may be cited as the
Rural Electrification Act of 1936’.

“(b) Administration of Act.—The Administrator
of the Rural Development Administration (in this Act re-
ferred to as the ‘Administrator’) shall carry out this Act
under the general direction and supervision of the Sec-
retary of Agriculture.”.
(2) **Conforming Amendments.—**

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

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

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

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

(C) Each of the following provisions of such Act is amended by striking “Rural Electrification Administration” and inserting “Rural Development Administration”: 

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

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

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

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

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

(b) **Other Functions of the Rural Electrification Administration Transferred to the**
Rural Development Administration.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is amended by adding at the end the following:

“(g) Transfer of Functions of the Rural Electrification Administration to the Rural Development Administration.—

“(1) In general.—All rights, interests, obligations, and duties of the Administrator of the Rural Electrification Administration arising before the date of the enactment of this subsection, from any loan made, insured, or guaranteed by, or other action of, the Rural Electrification Administration shall be vested in the Administrator of the Rural Development Administration.

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

“(3) Effect on pending proceedings and parties to such proceedings.—
“(A) Nonabatement of Proceedings.—This subsection shall not be construed to abate any proceeding commenced by or against the Rural Electrification Administration or the Administrator of the Rural Electrification Administration.

“(B) Effect on Parties.—If an officer of the Rural Electrification Administration, in the official capacity of such officer, is a party to a proceeding pending on the date of the enactment of this subsection, then such action shall be continued with the Administrator, or other appropriate officer, of the Rural Development Administration substituted or added as a party.

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

(c) Structure of the Rural Development Administration.—Such section 364 (7 U.S.C. 2006f), as amended by subsection (b) of this section, is amended by adding at the end the following:
“(h) Structure of the Rural Development Administration.—

“(1) Deputy Administrator for Rural Utilities.—The Administrator of the Rural Development Administration shall appoint a Deputy Administrator for Rural Utilities who shall administer—

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

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

“(2) Assistant Administrators.—The Administrator of the Rural Development Administration may appoint—

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

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

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

“(i) rural utility technical engineering standards and specifications; and
“(ii) other utility management and accounting functions assigned by the Administrator; and

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

(d) RURAL ECONOMIC DEVELOPMENT.—

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

“(i) RURAL ECONOMIC DEVELOPMENT.—A borrower of a loan or loan guarantee under the Rural Electrification Act of 1936 shall be eligible for assistance under all programs administered by the Rural Development Administration, and the Administrator of the Rural Development Administration shall encourage and facilitate the full participation of such a borrower in such programs.

“(j) TECHNICAL ASSISTANCE UNIT.—The Administrator of the Rural Development Administration shall establish a technical assistance unit to provide to borrowers under the programs administered by the Rural Development Administration advice and guidance on community and economic development activities.”.
(2) **Conforming repeal.**—Section 11A of the Rural Electrification Act of 1936 (7 U.S.C. 911a) is hereby repealed.

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

**Subtitle C—Food Stamp Program**

**SEC. 1301. SHORT TITLE.**

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

**SEC. 1302. REFERENCES TO THE ACT.**

Except as otherwise provided in this subtitle, references in this subtitle to “the Act” and sections of the Act shall be deemed to be references to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and the sections of such Act.

**CHAPTER 1—ENSURING ADEQUATE FOOD ASSISTANCE**

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

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

SEC. 1312. HELPING LOW-INCOME HIGH SCHOOL STU-
DENTS.

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

SEC. 1313. FAMILIES WITH HIGH SHELTER EXPENSES.

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

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

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

(b) LIMITATIONS.—

(1) FISCAL YEAR 1994.—Effective on the date
of enactment of this Act, section 5(e) of the Act (7
U.S.C. 2014(e)) is amended by inserting after the
fourth sentence the following:
“In the 12-month period ending September 30, 1994, such excess shelter expense deduction shall not exceed $214 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $372, $305, $259, and $158 a month, respectively.”

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

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

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

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

SEC. 1315. HOMELESS FAMILIES IN TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Act (7 U.S.C. 2014(k)(2)(F)) is amended to read as follows:
“(F) housing assistance payments made to a third party on behalf of the household residing in transitional housing for the homeless;”.

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

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

SEC. 1317. CONTINUING BENEFITS TO ELIGIBLE HOUSEHOLDS.

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

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

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

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

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

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CHAPTER 2—PROMOTING SELF SUFFICIENCY

SEC. 1321. INCOME EXCLUSION FOR EDUCATION ASSISTANCE.

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

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

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

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

(3) striking subsection (k)(3).
SEC. 1322. CHILD SUPPORT PAYMENTS TO NON-HOUSEHOLD MEMBERS.

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

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

SEC. 1323. CHILD SUPPORT EXCLUSION.

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

(1) in subsection (d)(13)—

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

and

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

and

(2) by striking subsection (m).
SEC. 1324. IMPROVING ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES.

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

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

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

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

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

“(which may include reimbursements for costs of any supportive services of the kinds provided or reimbursed under the State’s plan under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.)), except that State agencies may establish limits on reimbursements to participants for such costs, which limits may not be less than $25 per month”.
(2) Costs of Dependent Care.—Section 6(d)(4)(I)(i)(II) of the Act (7 U.S.C. 2015(d)(4)(I)(i)(II)) is amended to read as follows—

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

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

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

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

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

Section 5(g)(2) of the Act (7 U.S.C. 2014(g)(2)) is amended by striking “$4,500” and inserting the following: “a level set by the Secretary, which shall be $5,500 through September 30, 1994, and which shall be adjusted on each October 1 thereafter to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics for the 12-month period ending on June 30 preceding the date of such adjustment and rounded to the nearest $50’’.
SEC. 1326. VEHICLES NECESSARY TO CARRY FUEL OR WATER.

Section 5(g)(2) of the Act (7 U.S.C. 2014(g)(2)) is amended by adding at the end the following: “The Secretary shall exclude from financial resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.”.

SEC. 1327. DEMONSTRATION PROJECTS TESTING RESOURCE ACCUMULATION.

Section 17 of the Act (7 U.S.C. 2026) is amended by adding at the end the following: “(k) The Secretary may conduct, under such terms and conditions as the Secretary may prescribe, for a period not to exceed 4 years, demonstration projects to test allowing eligible households to accumulate resources up to $10,000 for later expenditure for a purpose directly related to improving the education, training, or employability (including self employment) of household members, for the purchase of a home for the household, for a change of the household’s residence, or for making major repairs to the household’s home. The Secretary is authorized to pay up to $100,000,000 in food stamp benefits to households participating in such demonstration projects during the period in which such projects are in operation.”.
CHAPTER 3—SIMPLIFYING THE
PROVISION OF FOOD ASSISTANCE

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

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

(1) in the first sentence—

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

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

``. Spouses who live together, parents and their chil-
dren 21 years of age or younger (who are not them-
selves parents living with their children or married
living with their spouses) who live together, and chil-
dren (excluding foster children) under 18 years of
age who live with and are under the parental control
of a person other than their parent together with the
person exercising parental control''; and

(C) striking ``(, unless one of '' and all that
follows through ``disabled member''; and
(2) in the second sentence by striking “‘clause 1 of the preceding sentence’” and inserting “‘the preceding sentences’”.

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

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

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

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

SEC. 1333. RESOURCES OF HOUSEHOLDS WITH DISABLED MEMBERS.

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

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

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

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

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

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

CHAPTER 4—IMPROVING PROGRAM
INTEGRITY

SEC. 1341. USE AND DISCLOSURE OF INFORMATION PRO-
VIDED BY RETAIL FOOD STORES AND WHOLE-
SALE FOOD CONCERNS.

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

(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 pre-
ceeding sentence who publishes, divulges, discloses, or
makes known in any manner or to any extent not author-
ized 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 pur-
poses shall not exclude’’ and inserting the follow-
ing—

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

SEC. 1342. ADDITIONAL MEANS OF CLAIMS COLLECTION.

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

(1) striking ‘‘and (B)’’ and inserting ‘‘(B)’’;

and

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

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

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

“(d) The amount of an overissuance of coupons (as determined under subsection (b) and except for claims arising from an error of the State agency) that has not been recovered pursuant to such subsection may be recovered from refunds of Federal taxes, as authorized pursuant to section 3720A of title 31 of the United States Code, or from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 of the United States Code.”.
SEC. 1343. DEMONSTRATION PROJECTS TESTING ACTIVITIES DIRECTED AT STREET TRAFFICKING IN COUPONS.

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

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

CHAPTER 5—IMPROVING FOOD STAMP PROGRAM MANAGEMENT

SEC. 1351. CLARIFICATION OF CATEGORICAL ELIGIBILITY.

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

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

(2) striking “II,” in subsection (j).
SEC. 1352. TECHNICAL AMENDMENTS RELATED TO ELECTRONIC BENEFIT TRANSFER.

(a) Eligibility Disqualification of Individuals.—Section 6(b)(1)(B) of the Act (7 U.S.C. 2015(b)(1)(B)) is amended by striking “or authorization cards” and inserting “, authorization cards, or access devices”.

(b) Eligibility Disqualification of Retail Food Stores and Wholesale Food Concerns.—Section 12(b)(3)(B) of the Act (7 U.S.C. 2021(b)(3)(B)) is amended by—

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

and

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

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

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

“(ii) for a period of 1 year upon—

“(I) the second occasion of any such determination; or
“(II) the first occasion of a finding of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); and
“(iii) permanently upon—
“(I) the third occasion of any such determination;
“(II) the second occasion of a finding of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for coupons; or
“(III) the first occasion of a finding of the trading of firearms, ammunition, or explosives for coupons.”.

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

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

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

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

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

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

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

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

(1) in paragraph (1)(C)—

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

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

“equal to—

“(i) the product of—

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

times
“(II) the lesser of—

“(aa) the ratio of—

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

“(2) the national performance measure for the fiscal year;

or

“(bb) one; times

“(III) the amount by which the State agency’s payment error rate for the fiscal year exceeds the national performance measure for the fiscal year.

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

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

(3) in paragraph (6) by striking “shall be used” and all that follows through “level” the last place it appears.
(b) **Study by the Office of Technology Assessment.**—The Office of Technology Assessment shall undertake a study of measurement error, any bias in penalty amounts, extreme value bias, regression formula, and of geographical and temporal uniformity of measurements, in the food stamp program quality control system, and shall report the results and recommendations of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 12 months after the date of enactment of this Act.

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

CHAPTER 6—UNIFORM REIMBURSEMENT
RATES

SEC. 1361. UNIFORM REIMBURSEMENT RATES.

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

(1) in subsection (a)—

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

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

“(6) automated data processing and information
retrieval systems subject to the conditions set forth
in subsection (g), (7) food stamp program investiga-
tions and prosecutions, and (8) implementing and
operating the immigration status verification system
under section 1137(d) of the Social Security Act (42
U.S.C. 1320b-7(d))”; and

(C) in the proviso by inserting after “75
per centum” the following:
“through June 30, 1994, 70 percent for the 1-year
period beginning July 1, 1994, 60 percent for the 1-
year period beginning July 1, 1995, and 50 percent for any subsequent period,'';
(2) in subsection (g)—
(A) by inserting “through June 30, 1995, equal to 60 percent for the 1-year period beginning July 1, 1995, and 50 percent effective July 1, 1996,” after “1991,”; and
(B) by striking “automatic” and inserting “automated”; and
(3) in subsection (j) by inserting after “100 per centum” the following:
“through June 30, 1994, 70 percent for the 1-year period beginning July 1, 1994, 60 percent for the 1-year period beginning July 1, 1995, and 50 percent for any subsequent period.”.

(b) Application of Amendments.—The reductions in enhanced Federal match rates for administration resulting from the amendments made by subsection (a) shall apply to payments to States for expenditures incurred only after—
(1) the end of the State fiscal year that ends during 1994; or
(2) in the case of a State with a State legislature which is not scheduled to have a regular legisla-
tive session in 1994, the end of the State fiscal year that ends during 1995; without regard to whether or not final regulations to carry out such amendments have been promulgated by the Secretary before the end of either of such State fiscal years.

CHAPTER 7—IMPLEMENTATION AND EFFECTIVE DATES

SEC. 1371. IMPLEMENTATION AND EFFECTIVE DATES.

(a) General Effective Date and Implementation.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect, and shall be implemented beginning on, October 1, 1993.

(b) Special Effective Dates and Implementation.—(1) Sections 1312, 1315, 1316, 1317, 1322, 1323, 1326, 1331, 1333, and 1353 and the amendments made by such sections shall take effect, and shall be implemented beginning on, July 1, 1994.

(2) Paragraphs (1) and (3) of section 1356(a) and the amendments made by such paragraphs shall take effect, and shall be implemented beginning on, October 1, 1991.
(3) Paragraph (2) of section 1356(a) and the amendment made by such paragraph shall take effect, and shall be implemented beginning on, October 1, 1992.

Subtitle D—Miscellaneous Provisions


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

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

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

(a) AUTHORITY TO IMPOSE FEES.—

(1) ENTRANCE AND ADMISSION FEES.—The Secretary of Agriculture may charge admission or entrance fees at National Monuments, National Volcanic Monuments, National Scenic Areas, and areas of concentrated public use administered by the Secretary.
(2) **RECREATION USE FEES.**—The Secretary may charge recreation use fees at lands administered by the Secretary in connection with the use of specialized outdoor recreation sites, equipment, services, or facilities, including visitors’ centers, picnic tables, boat launching facilities, or campgrounds.

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

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

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

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

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

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

(D) Public access to the area is provided in such a manner that admission fees can be efficiently collected at one or more centralized locations.
(2) The term “boat launching facility” includes any boat launching facility regardless of whether specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities, are provided.

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

(A) Tent or trailer spaces.

(B) Drinking water.

(C) An access road.

(D) Refuse containers.

(E) Toilet facilities.

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

(G) Reasonable visitor protection.

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

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

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

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

(1) $90,000,000 in fiscal year 1995;
(2) $97,000,000 in fiscal year 1996;
(3) $135,000,000 in fiscal year 1997; and
(4) $178,000,000 in fiscal year 1998.

SEC. 1404. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AMENDMENTS.

(a) Enrolment Requirement.—

(1) Conservation Reserve Program.—

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

(i) by striking “the amount of acres specified in section 1230(b)” and inserting “a total of not more than 38,000,000 acres during the 1986 through 1995 calendar years”; and

(ii) by striking “each of calendar years 1994 and 1995” and inserting “the 1995 calendar year”.

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

(2) **Wetlands Reserve Program.**—

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

“(b) **Minimum Enrollment.**—The Secretary shall enroll into the wetlands reserve program—

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

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

(B) **Conforming Amendment.**—Section 1237(c) of such Act (16 U.S.C. 3837(c)) is amended by striking “1995” and inserting “2000”.

(b) **Use of Commodity Credit Corporation.**—Section 1241 of such Act (16 U.S.C. 3841) is amended—

(1) in subsection (a)—

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

(B) by striking paragraph (2); and
SEC. 1405. LEVELS OF INSURANCE COVERAGE UNDER THE FEDERAL CROP INSURANCE ACT.

(a) Conversion of Program to Four Levels of Coverage.—The Federal Crop Insurance Act is amended—

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

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

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

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

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

“(a) Four Levels of Coverage.—In making crop insurance available under section 508 to producers of agricultural commodities grown in the United States, the Cor-
poration shall make available four levels of insurance coverage against losses in yields of the insured commodity:

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

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

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

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

“(b) **Determined Yield.**—For purposes of subsection (a)(1), the determined yield for a commodity shall be equal to—

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

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

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

“(d) Price Elections.—The Corporation shall establish a high and low price election for each agricultural commodity for which insurance is available under this title. The high price shall not be less than the projected market price of the commodity. Coverage levels II, III, and IV shall be available to producers at any price election that is equal to or less than the high price election and shall be quoted in terms of dollars per acre that may be purchased. Coverage level I shall be offered only at the low price election.

“(e) Coverage and Price Information.—The Corporation shall ensure that each producer is provided accurate and adequate information at the time of application regarding the amount of coverage available at each level of coverage for the commodity to be insured and the cost to the producer for such coverage.

“(f) Annual Report.—The Corporation shall report annually to the Congress the results of its operations re-
garding each commodity for which insurance is available under this title. The report shall include for each insured commodity a description of operations under this section at each level of coverage.”.

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

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

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

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

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

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

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

TITLE II—COMMITTEE ON ARMED SERVICES

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

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

“(2) PRE-AUGUST 1, 1986 MEMBERS.—

“(A) GENERAL RULE.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—
“(i) the price index for the base quarter of that year, exceeds
“(ii) the base index.
“(B) Special rule for fiscal years 1994 through 1998.—In the case of the increases in retired pay that, pursuant to paragraph (1), become effective on December 1 of each of fiscal years 1994, 1995, 1996, 1997, and 1998, the initial month for which each such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be as set forth in the following table:

<table>
<thead>
<tr>
<th>Fiscal year</th>
<th>First month for which increase is payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>April 1994</td>
</tr>
<tr>
<td>1995</td>
<td>July 1995</td>
</tr>
<tr>
<td>1996</td>
<td>October 1996</td>
</tr>
<tr>
<td>1997</td>
<td>January 1998</td>
</tr>
<tr>
<td>1998</td>
<td>April 1999</td>
</tr>
</tbody>
</table>

“(C) Exclusion of disability retirees from rolling COLA.—Subparagraph (B) does not apply with respect to the retired pay of a member retired under chapter 61 of this title.”


(a) Fiscal Year 1994.—During fiscal year 1994, no increase in the rates of basic pay, basic allowance for quarters,
ters, or basic allowance for subsistence of members of the
uniformed services shall be made or take effect pursuant
to section 1009 of title 37, United States Code.
(b) ONE PERCENT REDUCTION IN SUBSEQUENT FISCAL YEARS.—If the General Schedule of compensation for
Federal classified employees is increased under section
5303 of title 5, United States Code, as amended by title
X of this Act, during fiscal year 1995, 1996, 1997, or
1998, the elements of compensation of members of the
uniformed services shall likewise be increased during that
fiscal year in the manner provided in section 1009 of title
37, United States Code, based on the corresponding in-
crease under section 5303 of title 5, United States Code
(as so amended).

TITLE III—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.
(a) IN GENERAL.—Section 11(d)(11) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(11)) is amend-
ed to read as follows:

"(11) DEPOSITOR PREFERENCE.—

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

“(i) Administrative expenses of the receiver.

“(ii) Any deposit liability of the institution.

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

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

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

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

“(B) Effect on State Law.—

“(i) In general.—The provisions of
subparagraph (A) shall not supersede the
law of any State except to the extent such
law is inconsistent with the provisions of
such subparagraph, and then only to the
extent of the inconsistency.

“(ii) Procedure for Determination of Inconsistency.—Upon the Cor-
poration’s own motion or upon the request
of any person with a claim described in
subparagraph (A)(i) or any State which is
submitted to the Corporation in accordance
with procedures which the Corporation
shall prescribe, the Corporation shall deter-
dine whether any provision of the law of
any State is inconsistent with any provi-
sion of subparagraph (A) and the extent of
any such inconsistency.

“(iii) Judicial Review.—The final
determination of the Corporation under
clause (ii) shall be subject to judicial re-
view under chapter 7 of title 5, United States Code.

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

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

(C) by striking subparagraph (B); and

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

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

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

SEC. 3002. TRANSFER OF FEDERAL RESERVE SURPLUSES.

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

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

“(1) STOCKHOLDER DIVIDENDS.—

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

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

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

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

(b) **Additional Transfers for Fiscal Years 1997 and 1998.—**

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

(2) Allocation by Fed.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 1997 or 1998, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.
(3) **Replenishment of Surplus Fund Prohibited.**—No Federal reserve bank may replenish such bank’s surplus fund by the amount of any transfer by such bank under paragraph (1) during the fiscal year for which such transfer is made.

(c) **Technical and Conforming Amendments.**—

(1) The penultimate undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 290) is amended by striking “The net earnings derived” and inserting “(b) **Use of Earnings Transferred to the Treasury.**—The net earnings derived”.

(2) The last undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 531) is amended by striking “Federal reserve banks” and inserting “(c) **Exemption From Taxation.**—Federal reserve banks”.

SEC. 3003. **Use of Return Data for Income Verification Under Certain Housing Assistance Programs.**

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

(1) **Consent Forms.**—In subsection (b)—
(A) in the matter preceding paragraph (1), by inserting “including the Indian housing program under title II of the United States Housing Act of 1937)” before the 1st comma;

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

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

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

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

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

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

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

(i)—

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

(II) by inserting “(in the case of information obtained pursuant to such section 303(i))” before “representatives”; and

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

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

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

(3) P ENALTY.—In subsection (c)(3)—

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

(B) in the first sentence of subparagraph

(B)—

(i) by striking clause (i) and inserting

the following: ‘‘(i) a negligent or knowing
disclosure of information referred to in this
section, section 303(i) of the Social Secu-

rity Act, or section 6103(l)(7)(D)(ix) of
the Internal Revenue Code of 1986 about
such person by an officer or employee of
any public housing agency or owner (or
employee thereof), which disclosure is not
authorized by this section, such section
303(i), such section 6103(l)(7)(D)(ix), or
any regulation implementing this section,
such section 303(i), or such section
6103(l)(7)(D)(ix), or’’; and

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

(4) Conform ing amendment.—The heading
of subsection (c) of section 904 of the Stewart B.
 McKinney Homeless Assistance Amendments Act of
1988 is amended by striking ‘‘State Employment’’.
SEC. 3004. GNMA REMIC GUARANTEE FEES.

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

“(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection and other related fees shall be charged by the Association in an amount not to exceed the value, as determined by the Association, of the guarantee or commitment to guarantee. The Association shall take such action as may be necessary to reasonably assure that such portion of the value of the guaranties or commitments to guaranty as the Association determines is appropriate accrues to the benefit of mortgagors under mortgages executed after the date of the enactment of this subparagraph by or upon which such securities or notes are backed.

“(ii) For each Federal fiscal year, the Association shall submit a report to the Congress describing any activities of the Association with respect to guarantying and making commitments to guaranty multiclass securities described in clause (i). The report shall be submitted not later than 90 days after the end of the fiscal year for which the report is made and shall identify the extent of such activities during the fiscal year, the size of each
transaction closed during the fiscal year involving such se-
curities, the number of mortgages involved in each such
transaction, the amount of the fees charged and earned
by the Association for such transactions, and any persons
receiving payments for any services provided with respect
to any such transactions and the amounts of such pay-
ments, and shall include an estimate of the portion of the
value of the guarantee or commitment to guarantee accru-
ing to the benefit of mortgagors and a description of any
action taken by the Association to ensure such accrual.

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

SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PRE-
MIUMS.

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

TITLE IV—EDUCATION AND LABOR

SEC. 4000. TABLE OF CONTENTS.

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Subtitle A—Federal Direct Loan Program

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

SEC. 4001. SHORT TITLE; REFERENCES.

(a) Short Title.—This subtitle may be cited as the “Student Loan Reform Act of 1993”.

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

SEC. 4002. FEDERAL DIRECT STUDENT LOAN PROGRAM.

Part D of title IV of the Act (20 U.S.C. 1087a et seq.) is amended to read as follows:
"PART D—FEDERAL DIRECT STUDENT LOAN PROGRAM"

"SEC. 451. PURPOSE; PROGRAM AUTHORIZATION.

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

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

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

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

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

"(5) to create a more streamlined student loan program that can be managed more effectively at the Federal level."
“(b) Program Authority.—There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students in attendance at participating institutions of higher education selected by the Secretary (and the eligible parents of such students), to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

“Sec. 452. Funds for Origination of Direct Student Loans.

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

“(1) directly to an institution of higher education that has an agreement with the Secretary under section 454(a) to participate in the direct student loan programs under this part and that also
has an agreement with the Secretary under section 454(b) to originate loans under this part, or
“(2) through an alternative originator designated by the Secretary to students and parents of students attending institutions of higher education that have an agreement with the Secretary under section 454(a) but that do not have an agreement with the Secretary under section 454(b).

“(b) FEES FOR ORIGINATION SERVICES.—

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

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

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

“(C)(i) for academic year 1994–1995, shall not exceed a program-wide average of $10 per borrower for all the loans made under this part in the same academic year; and
“(ii) for succeeding academic years, shall not exceed such average fee as the Secretary shall establish in regulations.

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

“(c) No entitlement to participate or originate.—No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

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

“(a) Phase-in of program.—

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

"(2) TRANSITION PROVISIONS.—In order to ensure an expeditious but orderly transition from the loan programs under part B of this title to the direct student loan programs under this part, the Secretary shall, in the exercise of his or her discretion, determine the number of institutions with which he or she shall enter into agreements under sections 454 (a) and (b) for any academic year, except that the Secretary shall exercise such discretion so as to achieve the following goals:
“(A) for academic year 1994-1995, loans made under this part shall represent 4 percent of the sum of new student loan volume under this part and part B of this title;

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

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

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

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

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

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

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

“(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, and control of the institution; and
“(ii) selecting institutions that are reasonably representative of the respective categories; and

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

“(c) SELECTION CRITERIA FOR ORIGINATION.—

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

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

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

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

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

“(A) made loans under part E of this title in academic year 1993-1994 and did not exceed the applicable maximum default rate under section 464(g) for the most recent fiscal year for which data are available;
“(B) is not on the reimbursement system of payment for any of the programs under sub-
part 1 or 3 of part A, part C, or part E;
“(C) is not overdue on program or financial reports or audits required under this title;
“(D) is not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c);
“(E) in the opinion of the Secretary, has not had significant deficiencies identified by the State postsecondary review entity under subpart 1 of part H of this title;
“(F) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this title, including those demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;
“(G) provides an assurance that it has no delinquent outstanding debts to the United States, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the United States, or the Secretary in his or her discretion deter-
mines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency or agencies; and

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

``(3) Regulations governing approval after transition.—For academic year 1995-1996 and subsequent academic years, the Secretary shall publish regulations governing the approval of institutions to originate loans.

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

"SEC. 454. AGREEMENTS WITH INSTITUTIONS.

"(a) Participation Agreements.—An agreement with any institution of higher education for participation in the direct student loan program under this part shall—
“(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

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

“(B) estimate the need of each such student as required by part F of this title for an academic year, provided that any loan obtained by a student under this part with the same terms (except as otherwise provided in this part) as loans made under section 428A or 428H, or a loan obtained by a parent under this part with the same terms (except as otherwise provided in this part) as loans made under section 428B, or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

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

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

“(E) provide timely and accurate informa-
tion—

“(i) concerning the status of student
borrowers (and students on whose behalf
parents borrow under this part) while such
students are in attendance at the institu-
tion and concerning any new information
of which the institution becomes aware for
such students (or their parents) after they
leave the institution, to the Secretary for
the servicing and collecting of loans made
under this part; and
“(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

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

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

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

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

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

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

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

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

“(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a), as modified to relate to the origination of loans by the institution;
“(3) provide that the institution will originate loans to eligible students and parents in accordance with this part; and

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

“(c) Withdrawal and Termination Procedures.—The Secretary shall establish procedures by which institutions may withdraw or be terminated from the program under this part.

“SEC. 455. TERMS AND CONDITIONS OF LOANS.

“(a) In General.—

“(1) Parallel Terms, Conditions, Benefits, and Amounts.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under sections 428, 428A, 428B, and 428H of this title.

“(2) Designation of Loans.—Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—
“(A) section 428 shall be known as ‘Federal Direct Student Loans’;

“(B) section 428A shall be known as ‘Federal Direct Supplemental Loans for Students’;

“(C) section 428B shall be known as ‘Federal Direct PLUS Loans’; and

“(D) section 428H shall be known as ‘Federal Direct Unsubsidized Student Loans’.

“(b) INTEREST RATES.—

“(1) RATES FOR FDSL AND FDUSL.—(A) For Federal Direct Student Loans and Federal Direct Unsubsidized Student Loans made before July 1, 1997, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

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

“(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.

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

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

“(ii) 1 percent,

except that such rate shall not exceed 9 percent.

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

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

“(ii) 3.1 percent,

except that such rate shall not exceed 11 percent.

“(B) For Federal Direct Supplemental Loans for Students made on or after July 1, 1997, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 for all such loans and be equal to—
“(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

“(ii) 1.5 percent,

except that such rate shall not exceed 11 percent.

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

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

“(ii) 3.1 percent,

except that such rate shall not exceed 10 percent.

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

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

“(ii) 2.1 percent,
except that such rate shall not exceed 10 percent.

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

“(c) LOAN FEE.—For academic years 1994-1995, 1995-1996, and 1996-1997, the Secretary shall charge the borrower of a loan made under this part a loan fee of 5 percent of the principal amount of the loan. For academic years 1997-1998 and succeeding academic years, the Secretary shall charge the borrower of a loan made under this part a loan fee of 3.65 percent of the principal amount of the loan.

“(d) REPAYMENT PLANS.—

“(1) DESIGN AND SELECTION.—Consistent with criteria established by the Secretary, the Secretary shall offer to a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on his or her loans. The borrower may choose—
“(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

“(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, provided that the borrower annually repays a minimum amount determined by the Secretary, consistent with the requirements of section 428(b)(1)(L);

“(C) a graduated repayment plan, with annual repayment amounts established at two or more graduated levels and paid over a fixed or extended period of time, provided that any of the borrower’s scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

“(D) except for the borrower of a Federal Direct PLUS Loan, an income contingent repayment plan known as the ‘EXCEL Account,’ with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time, not to exceed a maxi-
mum length of time determined by the Secretary.

“(2) Selection by Secretary.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

“(3) Changes in Selections.—The borrower of a loan made under this part may change his or her selection of a repayment plan under paragraph (1), or the Secretary’s selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

“(4) Alternative Repayment Plans.—The Secretary may provide, on a case-by-case basis, an alternative repayment plan to a borrower of a loan under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower’s exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal
Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

"(5) Repayment after default.—The Secretary may require any borrower who has defaulted on a loan made under this part to—

"(A) pay all reasonable collection costs associated with such loan; and

"(B) repay the loan pursuant to an EXCEL Account in accordance with subsection (e).

"(e) Repayment through EXCEL Accounts.—

"(1) Information and procedures.—The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower’s spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to an EXCEL Account for the purpose of determining the annual repayment obligation of the borrower. Return and return information (as defined in section 6103 of the Internal Revenue Code of 1986) may be obtained under the preceding sentence only to the extent authorized by section 6103(l)(13) of such Code. The Secretary shall establish proce-
dures for determining the borrower’s repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively repayment pursuant to an EXCEL Account.

“(2) Repayment based on adjusted gross income.—A repayment schedule for a loan made under this part and repaid pursuant to an EXCEL Account shall be based on adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986, 26 U.S.C. 62) of the borrower or, if the borrower is married and files a Federal income tax return jointly with his or her spouse, on adjusted gross income of the borrower and his or her spouse.

“(3) Additional documents.—A borrower who chooses, or is required, to repay a loan made under this part pursuant to an EXCEL Account, and for whom adjusted gross income is unavailable or does not reasonably reflect his or her current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

“(4) Repayment schedules.—EXCEL Account repayment schedules shall be established by the Secretary through regulations and shall require
payments measured as a percentage of the appropriate portion of the annual income of the borrower (and the borrower’s spouse, if applicable) as determined by the Secretary.

“(5) **Calculation of Balance Due.**—The balance due on a loan made under this part that is repaid pursuant to an EXCEL Account shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may limit by regulation the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

“(6) **Notification to Borrowers.**—The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to an EXCEL Account is notified of the terms and conditions of such plan, including notification of such borrower—

“(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986; and
“(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or his or her spouse, warrant an adjustment in the borrower’s loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

“(f) DEFERMENT.—

“(1) EFFECT ON PRINCIPAL AND INTEREST.—

A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

“(A) shall not accrue, in the case of a Federal Direct Student Loan or a Federal Direct Consolidation Loan that consolidated only Federal Direct Student Loans, or a combination of such loans and Federal Student Loans for which the student borrower received an interest subsidy under section 428; or
“(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct Supplemental Loan for Students loan, a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Student Loan, or a Federal Direct Consolidation Loan other than those described in subparagraph (A).

“(2) Eligibility.—A borrower of a loan made under this part shall be eligible for a deferment during any period—

“(A) during which the borrower—

“(i) is pursuing at least a half-time course of study at an eligible institution, as determined by such institution; or

“(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan, or a Federal Direct Consoli-
dation Loan), while serving in a medical internship or residency program;

“(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

“(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 435(o), that the borrower has experienced or will experience an economic hardship, regardless of the reason for such hardship.

“(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A borrower of a loan made under this part may consolidate such loan with the loans described in subsections (a)(4) and (d)(1)(C) of section 428C only under the terms and conditions established by the Secretary under this part. Loans made under this subsection shall be known as ‘Federal Direct Consolidation Loans’.

“(h) BORROWER DEFENSES.—Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations (except as authorized under section 458(a)) which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any
action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

“(i) Optically Imaged Documents.—Records maintained in accordance with section 484A(c) may be used in any proceeding, as permitted by section 484A(c), with respect to a loan made under this part.

“(j) Nondischargeability in Bankruptcy.—Notwithstanding any other provision of law, a loan made under this part shall not be dischargeable in bankruptcy.

“SEC. 456. CONTRACTS.

“(a) Contracts for Supplies and Services.—

“(1) In General.—The Secretary may award one or more contracts for services and supplies under subsection (b). The entities with which the Secretary may enter into such contracts may include, but are not limited to, agencies with agreements with the Secretary under sections 428(b) and (c), if such agencies are otherwise qualified and comply with the procedures applicable to the award of such contracts.

“(2) Exemption.—(A) The Secretary may, through June 30, 1998, award contracts under this section without regard to the requirements in section 303 of the Federal Property and Administrative
Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) and the corresponding requirements of the Federal Acquisition Regulations if the Secretary—

“(i) determines in writing, on a case-by-case basis, that the Government’s need for the services and supplies to be provided under the contract is of such an unusual and compelling urgency that sources from which the Secretary solicits bids or proposals must be limited; and

“(ii) notifies the Congress in writing of that determination not more than 30 days after the award of the contract.

“(B) The Secretary may make the determination described in subparagraph (A)(i) if the Secretary determines that exemption from the requirements described in subparagraph (A) is in the public interest and necessary for the orderly transition from the loan programs under part B to the direct student loan programs under this part.

“(C) On and after July 1, 1998, all statutory and regulatory requirements described in subpara-
Graph (A) shall apply to the award of a contract under this section.

“(b) Contracts for Origination, Servicing, and Data Systems.—The Secretary may enter into one or more contracts for—

“(1) the alternative origination of loans to students attending institutions with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 454(b);

“(2) the servicing and collection of loans made under this part;

“(3) the establishment and operation of one or more data systems for the maintenance of records on all loans made under this part;

“(4) services to assist in the orderly transition from the loan programs under part B to the direct student loan programs under this part; and

“(5) such other aspects of the direct student loan programs as the Secretary determines are necessary to ensure the successful operation of the programs.

“SEC. 457. REPORTS.

“(a) Annual Reports.—The Secretary shall submit to the Congress not later than July 1, 1993, and each
July 1 for the 5 succeeding years an annual report de-
scribing the progress and status of the loan program
under this part.

“(b) Research, Demonstration, and Evaluation.—The Secretary may use a portion of the funds de-
scribed in section 459 for research on, or the demonstra-
tion or evaluation of, any aspects of the program author-
ized by this part, including flexible repayment plans.

“SEC. 458. REGULATORY ACTIVITIES.

“(a) Notice in Lieu of Regulations for First
Year of Program.—The Secretary shall publish in the
Federal Register whatever standards, criteria, and proce-
dures, consistent with the provisions of this part, the Sec-
retary determines are reasonable and necessary to the suc-
cessful implementation of the first year of the direct stu-
dent loan program authorized by this part. Section 431
of the General Education Provisions Act shall not apply
to the publication of such standards, criteria, and proce-
dures.

“(b) Closing Date for Applications from In-
stitutions.—The Secretary shall establish a date not
later than October 1, 1993, as the closing date for receiv-
ing applications from institutions of higher education de-
siring to participate in the first year of the direct loan
program under this part.
"(c) Publication of List of Participating Institutions and Control Group.—Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the first year of the direct loan program under this part.

"SEC. 459. FUNDS FOR ADMINISTRATIVE EXPENSES.

"Each fiscal year, there shall be available to the Secretary of Education from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B to the direct student loan programs under this part and transition support for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed $261,000,000 in fiscal year 1994, $346,000,000 in fiscal year 1995, $552,000,000 in fiscal year 1996, $596,000,000 in fiscal year 1997, and $749,000,000 in fiscal year 1998. If in any fiscal year, the Secretary determines that additional funds for administrative expenses are needed as a result of such transition, or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by
the Secretary shall not exceed $2,504,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year.

CHAPTER 2—CONFORMING AMENDMENTS

SEC. 4021. PRESERVING LOAN ACCESS.

(a) PURPOSE.—It is the purpose of the amendments made by this section to provide the Secretary with flexible authority as needed to preserve access to student and parent loans under part B of title IV of the Act during the transition from the Federal Family Education Loan Program under such part to the Federal Direct Student Loan Program under part D of such title.

(b) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST RESORT SERVICES.—

(1) Amendment.—Section 428(j) of the Act is amended by adding at the end thereof the following new paragraph:

““(4) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST RESORT SERVICES DURING TRANSITION TO DIRECT LENDING.—(A) In order to ensure the availability of loan capital during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan program under part D of this title, the Sec-
retary is authorized to provide a guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

“(B) Notwithstanding any other provision of this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.”.

(2) **Conforming Amendment.**—Section 422(c)(7) of the Act is amended by striking “to a guaranty agency” through the end thereof and inserting the following: “to a guaranty agency—

“(A) in accordance with section 428(j), in order to ensure that the guaranty agency shall
make loans as the lender-of-last-resort during
the transition from the Federal Family Edu-
cation Loan Program under this part to the
Federal Direct Student Loan Program under
part D of this title; or

``(B) if the Secretary is seeking to termi-
nate the guaranty agency’s agreement, or as-
suming the guaranty agency’s functions, in ac-
cordance with section 428(c)(10)(F)(v), in
order to assist the agency in meeting its imme-
diate cash needs, ensure the uninterrupted pay-
ment of claims, or ensure that the guaranty
agency shall make loans as described in sub-
paragraph (A);’’.

(c) LENDER REFERRAL SERVICES.—Section 428(e)
of the Act is amended—

(1) in paragraph (1)—

(A) by amending the paragraph heading to
read as follows: ‘‘IN GENERAL; AGREEMENTS
WITH GUARANTY AGENCIES.—’’;

(B) by inserting the subparagraph designa-
tion ‘‘(A)’’ immediately after the paragraph
heading;
(C) by striking “in any State” and inserting “with which the Secretary has an agreement under subparagraph (B)”; and

(D) by adding at the end thereof the following new subparagraph:

“(B)(i) The Secretary may enter into agreements with guaranty agencies that meet standards established by the Secretary to provide lender referral services in geographic areas specified by the Secretary. Such guaranty agencies shall be paid in accordance with paragraph (3) for such services.

“(ii) The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures consistent with the provisions of this part and part D of this title, the Secretary determines are reasonable and necessary to provide lender referral services under this subsection and ensure loan access to student and parent borrowers during the transition from the loan programs under this part to the direct student loan programs under part D of this title. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.”;

(2) in paragraph (2)—
(A) in the matter preceding subparagraph (A), by striking “in a State” and inserting “with which the Secretary has an agreement under paragraph (1)(B)”;

(B) by amending subparagraph (A) to read as follows:

“(A) such student is either a resident of, or is accepted for enrollment in, or is attending, an eligible institution located in a geographic area for which the Secretary (I) determines that loans are not available to all eligible students, and (II) has entered into an agreement with a guaranty agency under paragraph (1)(B) to provide lender referral services; and”;

(4) in paragraph (3), by striking “The” and inserting “From funds available for costs of transition under section 459 of the Act, the”; and

(5) by striking paragraph (5).

(d) Student Loan Marketing Association.—Section 439(q) of the Act is amended—

(1) in paragraph (1)(A)—

(A) in the first sentence, by striking “the Association or its designated agency may begin making loans” and inserting “the Association or its designated agent shall, subject to the lim-
itations in section 428(j)(3), begin making
loans to such eligible borrowers”’; and
(B) by striking the second sentence;
(2) in paragraph (2)(A), by striking “the Asso-
ciation or its designated agent may’’ and inserting
“the Association or its designated agent shall, sub-
ject to the limitations in section 428(j)(3),’’; and
(3) in paragraph (3), by striking “that—’’
through the end thereof and inserting the following:
“that the conditions that caused the implementation
of this subsection have ceased to exist.’’.
SEC. 4022. GUARANTY AGENCY RESERVES.
Section 422 of the Act is amended by adding at the
end thereof the following new subsection:
“(g) PRESERVATION OF GUARANTY AGENCY RE-
SERVES.—
“(1) AUTHORITY TO RECOVER FUNDS.—Not-
withstanding any other provision of law, the reserve
funds of the guaranty agencies, and any assets pur-
chased with such reserve funds, regardless of who
holds or controls the reserves or assets, shall be con-
sidered to be the property of the United States to
be used in the operation of the program authorized
by this part or the program authorized by part D of
this title. However, the Secretary may not require
the return of all of a guaranty agency reserve funds
to the Secretary unless he or she determines that
such return is essential to the operation of the pro-
gram authorized by this part or the program author-
ized by part D of this title, or to ensure the orderly
termination of the guaranty agency’s operations and
the liquidation of its assets. The reserves shall be
maintained by each guaranty agency to pay program
expenses and contingent liabilities, as authorized by
the Secretary, except that the Secretary may—

“(A) direct a guaranty agency to return to
the Secretary a portion of its reserve fund
which the Secretary determines is unnecessary
to pay the program expenses and contingent li-
abilities of the guaranty agency; and

“(B) direct the guaranty agency to require
the return, to the guaranty agency or to the
Secretary, of any reserve funds or assets held
by, or under the control of, any other entity,
which the Secretary determines are necessary to
pay the program expenses and contingent liabil-
ities of the guaranty agency, or which are re-
quired for the orderly termination of the guar-
anty agency’s operations and the liquidation of
its assets.
“(2) Termination provisions in contracts.—To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the effective date of this provision shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.”.

SEC. 4023. TERMS OF LOANS.

Section 428 of the Act is amended—

(1) in subsection (b)(1)(D), by striking “be subject to” through the end thereof and inserting the following: “be subject to income contingent repayment in accordance with subsection (m);”; and

(2) in subsection (m)—

(A) by amending paragraph (1) to read as follows:
“(1) Authority of Secretary to require.—The Secretary may require any borrower who has defaulted on a loan made under this part that is assigned to the Secretary under subsection (c)(8) to repay that loan under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, the EXCEL Account established for purposes of part D of this title.”; and

(B) by striking paragraphs (2) through (4) and inserting the following:

“(2) Loans for which income contingent repayment may be required.—A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).”.

SEC. 4024. ASSIGNMENT OF LOANS.

Section 428(c)(8) of the Act is amended by—

(1) inserting the subparagraph designation “(A)” after the paragraph heading;

(2) striking the second and third sentences; and

(3) adding at the end thereof the following new subparagraph:
“(B) An orderly transition from the Federal Family Education Loan program under this part to the Federal Direct Student Loan program under part D of this title shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon his or her request.”.

SEC. 4025. TERMINATION OF GUARANTY AGENCY AGREEMENTS; ASSUMPTION OF GUARANTY AGENCY FUNCTIONS BY THE SECRETARY.

Section 428(c)(10) of the Act is amended—

(1) in subparagraph (C), by inserting a comma and “as appropriate,” immediately after “the Secretary shall”;  

(2) in subparagraph (D)—

(A) by inserting the clause designation “(i)” after “(D)”;  

(B) by striking “Each” and inserting “If the Secretary is not seeking to terminate the guaranty agency’s agreement under subparagraph (E), or assuming the guaranty agency’s functions under subparagraph (F), a”;  

(C) by adding at the end thereof the following new clause:
“(ii) If the Secretary is seeking to terminate the guaranty agency’s agreement under subparagraph (E), or assuming the guaranty agency’s functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets of, the guaranty agency.”;

(3) in subparagraph (E)—

(A) in clause (ii), by striking “or” at the end thereof;

(B) in clause (iii), by striking the period at the end thereof and inserting a semicolon; and

(C) by adding at the end thereof the following new clauses:

“(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest;

“(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers; or

“(vi) the Secretary determines that such action is necessary to ensure an orderly transi-
tion from the loan programs under this part to
the direct student loan programs under part D
of this title.'';
(4) in subparagraph (F)—
(A) in the matter preceding clause (i), by
striking “Except as provided in subparagraph
(G), if” and inserting “If”;
(B) by amending clause (v) to read as fol-

``(v) provide the guaranty agency with ad-
ditional advance funds in accordance with sec-
tion 422(c)(7), with such restrictions on the use
of such funds as is determined appropriate by
the Secretary, in order to—
``(I) meet the immediate cash needs of
the guaranty agency;
``(II) ensure the uninterrupted pay-
ment of claims; or
``(III) ensure that the guaranty agen-
cy will make loans as the lender-of-last-
resort, in accordance with subsection
(j)(4);’’;
(C) in clause (vi)—
(i) by striking “and to avoid” and in-
serting “to avoid’’;
(ii) by striking the period at the end thereof and inserting “, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.”; and

(iii) by redesignating such clause as clause (vii); and

(D) by inserting after clause (v) the following new clause:

“(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or”;

(5) by striking subparagraph (G);

(6) by redesignating subparagraphs (H), (I), and (J) as subparagraphs (I), (J), and (K), respectively;

(7) by inserting after subparagraph (F) the following new subparagraphs:

“(G) Notwithstanding any other provision of Federal or State law, if the Secretary has termi-
nated or is seeking to terminate a guaranty agency’s agreement under subparagraph (E), or has assumed a guaranty agency’s functions under subparagraph (F)—

“(i) such guaranty agency may not file for bankruptcy;

“(ii) no State court may issue any order affecting the Secretary’s actions with respect to such guaranty agency;

“(iii) any contract with respect to the administration of a guaranty agency’s reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the effective date of this provision shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and
“(iv) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

“(H) Notwithstanding any other provision of law, the Secretary’s liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.”; and

(8) in subparagraph (K) (as redesignated by paragraph (6)), by striking “system, together” through the end thereof and inserting the following: “system and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this title.”.

SEC. 4026. ADMINISTRATIVE COST ALLOWANCE.

Section 428(f)(1) of the Act is amended—

(1) in subparagraph (A), by striking “The Secretary” and inserting “For a fiscal year prior to fiscal year 1994, the Secretary”; and

(2) in subparagraph (B), by inserting “prior to fiscal year 1994” after “any fiscal year”.
SEC. 4027. CONSOLIDATION LOANS.

Section 428C of the Act is amended—

(1) by amending subsection (a)(3)(A) to read as follows:

“(3) Definition of eligible borrowers.—

(A) For the purpose of this section, the term ‘eligible borrower’ means a borrower who, at the time of application for a consolidation loan is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)(ii), by inserting “with income-sensitive repayment terms” after “obtain a consolidation loan’’;

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph:

“(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations of the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and’’;
(B) in paragraph (4), by amending subparagraph (C) to read as follows:

"(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M), and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section; and

"(ii) provides that interest shall accrue and be paid—

"(I) by the Secretary, in the case of a consolidation loan that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

"(II) by the borrower, or capitalized, in the case of a consolidation loan other than one described in subclause (I);"; and

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

"(5) DIRECT LOANS.—In the event that a borrower is unable to obtain a consolidation loan with
income-sensitive repayment terms acceptable to the borrower from a lender with an agreement under subsection (a)(1), the Secretary shall offer any such borrower who applies for it, a direct consolidation loan to be repaid pursuant to an EXCEL Account under part D of this title, except that the Secretary shall not offer such loans if, in his or her judgment, the Department does not yet have the necessary origination and servicing arrangements in place for such loans.”; and

(3) in subsection (c)—

(A) in paragraph (1), by amending subparagraphs (B) and (C) to read as follows:

“(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the greater of—

“(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

“(ii) 9 percent.

“(C) A consolidation loan made on or after July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the
loans consolidated, rounded upward to the nearest whole percent.’’;

(B) in paragraph (2)(A)—

(i) in the matter preceding clause (i), by striking out “income sensitive repayment schedules. Such repayment terms” and inserting in lieu thereof “income sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income sensitive repayment schedules, or by the terms of repayment pursuant to an EXCEL Account offered by the Secretary under subsection (b)(5), such repayment terms’’;

(ii) by redesignating clauses (i), (ii), (iii), (iv), and (v) as clauses (ii), (iii), (iv), (v), and (vi), respectively;

(iii) by inserting immediately preceding clause (ii) (as redesignated by clause (ii)) the following new clause:

“(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;’’; and
(iv) by adding a period at the end of clause (vi) (as redesignated by clause (ii));
(C) by striking out subparagraph (B) of paragraph (2); and
(D) by redesignating subparagraph (C) of paragraph (2) as subparagraph (B); and
(E) in paragraph (3)(A), by inserting after the subparagraph designation the following:
“except as required by the terms of repayment pursuant to an EXCEL Account offered by the Secretary under subsection (b)(5),”.

SEC. 4028. STUDENT LOAN MARKETING ASSOCIATION.
Section 439 of the Act is further amended by adding at the end thereof the following new subsection:
“(s) TRANSITION STUDY.—The Secretaries of Education and the Treasury shall prepare a study, to be completed within 6 months of the enactment of this provision, which shall examine alternatives concerning the status, operations, and purposes of the Association during and after the transition from the Federal Family Education Loan program to the Federal Direct Student Loan program. Such study shall—
“(1) consider how best to meet the needs of students and taxpayers;
“(2) reflect the need for the Association to maintain liquidity and perform other functions for the Federal Family Education Loan program during the transition from such program to the Federal Direct Student Loan program under part D of this title, including additional duties as specified by the Secretary of Education or the Secretary of the Treasury;

“(3) consider any appropriate change to part D of title VII, relating to the College Construction Loan Insurance Association; and

“(4) be considered by the Secretaries of Education and the Treasury in developing any legislative proposals concerning any changes to the status of the Association as a Government-sponsored enterprise or its duties under the Federal Family Education Loan program.”.

SEC. 4029. AUTHORITY TO USE OPTICALLY IMAGED DOCUMENTS.

(a) General Authority.—Section 484A of the Act is amended—

(1) in the heading, by adding a semicolon and “OPTICALLY IMAGED DOCUMENTS” after “LIMITATIONS”; and
(2) by adding at the end thereof the following new subsection:

“(c) IN GENERAL.—(1) It is the purpose of this subsection to—

“(A) allow the Secretary to use optical imaging technology to store and retrieve documents and records, including promissory notes and repayment agreements, required for the administration of the programs authorized under part D of this title, or for the administration of loans made under part B of this title that have been assigned to the Secretary;

“(B) permit the Secretary to destroy originals of such documents and records, including promissory notes and repayment agreements, after they have been optically imaged, thereby achieving significant savings in storage and retrieval costs; and

“(C) ensure that the Secretary may introduce as evidence in any proceeding with respect to the programs or loans described in subparagraph (A) optically imaged documents and records, including promissory notes and repayment agreements.

“(2) Notwithstanding any other provision of Federal or State law, an optically imaged copy of any document or record, including a promissory note or repayment agreement, may be introduced as evidence in any proceed-
ing with respect to the programs or loans described in paragraph (1)(A) in any Federal or State court, or other tribunal, and such optically imaged copy shall be admissible in any court or tribunal of the United States or any State as if it were the original document or record and have the same force and effect as the original.

“(3) Nothing in this subsection shall be interpreted to preclude the admissibility of a duplicate of a document or record required for the administration of the programs or loans described in paragraph (1)(A) made by a technology other than optical imaging consistent with the Federal Rules of Evidence and section 1732 of title 28 of the United States Code, or applicable State law.

“(4) Nothing in this subsection shall be interpreted to preclude the admissibility of an optically imaged copy of any document or record in a proceeding outside the scope of this subsection consistent with the Federal Rules of Evidence and section 1732 of title 28 of the United States Code, or applicable State law.”

(b) Part B Authority.—Section 432 of the Act is amended by adding at the end thereof the following new subsection:

“(q) Optically Imaged Documents.—Records maintained in accordance with section 484A(c) may be used in any proceeding, as permitted by section 484A(c),
with respect to a loan that was made under this part and has been assigned to the Secretary.”.

(c) Conforming Amendment.—Section 487 of the Act is amended by adding at the end thereof the following new subsection:

“‘(f) Use of Optically Imaged Documents.—In any proceeding with respect to a program or activity under part D of this title, or with respect to a loan made under part B of this title that has been assigned to the Secretary, records maintained in accordance with section 484A may be used as provided in that section.’’.


The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 252(c)(1)(B), by striking “guaranteed’’;

(2) in section 256(b)—

(A) by striking the subsection designation and heading and inserting the following:

“‘(b) Effect of Orders on Student Loan Programs.—’’

“(1) Federal Family Education Loan Program.—(A)’’;
(B) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C), respectively, and by indenting such subparagraphs by an additional 2 ems spaces;

(C) in paragraph (1)(A) (as redesignated in subparagraph (B)), by striking “described in paragraphs (2) and (3)” and inserting “described in subparagraphs (B) and (C)”;

(D) in paragraph (1)(B) (as redesignated in subparagraph (C)), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(E) by adding at the end thereof the following new paragraph:

“(2) FEDERAL DIRECT STUDENT LOAN PROGRAM.—(A) Any reductions that are required to be achieved from the Federal Direct Student Loan program operated under part D of title IV of the Higher Education Act of 1965 as a consequence of an order issued pursuant to section 254, shall be achieved only by the application of the measures described in subparagraph (B).

“(B) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year,
and ending at the close of such fiscal year, the loan fee that is authorized to be collected pursuant to section 456(c) of such Act shall be increased by 0.50 percent.’’.

CHAPTER 3—EFFECTIVE DATES; STUDY

SEC. 4031. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided in this section, the amendments made by this subtitle shall be effective upon enactment.

(b) Income Contingent Repayment.—The amendments made by section 4023 of this Act shall be effective for loans made in accordance with section 428 for periods of instruction beginning on or after July 1, 1993, or made on or after July 1, 1993, in the case of loans made in accordance with section 428A, 428B, or 428C of the Act.

(c) Administrative Cost Allowance.—The amendments made by section 4026 of this Act shall be effective on October 1, 1994.

(d) Consolidation Loans.—The amendments made by section 4027 of this Act (other than the amendment made by section 4027(2)(B)) shall be effective for loans made in accordance with section 428C of the Act or after July 1, 1994.
SEC. 4032. STUDY OF INTERNAL REVENUE SERVICE COLLECTION OF STUDENT LOANS.

(a) General Rule.—The Secretary of Education, in consultation with the Secretary of the Treasury, shall conduct a study of the feasibility of implementing a system for the repayment of Federal student loans through wage withholding or other means involving the Internal Revenue Service. Such study shall include an examination of—

(1) whether the Internal Revenue Service could implement such a system within its current resources and without adversely affecting the ability of the Internal Revenue Service to collect tax revenues,

(2) the cumulative impact on voluntary compliance with the tax system of increased disclosure of tax return information and increased Internal Revenue Service involvement in nontax collection activities,

(3) the anticipated effect on the management of Federal student loan collections and on borrower repayment of such loans, and

(4) the ability of the Internal Revenue Service to effectively service student loans.

(b) Recommendations.—Not later than the date 6 months after the date of the enactment of this Act, the Secretary of Education shall submit to the Congress a report on the study conducted under subsection (a), together
with such legislative recommendations as such Secretary
may deem advisable.

SEC. 4033. PREFERENCE OF COMMITTEE FOR IRS COLLEC-
TION MECHANISM.

It is the sense of the Committee on Education and
Labor that—

(1) the Committee may not, consistent with its
jurisdiction under the Rules of the House of Rep-
resentatives, amend this Act to include provisions
providing for the collection of student loans pursu-
ant to the Internal Revenue Code of 1986 using the
Internal Revenue Service of the Department of the
Treasury;

(2) the Committee would support the amend-
ment of this Act to include such provisions, as well
as amendments to the Higher Education Act of
1965, in the manner proposed by H.R. ________ as
introduced on May 11, 1993; and

(3) the Committee recommends that the House
of Representatives consider and adopt such amend-
ments.
Subtitle B—Cost Sharing by States

SEC. 4101. COST SHARING BY STATES.

(a) Amendment.—Section 428 of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following new subsection:

“(n) State Share of Default Costs.—(1) In the case of any State in which there are located any institutions of higher education with cohort default rates that exceed 20 percent, such State shall pay to the Secretary an amount equal to—

“(A) the new loan volume attributable to all institutions in the State for the current fiscal year, multiplied by

“(B) the percentage specified in paragraph (2), multiplied by

“(C) the quotient of—

“(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State, divided by

“(ii) the total amount of loan volume attributable to current and former students of institutions located in that State entering repayment in the period used to calculate the cohort default rate.
“(2) For purposes of paragraph (1)(B), the percentage used shall be—

“(A) 12.5 percent for fiscal year 1995;

“(B) 20 percent for fiscal year 1996; and

“(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

“(3) For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

“(A) the amount of the loans received for attendance by its current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

“(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

“(4) A State may charge a fee to an institution of higher education that participates in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution’s cohort default rate and the State’s risk of loss under this subsection. Such fee structure shall include a
process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.”.

(b) Effective Date.—The amendment made by this section shall be effective on October 1, 1994.

Subtitle C—ERISA Amendments Relating to Group Health Plans

SEC. 4201. COORDINATION OF ERISA PREEMPTION RULES WITH TITLE XIX PROVISIONS PROVIDING FOR LIABILITY OF THIRD PARTIES.

(a) In General.—Paragraph (8) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(8)) is amended to read as follows: “(8)(A) Subsection (a) of this section shall not apply to any State law to the extent necessary to permit the State to comply with the following requirements for the receipt of Federal financial assistance under title XIX of the Social Security Act:

“(i) subparagraphs (A), (B), and (H) of section 1902(a)(25) of such Act (relating to third-party liability) and section 1903(o) of such Act (relating to
medicaid as secondary payor), as in effect on October 1, 1993; and

“(ii) sections 1902(a)(45) and 1912 of such Act (relating to assignment of rights of payment), as in effect on May 12, 1993.

“(B) Paragraph (2)(B) shall not apply to any State law to the extent necessary to permit the compliance of the State with any of the requirements described in subparagraph (A).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

SEC. 4202. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) is amended by adding at the end the following new section:

“SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

“A group health plan may not reduce its coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.”.
(b) **Conforming Amendment.**—The table of contents in section 1 of such Act is amended by adding after the item relating to section 608 the following new item:

"Sec. 609. Continued coverage of costs of a pediatric vaccine under group health plans.".

(c) **Effective Date.**—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

**SEC. 4203. TEMPORARY RULES GOVERNING PREEMPTION OF CERTAIN STATE LAWS.**

Paragraph (5) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-51).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

"(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after January 14, 1983), but the Secretary may enter into coopera-
tive arrangements under this subparagraph and section 506 with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts 1 and 4 and the preceding sections of this part.

“(B)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to subtitle 2 of title 19 of the Annotated Code of Maryland (relating to the Health Services Cost Review Commission).

“(ii) Nothing in clause (i) shall be construed to exempt from subsection (a)—

“(I) any State tax law relating to employee benefit plans, or

“(II) any amendment of the provision referred to in clause (i) enacted on or after May 12, 1993, to the extent it provides for more than the effective administration of such Act as in effect on such date.

“(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provision referred to in clause (i) (as in effect on or after May 12, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Maryland to assist them in
effectuating the policies of such provision which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(C)(i) Except as provided in clauses (ii) and (iii), subsection (a) shall not apply to the following provisions of the law of the State of Minnesota:

"(I) section 295.52, Minnesota Statutes, as amended in May 1993 by House File 1178 (relating to receipts tax on providers);

"(II) section 19 of article 9 of the Minnesota Health Right Act, as amended in May 1993 by House File 1178 (relating to passthrough of 2 percent gross receipts tax on providers); and

"(III) subdivision 2 of section 3 of article 1 of such Act, article 7 of such Act, and section 1 of article 3 of Minnesota House File 1178 and section 4 and all that follows through the end of such article 3, as enacted in May 1993 (relating to data collection).

"(ii) Nothing in clause (i) shall be construed to exempt from subsection (a)—

"(I) any State tax law relating to employee benefit plans (other than a provision described in clause (i)), and
“(II) any amendment of any provision referred to in clause (i) enacted on or after May 12, 1993, to the extent it provides for more than the effective administration of such provision as in effect on such date.

“(iii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provisions described in clause (i) (as in effect on or after May 12, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of Minnesota to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

“(D)(i) Except as provided in clauses (ii), (iv), (v), and (vii), subsection (a) shall not apply to the following provisions of the law of the State of New York:

“(I) subdivisions 1(b) and 4(e) of section 2807-c of the Public Health Law (relating to 13 percent surcharge);

“(II) subdivision 1(c) of section 2807-c of the Public Health Law (relating to uniform hospital charges);
“(III) subdivision 2-a of section 2807-c of the Public Health Law (relating to the variable surcharge for HMOs);

“(IV) subdivision 14 of section 2807-c of the Public Health Law (relating to basic percentage allowances for bad debt and charity care);

“(V) subdivision 14-b of section 2807-c of the Public Health Law (relating to health care services allowances);

“(VI) subdivision 14-c of section 2807-c of the Public Health Law (relating to further allowances for financially distressed hospitals); and

“(VII) section 18 of chapter 266 of the laws of 1986, as amended (relating to excess malpractice insurance adjustments).

“(ii) Except as provided in clause (iii), nothing in clause (i) shall be construed to exempt from subsection (a)—

“(I) any State tax law relating to employee benefit plans, or

“(II) any provision referred to in clause (i) to the extent that any law of the State of New York appropriates amounts based on amounts collected by the State under such provision for any purpose other
than carrying out the programs established under
the provisions described in clause (i).

‘‘(iii) Notwithstanding clause (ii), subsection (a) shall
not apply to any provision of the law of the State of New
York to the extent that such provision constitutes—

‘‘(I) an HMO surcharge of the type provided
for under subdivision 2-a of such section 2807-c (as
in effect on February 2, 1993), or

‘‘(II) an allowance, of the type provided for
under the provisions referred to in clause (i) (as so
in effect), for bad debts, charity care, health care
services, or excess malpractice insurance,
but only if the law of such State appropriates amounts
based on and equivalent to amounts collected by the State
under such provision solely for the purpose of carrying out
one or more programs established under the provisions de-
dcribed in clause (i).

‘‘(iv) Subsection (a) shall apply to any provision of
the law of the State of New York to the extent that such
provision constitutes a surcharge of the type provided for
under subdivisions 1(b) and 4(e) of section 2807-c of the
Public Health Law of the State of New York (as in effect
on February 2, 1993) unless such provision provides for
use of amounts collected under such provision solely for
the purpose of carrying out one or more programs established under the provisions described in clause (i).

“(v) Nothing in clause (i) shall be construed to exempt from subsection (a) any amendment of any provision referred to in clause (i) enacted on or after February 2, 1993, to the extent it provides for more than the effective administration of such provisions as in effect on such date, unless such amendment constitutes only a change in the methodology of determining payments to hospitals and would result in—

“(I) a surcharge described in clause (iii)(I) of not more than 9 percent with respect to which the requirements of clause (iii) are met,

“(II) an allowance described in clause (iii)(II) which does not exceed in the aggregate a Statewide average of not more than 10 percent and with respect to which the requirements of clause (iii) are met, or

“(III) a surcharge described in clause (iv) of not more than 13 percent with respect to which the requirements of clause (iv) are met.

“(vi) Subsection (a) shall not apply to any amendment to chapter 2 of the laws of 1988 of the State of New York, as amended, to the extent that such amend-
ment extends the period for which the provisions referred to in clause (i) are in effect.

“(vii) Notwithstanding clause (i), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provisions described in clause (i) (as in effect on or after February 2, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of New York to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

“(viii) The provisions of this subparagraph shall be effective as of February 2, 1993.

“(E) This paragraph shall cease to be effective as of May 12, 1995.”

TITLE V—COMMITTEE ON ENERGY AND COMMERCE
Subtitle A—Medicare Program

SEC. 5000. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amend-
ment to or repeal of a section or other provision, the refer-
ence shall be considered to be made to that section or
other provision of the Social Security Act.

(b) References to OBRA.—In this subtitle, the
and “OBRA-1990” refer to the Omnibus Budget Re-
conciliation Act of 1986 (Public Law 99-509), the Omni-
bus Budget Reconciliation Act of 1987 (Public Law 100-
203), the Omnibus Budget Reconciliation Act of 1989
(Public Law 101-239), and the Omnibus Budget Re-
conciliation Act of 1990 (Public Law 101-508), respec-
tively.

(c) Table of Contents of Subtitle.—The table
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. 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 cer-
tain services.
Sec. 5005. Limitation on payment for the anesthesia care team.
Sec. 5006. Basing payments for anesthesia services on actual time.
Sec. 5007. Separate payment for interpretation of electrocardiograms.
Sec. 5008. Payments for new physicians and practitioners.
Sec. 5009. Geographic adjustment factors for medicare physicians’ services.
Sec. 5010. Extra-billing limits.
Sec. 5011. Relative values for pediatric services.
Sec. 5012. Antigens under physician fee schedule.
Sec. 5013. Administration of claims relating to physicians’ services.
Sec. 5014. Miscellaneous and technical corrections.
SUBCHAPTER B—OUTPATIENT HOSPITAL SERVICES AND AMBULATORY SURGICAL SERVICES

Sec. 5021. Extension of 10 percent reduction in payments for capital-related costs of outpatient hospital services.
Sec. 5022. Extension of current reduction in payments for other costs of outpatient hospital services.
Sec. 5023. 1-year freeze in ambulatory surgery rates.
Sec. 5024. Eye or eye and ear hospitals.
Sec. 5025. Extension of cap on payments for intraocular lenses.
Sec. 5026. Miscellaneous and technical corrections.

SUBCHAPTER C—DURABLE MEDICAL EQUIPMENT

Sec. 5031. Revisions to payment rules for durable medical equipment.
Sec. 5032. Payment for parenteral and enteral nutrients, supplies, and equipment during 1994.
Sec. 5033. Treatment of nebulizers and aspirators.
Sec. 5034. Certification of suppliers.
Sec. 5035. Prohibition against carrier forum shopping.
Sec. 5036. Restrictions on certain marketing and sales activities.
Sec. 5037. Kickback clarification.
Sec. 5038. Beneficiary liability for noncovered services.
Sec. 5039. Adjustments for inherent reasonableness.
Sec. 5040. Payment for surgical dressings.
Sec. 5041. Payments for tens devices.
Sec. 5042. Miscellaneous and technical corrections.

SUBCHAPTER D—PART B PREMIUM

Sec. 5051. Part B premium.

SUBCHAPTER E—OTHER PROVISIONS

Sec. 5061. Payments for clinical diagnostic laboratory tests.
Sec. 5062. Treatment of inpatients and provision of diagnostic and therapeutic X-ray services by rural health clinics and Federally qualified health centers.
Sec. 5063. Application of mammography certification requirements.
Sec. 5064. Extension of Alzheimer’s disease demonstration.
Sec. 5065. Oral cancer drugs.
Sec. 5066. Extension of municipal health service demonstration projects.
Sec. 5067. Treatment of certain Indian health programs and facilities as Federally-qualified health centers.
Sec. 5068. Interest payments.
Sec. 5069. Clarification of coverage of certified nurse-midwife services performed outside the maternity cycle.
Sec. 5069A. Increase in, and study of, annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
Sec. 5070. Miscellaneous and technical corrections.

CHAPTER 2—PROVISIONS RELATING TO PARTS A AND B

Sec. 5071. Elimination of add-on for overhead of hospital-based home health agencies.
Sec. 5072. Study and report on medicare GME payments.
Sec. 5073. Medicare as secondary payer.
Sec. 5074. Extension of self-referral ban to additional specified services.
Sec. 5075. Reduction in payment for erythropoietin.
Sec. 5076. Medicare hospital agreements with organ procurement organiza-
tions.
Sec. 5077. Extension of waiver for Watts Health Foundation.
Sec. 5078. Improved outreach for qualified medicare beneficiaries.
Sec. 5079. Social health maintenance organizations.
Sec. 5080. Peer review organizations.
Sec. 5081. Hospice information to home health beneficiaries.
Sec. 5082. Health maintenance organizations.
Sec. 5083. Miscellaneous and technical corrections.

CHAPTER 3—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL
INSURANCE POLICIES

Sec. 5091. Standards for medicare supplemental insurance policies.

CHAPTER 1—PROVISIONS RELATING TO PART B

Subchapter A—Physicians’ Services

SEC. 5001. REDUCTION IN DEFAULT UPDATE FOR CONVER-
SION FACTOR FOR 1994.

Section 1848(d)(3)(A) (42 U.S.C. 1395w-
4(d)(3)(A)) is amended—

(1) in clause (i), by striking “clause (iii)” and
inserting “clauses (iii) and (iv)”, and

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

“(iv) ADJUSTMENT IN PERCENTAGE
INCREASE FOR 1994.—In applying clause
(i) for services (other than primary care
services) furnished in 1994, the percentage
increase in the appropriate update index
shall be reduced by—
“(I) 3 percentage points for surgical services (as defined for purposes of subsection (j)(1)), and
“(II) 2 percentage points for other services.”.

SEC. 5002. REDUCTION IN PERFORMANCE STANDARD RATE OF INCREASE AND INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) REDUCTION IN PERFORMANCE STANDARD FACTOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w-4(f)(2)(B)) is amended—

(1) by striking “and” at the end of clause (ii), and

(2) by striking clause (iii) and inserting the following:

“(iii) for 1993 is 2 percentage points,
“(iv) for 1994 is 3½ percentage points, and
“(v) for each succeeding year is 4 percentage points.”.

(1) in subclause (II), by striking “or 1995’’, and
(2) in subclause (III), by striking “3” and insert- 
ing “5”.

SEC. 5003. CLASSIFICATION OF PRIMARY CARE SERVICES AS A SEPARATE CATEGORY OF SERVICES.

(a) In General.—Section 1848(j)(1) (42 U.S.C. 1395w-4(j)(1)) is amended by inserting “primary care services (as defined in section 1842(i)(4)),” after “Secretary”).

(b) Effective Date.—The amendment made by subsection (a) shall apply—
(1) to volume performance standard rates of increase established under section 1848(f) of the Social Security Act for fiscal years beginning with fiscal year 1994, and
(2) to updates in the conversion factors for physicians’ services established under section 1848(d) of such Act for physicians’ services to be furnished in calendar years beginning with 1996.
SEC. 5004. PHASED-IN REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.

(a) In General.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—

"(i) In General.—Subject to clause (ii), the Secretary shall reduce the practice expense relative value units applied to services described in clause (iii) furnished in—

"(I) 1994, by 25 percent of the number by which the number of practice expense relative value units (determined for 1994 without regard to this subparagraph) exceeds the number of work relative value units determined for 1994,

"(II) 1995, by an additional 25 percent of such excess, and

"(III) 1996 and subsequent years, by an additional 25 percent of such excess."
“(ii) Floor on Reductions.—The practice expense relative value units for a physicians’ service shall not be reduced under this subparagraph to a number less than 110 percent of the number of work relative value units.

“(iii) Services Covered.—For purposes of clause (i), the services described in this clause are physicians’ services that are not described in clause (iv) and for which—

“(I) there are work relative value units, and

“(II) the number of practice expense relative value units (determined for 1994) exceeds 110 percent of the number of work relative value units (determined for such year).

“(iv) Excluded Services.—For purposes of clause (iii), the services described in this clause are—

“(I) anesthesia services,

“(II) radiology services, and

“(III) services which the Secretary determines at least 75 percent
(b) DEVELOPMENT OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.—

(1) The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physician’s service.

(2) The Secretary shall transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

SEC. 5005. LIMITATION ON PAYMENT FOR THE ANESTHESIA CARE TEAM.

(a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDICAL DIRECTION.—

(1) IN GENERAL.—Section 1848(a) (42 U.S.C. 1395w–4(a)), as amended by section 5008(a)(1), is amended by adding at the end the following new paragraph:
“(4) SPECIAL RULE FOR MEDICAL DIRECTION.—

“(A) IN GENERAL.—With respect to physicians’ services furnished on or after January 1, 1994, and consisting of medical direction of two, three, or four concurrent anesthesia cases, the fee schedule amount to be applied shall not exceed one-half of the amount described in subparagraph (B).

“(B) AMOUNT.—The amount described in this subparagraph, for a physician’s medical direction of the performance of anesthesia services, is the following percentage of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the physician alone:

“(i) For services furnished during 1994, 120 percent.

“(ii) For services furnished during 1995, 115 percent.

“(iii) For services furnished during 1996, 110 percent.

“(iv) For services furnished during 1997, 105 percent.
“(v) For services furnished after 1997, 100 percent.”.

(2) Elimination of Reduction for Medical Direction of Multiple Nurse Anesthetists.—

Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (13).

(b) Payment to a Certified Registered Nurse Anesthetist for Medically Directed Services.—

Subparagraph (B) of section 1833(l)(4) (42 U.S.C. 1395l(l)(4)) is amended—

(1) in clause (i), by inserting “and before January 1, 1994,” after “1991,”;

(2) in clause (ii)—

(A) by adding “and” at the end of subclause (II),

(B) by striking the comma at the end of subclause (III) and inserting a period, and

(C) by striking subclauses (IV) through (VII); and

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

“(iii) In the case of services of a certified registered nurse anesthetist who is medically directed by a physician and that are furnished on or after January 1, 1994, the fee schedule amount shall be one-half of the amount
described in section 1848(a)(4)(B) with respect to the physician.’’.

SEC. 5006. BASING PAYMENTS FOR ANESTHESIA SERVICES ON ACTUAL TIME.

(a) PHYSICIANS’ SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at the end the following: “For anesthesia services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993, for determining the amount of time that may be billed for such services under this section.’’.

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: “For anesthesia services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993, for determining the amount of time that may be billed for such services under this section.’’.

SEC. 5007. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w-4(b)) is amended to read as follows: ‘‘(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

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“(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

“(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.”.

(b) Assuring Budget Neutrality.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)), as amended by section 5004(a); is amended by adding at the end the following new subparagraph:

“(F) Budget Neutrality Adjustments.—The Secretary—

“(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the
amendment made by section 5007(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

"(ii) shall reduce the amounts determined under subsection (a)(2)(B)(ii)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 5007(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1994 that exceed the amount of such expenditures that would have been made if such amendment had not been made."

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and as adjusted under subsection (c)(2)(F)(ii)" after "for 1994";
(2) in subsection (c)(2)(A)(i), by adding at the end the following: “Such relative values are subject to adjustment under subparagraph (F)(i).”; and

(3) in subsection (i)(1)(B), by adding at the end “including adjustments under subsection (c)(2)(F),”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 5008. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w±4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1994 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1994 that exceed the amount of such expendi-
tures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(ii)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4), as amended by section 5007(c), is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting “and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993” after “(c)(2)(F)(ii)”;

(2) in subsection (c)(2)(A)(i), by inserting “and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993” after “under subparagraph (F)(i)”;

and
(3) in subsection (i)(1)(B), by inserting “and section 5008(b) of the Omnibus Budget Reconciliation Act of 1993” after “under subsection (c)(2)(F)”.

(d) **Effective Date.**—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

**SEC. 5009. GEOGRAPHIC ADJUSTMENT FACTORS FOR MEDICARE PHYSICIANS’ SERVICES.**

(a) **Requiring Consultation with Representatives of Physicians in Reviewing Geographic Adjustment Factors.**—Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)) is amended by striking “shall review” and inserting “shall, in consultation with appropriate representatives of physicians, review”.

(b) **Use of Most Recent Data in Geographic Adjustment.**—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

“(D) **Use of Recent Data.**—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.”
(c) Deadline for Initial Review and Revision.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995.

(d) Report on Review Process.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

   (A) the shares allocated to physicians’ work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

   (B) the weights assigned to the input components of such shares; and

   (C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;
(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and (4) the costs of developing more accurate and timely data.

SEC. 5010. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT AND UNIFORM APPLICATION.— (1) ENFORCEMENT.— Paragraph (1) of section 1848(g) (42 U.S.C. 1395w–4(g)) is amended to read as follows:

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“(1) LIMITATION ON ACTUAL CHARGES.—

“(A) IN GENERAL.— In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician’s service furnished with respect to an individual enrolled under this part, the following rules apply:

“(i) APPLICATION OF LIMITING CHARGE.— No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.
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"(ii) No Liability for Excess Charges.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) Correction of Excess Charges.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) Refund of Excess Collections.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.
(B) SANCTIONS.—If a physician, supplier, or other person—

(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided ‘on a timely basis’, if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the
carrier under this part of such violation and of the requirements of subparagraph (A).”.

(2) Uniform application of extra-billing limits to physicians’ services.—

(A) In general.—Section 1848(g)(2)(C) (42 U.S.C. 1395w–4(g)(2)(C)) is amended by inserting “or for nonparticipating suppliers or other persons” after “nonparticipating physicians”.

(B) Conforming definition.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking “, and the term” and inserting “; the term”, and

(ii) by inserting before the period at the end the following: “; and the term ‘nonparticipating supplier or other person’ means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))”.

(3) Additional conforming amendments.—

Section 1848 (42 U.S.C. 1395w–4) is amended—

(A) in subsection (a)(3)—
(i) by inserting "AND SUPPLIERS" after "PHYSICIANS",

(ii) by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician", and

(iii) by adding at the end the following: "In the case of physicians' services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.";

(B) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting "(including services which the Secretary excludes pursuant to subsection (j)(3))" after "a physician's service";

(C) in subsection (g)(2)(D), by inserting "(or, if payment under this part is made on a basis other than the fee schedule under this 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
(F) in subsection (j)(3), by inserting “, except for purposes of subsections (a)(3), (g), and (h)” after “tests and”.

(b) **Clarification of Mandatory Assignment Rules for Certain Practitioners.**—

(1) **In general.**—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 5014(e), is amended by adding at the end the following new paragraph:

“(18)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

“(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may...
apply sanctions against a physician in accordance with section 1842(j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of section 1842(j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

“(C) A practitioner described in this subparagraph is any of the following:

“(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

“(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

“(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

“(iv) A clinical social worker (as defined in section 1861(hh)(1)).

“(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

“(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician’s service.”.

(2) CONFORMING AMENDMENTS.—
(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(C) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.— Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking “and” at the end of subparagraph (B),

(B) in subparagraph (C), by striking “shall include”,

(C) in subparagraph (C), by striking the period at the end and inserting “, and”, and

(D) by adding at the end the following new subparagraph:
(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv))."

(2) Determinations by Carriers.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other per-
sons concerning the accuracy of such limiting charges for their services;”.

(d) Report on Charges in Excess of Limiting Charge.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting “the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and” after “report to the Congress”.

(e) Miscellaneous and Technical Amendments.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1), as amended by section 5070(e)(2)—

(A) by striking “and” before “(O)”,” and

(B) by inserting before the semicolon at the end the following: “, and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)”; and

(2) in subsection (h)(5)(D)—

(A) by striking “paragraphs (2) and (3)” and by inserting “paragraph (2)”, and

(B) by adding at the end the following: “Paragraph (4) of such section shall apply in
this subparagraph in the same manner as such paragraph applies to such section.”.

(f) **Effective Dates.**—

(1) **Enforcement and Uniform Application; Miscellaneous and Technical Amendments.**—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) **Practitioners.**—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1994.

(3) **EOMBS.**—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) **Carrier Determinations.**—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1994.

(5) **Report.**—The amendment made by subsection (d) shall apply to reports for years beginning with 1994.
SEC. 5011. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) In General.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1994, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values.

(b) Study.—

(1) In General.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians and physical and occupational therapists.

(2) Report.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric serv-
ices appropriately reflect the resources required to
provide these services.

SEC. 5012. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) In General.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(G),” after “(2)(D),”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5013. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS’ SERVICES.

(a) Limitation on Carrier User Fees.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

“(4) Neither a carrier nor the Secretary may impose a fee under this title—

“(A) for the filing of claims related to physicians’ services,

“(B) for an error in filing a claim relating to physicians’ services or for such a claim which is denied,

“(C) for any appeal under this title with respect to physicians’ services,

“(D) for applying for (or obtaining) a unique identifier under subsection (r), or
“(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.”.

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: “(D) payment may be made to a physician for physicians’ services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician’s unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician”.

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(2) **Effective Date.**—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

**SEC. 5014. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

(a) **Overvalued Procedures (Section 4101 of OBRA-1990).**—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking “, simple and subcutaneous’’,

(B) by striking “; small” and inserting “and small’’,

(C) by striking “treatments;’’ the first place it appears and inserting “and’’,

(D) by striking “lobectomy;’’,

(E) by striking “enterectomy; colectomy; cholecystectomy;’’,

(F) by striking “; transurerethral resection’’ and inserting “and resection’’, and

(G) by striking “sacral laminectomy;’’.

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking “1842(b)(16)” and inserting “1842(b)(16)(B)”,
(B) in subparagraph (B)—

(i) by striking “, simple and subcutaneous”,

(ii) by striking “(HCPCS codes 19160 and 19162)” and inserting “(HCPCS code 19160)”, and

(iii) by striking all that follows “(HCPCS codes 92250” and inserting “and 92260).”.

(b) Radiology Services (Section 4102 of OBRA–1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking “shall be determined as follows:” and inserting “shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:”,

(B) in clause (iv), by striking “LOCAL ADJUSTMENT.— Subject to clause (vii), the conversion factor to be applied to” and inserting “ADJUSTED CONVERSION FACTOR.— The adjusted conversion factor for”,

(C) in clause (vii), by striking “under this subparagraph”, and
(D) in clause (vii), by inserting “reduced under this subparagraph by” after “shall not be”.

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking “radiology services” and all that follows and inserting “nuclear medicine services.”.

(4) Section 4102(d) of OBRA-1990 is amended by striking “new paragraph” and inserting “new subparagraph”.

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting “RULE FOR CERTAIN SCANNING SERVICES.—” after “(E)”. 

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-4(a)(2)(D)(iii)) is amended by striking “that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989” and by striking “provided under such section” and inserting “provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989”.

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is amended by striking “REDUCTION IN FEE SCHEDULE” and inserting “REDUCTION IN PREVAILING CHARGES”.

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking “shall be determined as follows:” and inserting
“shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:”, and

(B) in clause (iii), by striking “Subject to clause (iv), the prevailing charge conversion factor to be applied in’’ and inserting ‘‘The adjusted prevailing charge conversion factor for’’.

(d) Assistants at Surgery (Section 4107 of OBRA-1990).—(1) Section 4107(c) of OBRA-1990 is amended by inserting ‘‘(a)(1)’’ after ‘‘subsection’’.

(2) Section 4107(a)(2) of OBRA-1990 is amended by adding at the end the following: ‘‘In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).’’.

(e) Technical Components of Diagnostic Services (Section 4108 of OBRA-1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA-1990, as paragraph (17) and, in such paragraph, by inserting ‘‘, tests specified in paragraph (14)(C)(i),’’ after ‘‘diagnostic laboratory tests’’.
(f) **STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA-1990).**—Section 4117 of OBRA-1990 is amended—

1. in subsection (a)—
   1. (A) by striking ‘‘(a) IN GENERAL.—’’, and
   2. (B) by striking ‘‘, if the’’ and all that follows through ‘‘1991, ’’; and
2. (2) by striking subsections (b), (c), and (d).

(g) **STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA-1990).**—Section 4113 of OBRA-1990 is amended—

1. by inserting ‘‘of the Social Security Act’’ after ‘‘1869(b)(2)’’; and
2. (2) by striking ‘‘December 31, 1992’’ and inserting ‘‘December 31, 1993’’.

(h) **OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.**—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking ‘‘FISCAL YEAR’’.

2. (2)(A) Section 4105(b) of OBRA-1990 is amended—
   1. (i) in paragraph (2), by striking ‘‘amendments’’ and inserting ‘‘amendment’’, and
   2. (ii) in paragraph (3), by striking ‘‘amendments made by paragraphs (1) and (2)’’ and inserting ‘‘amendment made by paragraph (1)’’.
(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-4(f)(2)(C)) is amended by inserting “PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—” after “(C)”.

(C) Section 4105(d) of OBRA±1990 is amended by inserting “PUBLICATION OF PERFORMANCE STANDARD RATES.—” after “(d)”.

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking “prevailing charge” the first place it appears and inserting “customary charge”; and

(B) in clause (ii)(III), by striking “second, third, and fourth” and inserting “first, second, and third”.


(5) Section 4106(c) of OBRA±1990 is amended by inserting “of the Social Security Act” after “1848(d)(1)(B)”.

(6) Section 4114 of OBRA±1990 is amended by striking “patients” the second place it appears.
(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)) is amended by inserting “date of the” after “since the”.

(8) Section 4118(f)(1)(D) of OBRA-1990 is amended by striking “is amended”.


(10) Section 1845(e) (42 U.S.C. 1395w-1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA-1990 is amended by striking “In section” and inserting “Section”.

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking “as such provisions apply to physicians’ services and physicians and a reasonable charge under section 1842(b)”.

(i) Other Corrections.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of
OBRA–1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking “(A) Any contract” and inserting “Any contract”; and

(B) by striking subparagraph (B).

(j) EFFECTIVE DATE.—Except as provided in subsection (i), the amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

Subchapter B—Outpatient Hospital Services and Ambulatory Surgical Services

SEC. 5021. EXTENSION OF 10 PERCENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.


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SEC. 5022. EXTENSION OF CURRENT REDUCTION IN PAYMENTS FOR OTHER COSTS OF OUTPATIENT HOSPITAL SERVICES.


SEC. 5023. 1-YEAR FREEZE IN AMBULATORY SURGERY RATES.

The Secretary of Health and Human Services shall not provide for any update in the amounts of payment described in paragraphs (2)(A) and (2)(B) of section 1833(i)(2) of the Social Security Act that otherwise would occur in fiscal year 1994.

SEC. 5024. EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—

(1) in paragraph (3)(B)(ii)—

(A) by striking “the last sentence of this clause” and inserting “paragraph (4)”, and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

“(4)(A) In the case of a hospital that—

“(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),
“(ii) receives more than 30 percent of its total revenues from outpatient services, and

“(iii) on October 1, 1987—

“(I) was an eye specialty hospital or an eye and ear specialty hospital, or

“(II) was operated as an eye or eye and ear unit (as defined in subparagraph (B)) of a general acute care hospital which, on the date of the application described in clause (i), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital’s other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of paragraph (3)(B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

“(B) For purposes of this subparagraph (A)(iii)(II), the term ‘eye or eye and ear unit’ means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.”.
(b) **Effective Date.**—The amendments made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1994.

**SEC. 5025. EXTENSION OF CAP ON PAYMENTS FOR INTRAOCULAR LENSES.**

(a) **In General.**—Section 4151(c)(3) of OBRA-1990 is amended by striking “December 31, 1992” and inserting “December 31, 1994”.

(b) **Effective Date.**—The amendment made by subsection (a) shall be effective as if included in the enactment of OBRA-1990.

**SEC. 5026. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

(a) **Payment Amounts for Services Furnished in Ambulatory Surgical Centers.**—(1)(A) Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: “, as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,”.

(B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—
(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking “and may be adjusted by the Secretary, when appropriate,”; and

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

“(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1996), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved.”.

(C) The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: “, in consultation with appropriate trade and professional organizations.”.

(2) Section 4151(c)(3) of OBRA-1990 is amended by striking “for the insertion of an intraocular lens” and inserting “for an intraocular lens inserted”.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—(1) Not later
than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the
subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

Subchapter C—Durable Medical Equipment

SEC. 5031. REVISIONS TO PAYMENT RULES FOR DURABLE MEDICAL EQUIPMENT.

(a) Basing National Payment Limits on Median of Local Payment Amounts.—

(1) Inexpensive and Routinely Purchased Items; Items Requiring Frequent and Substantial Servicing.—(A) Paragraphs (2)(C)(i)(II) and (3)(C)(i)(II) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking “1992” the first place it appears and inserting “1992, 1993, and 1994”;

and

(ii) by striking “1992” the second place it appears and inserting “the year”.
(B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking “and” at the end of subclause (I);

(ii) by redesignating subclause (II) as (IV); and

(iii) by inserting after subclause (I) the following new subclauses:

“(II) for 1992 and 1993, the amount determined under this clause for the preceding year increased by the covered item update for such subsequent year,

“(III) for 1994, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the median of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the median of all local payment amounts determined under such
clause for such item or device for that year, and”.

(2) Miscellaneous Devices and Items.—

Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—


(B) in subparagraph (B)—

(i) by striking “and” at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

“(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

“(iii) for 1994, the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices computed for the item.
under such subparagraph for the year and may not be less than 85 percent of the median of all local purchase prices computed under such subparagraph for the item for the year; and”.

(3) Oxygen and oxygen equipment.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—


(B) in subparagraph (B)—

(i) by striking “and” at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

“(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

“(iii) for 1994, the local monthly payment rate computed under subparagraph (A)(ii) for the item for the year, except
that such national limited monthly pay-
ment rate may not exceed 100 percent of
the median of all local monthly payment
rates computed for the item under such
subparagraph for the year and may not be
less than 85 percent of the median of all
local monthly payment rates computed for
the item under such subparagraph for the
year; and’’.

(b) Payment for Prosthetic Devices and
Orthotics and Prosthetics.—

(1) In general.—Section 1834(h)(2) (42
U.S.C. 1395m(h)(2)) is amended—

(A) in subparagraph (A)(ii)(II), by striking
1994’’;

(B) in subparagraph (B)(ii), by striking
“each subsequent year” and inserting “1993’’;

(C) in subparagraph (C)(iv), by striking
“regional purchase price computed under sub-
paragraph (B)’’ and inserting “national limited
purchase price computed under subparagraph
(E)’’;

(D) in subparagraph (D)(ii), by striking “a
subsequent year” and inserting “1993’’; and
(E) by adding at the end the following new subparagraph:

“(E) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

“(i) for 1994, equal to the local purchase price computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the median of all local purchase prices for the item computed under such subparagraph for the year; and

“(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the applicable percentage increase for such subsequent year.”.
(2) Exception for certain items.—Section 1834(h) (42 U.S.C. 1395m(h)), as amended by paragraph (1), is further amended—

(A) in paragraph (1)(B), by striking “subparagraph (C),” and inserting “subparagraphs (C) and (F),”;

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

“(F) Exception for certain items.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).”.

(c) Effective date.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.


In determining the amount of payment under part B of title XVIII of the Social Security Act during 1994, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable
with respect to such nutrients, supplies, and equipment during 1993.

SEC. 5033. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) In General.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking “ventilators, aspirators, IPPB machines, and nebulizers” and inserting “ventilators and IPPB machines”.

(b) Payment for Accessories Relating to Nebulizers and Aspirators.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking “or” at the end of clause (i),
(2) by adding “or” at the end of clause (ii), and
(3) by inserting after clause (ii) the following new clause:

“(iii) which is an accessory used in conjunction with a nebulizer or aspirator,”.

(c) Effective Date.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5034. CERTIFICATION OF SUPPLIERS.

(a) Requirements.—

(1) In General.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:
“(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

“(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

“(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after October 1, 1994, for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

“(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—A supplier may not obtain a supplier number unless—

“(i) for medical equipment and supplies furnished on or after October 1, 1994, and before January 1, 1996, the supplier meets standards prescribed by the Secretary; and

“(ii) for medical equipment and supplies furnished on or after January 1, 1996, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers,
and consumers) that shall include require-
ments that the supplier—

“(I) comply with all applicable
State and Federal licensure and regu-
latory requirements;

“(II) maintain a physical facility
on an appropriate site;

“(III) have proof of appropriate
liability insurance; and

“(IV) meet such other require-
ments as the Secretary may specify.

“(C) Exception for Items Furnished
As Incident to a Physician’s Service.—
Subparagraph (A) shall not apply with respect
to medical equipment and supplies furnished as
an incident to a physician’s service.

“(D) Prohibition Against Multiple
Supplier Numbers.—The Secretary may not
issue more than one supplier number to any
supplier of medical equipment and supplies un-
less the issuance of more than one number is
appropriate to identify subsidiary or regional
entities under the supplier’s ownership or con-
trol.
“(E) Prohibition against delegation of supplier determinations.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

“(2) Certificates of medical necessity.—

“(A) Standardized certificates.—Not later than October 1, 1994, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in subparagraph (C)) for medical equipment and supplies for which the Secretary determines that such a certificate is necessary.

“(B) Prohibition against distribution by suppliers of certificates of medical necessity.—

“(i) In general.—Except as provided in clause (ii), a supplier of medical equipment and supplies may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially com-
completed certificates of medical necessity on
or after October 1, 1994.

“(ii) Exception for certain billing information.—Clause (i) shall not
apply with respect to a certificate of medical necessity for any item that is not con-
tained on the list of potentially overused items developed by the Secretary under
subsection (a)(15)(A) to the extent that such certificate contains only information
completed by the supplier of medical equip-
ment and supplies identifying such supplier
and the beneficiary to whom such medical
equipment and supplies are furnished, a
description of such medical equipment and
supplies, any product code identifying such
medical equipment and supplies, and any
other administrative information (other
than information relating to the bene-
ficiary’s medical condition) identified by
the Secretary. In the event a supplier pro-
vides a certificate of medical necessity con-
taining information permitted under this
clause, such certificate shall also contain
the fee schedule amount and the supplier’s
charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

“(iii) Penalty.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

“(C) Definition.—For purposes of this paragraph, the term ‘certificate of medical necessity’ means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

“(3) Coverage and review criteria.—
“(A) Development and Establishment.—Not later than January 1, 1996, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies, individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies selected in accordance with the standards described in subparagraph (B). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

“(B) Standards for Selecting Items Subject to Criteria.—The Secretary may select an item for coverage under the criteria developed and established under subparagraph (A) if the Secretary finds that—

““(i) the item is frequently purchased or rented by beneficiaries;

““(ii) the item is frequently subject to a determination that such item is not medically necessary; or
“(iii) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

“(C) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under subparagraph (A) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

“(4) DEFINITION.—The term ‘medical equipment and supplies’ means—

“(A) durable medical equipment (as defined in section 1861(n));

“(B) prosthetic devices (as described in section 1861(s)(8));

“(C) orthotics and prosthetics (as described in section 1861(s)(9));

“(D) surgical dressings (as described in section 1861(s)(5));
“(E) such other items as the Secretary may determine; and

“(F) for purposes of paragraphs (1) and (3)—

“(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)), and

“(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)).”.

(2) Conforming amendment.—Effective October 1, 1994, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) Report on effect of uniform criteria on utilization of items.—Not later than July 1, 1996, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under section 1834(i)(3)(A) of the Social Security Act (as added by subsection (a)) on the utilization of items of medical equipment and supplies by individuals enrolled under part B of the medicare program.

(c) Use of covered items by disabled beneficiaries.—
(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(d) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.
describing prosthetic devices or orthotics and prosthetics
covered under part B of the medicare program that do
not require individualized or custom fitting and adjust-
ment to be used by a patient. Such report shall include
recommendations for an appropriate methodology for de-
termining the amount of payment for such items under
such program.

SEC. 5035. PROHIBITION AGAINST CARRIER FORUM SHOP-
PING.

(a) In General.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

“(12) USE OF CARRIERS TO PROCESS CLAIMS.—

“(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regu-
lation under section 1842, one carrier for one
or more entire regions to process all claims
within the region for covered items under this
section.

“(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item
may present or cause to be presented a claim
for payment under this part unless such claim
is presented to the appropriate regional carrier
(as designated by the Secretary).
"(ii) For purposes of clause (i), the term ‘appropriate regional carrier’ means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.’’.

(b) **Effective Date.**—The amendment made by subsection (a) shall apply to items furnished on or after October 1, 1993.

(c) **Clarification of Authority To Designate Carriers for Other Items and Services.**—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

**SEC. 5036. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.**

(a) **Prohibiting Unsolicited Telephone Contacts From Suppliers of Durable Medical Equipment to Medicare Beneficiaries.**—
(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

“(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

“(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual (other than a covered item the supplier has already furnished to the individual) unless—

“(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

“(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

“(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for
any item subsequently furnished to the individ-
ual by the supplier.

“(C) Exclusion from program for
suppliers engaging in pattern of unsol-
licited contacts.—If a supplier knowingly
contacts individuals in violation of subpara-
graph (A) to such an extent that the supplier’s
conduct establishes a pattern of contacts in violo-
tion of such subparagraph, the Secretary shall
exclude the supplier from participation in the
programs under this Act, in accordance with
the procedures set forth in subsections (c), (f),
and (g) of section 1128.”.

(2) Requiring refund of amounts col-
lected for disallowed items.—Section 1834(a)
(42 U.S.C. 1395m(a)), as amended by paragraph
(1), is amended by adding at the end the following
new paragraph:

“(18) Refund of amounts collected for

A certain disallowed items.—

(A) In general.—If a nonparticipating
supplier furnishes to an individual enrolled
under this part a covered item for which no
payment may be made under this part by rea-
son of paragraph (17)(B), the supplier shall re-
fund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.
“(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

“(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

“(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.”.

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking “Paragraph (12)” and inserting “Paragraphs (12) and (17)”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 5037. KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting be-
fore the semicolon the following: "(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to services furnished on or after the first day of the first month that begins after the expiration of the 60-day period beginning on the date of the enactment of this Act.

SEC. 5038. BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) Unassigned Claims.—

(1) In general.—Section 1834(i) (42 U.S.C. 1395m(i)), as added by section 5034(a)(1), is amended—

(A) by redesignating paragraph (4) as paragraph (5), and

(B) by inserting after paragraph (3) the following new paragraph:
“(4) LIMITATION ON PATIENT LIABILITY.—If a supplier of medical equipment and supplies (as defined in paragraph (5))—

“(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1);

“(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

“(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.”.
(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7(b)(3)(B)), as amended by section 5037(a), is amended by striking “1834(i)(4)” and inserting “1834(i)(5)”.

(b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

“(h) If a supplier of medical equipment and supplies (as defined in section 1834(i)(4))—

“(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(i)(1); or

“(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15);

any expenses incurred for items and services furnished to an individual by such a supplier on an assignment-related basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in
the same manner as such provisions apply to refunds under such section.”.

(c) Effective Date.—The amendments made by this section shall apply to items or services furnished on or after October 1, 1994.

SEC. 5039. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) Adjustments Made to Final Payment Amounts.—

(1) In General.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: “In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.”.

(2) Effective Date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) Adjustment Required for Certain Items.—

(1) In General.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as
amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 5040. PAYMENT FOR SURGICAL DRESSINGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 5034(a)(1), is amended by adding at the end the following new subsection:

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(j) PAYMENT FOR SURGICAL DRESSINGS.—

(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

(A) the actual charge for the item; or

(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the
national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994)

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

“(A) furnished as an incident to a physician’s professional service; or

“(B) furnished by a home health agency.”.

(b) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 5070(e)(2) and 5010(e)(1), is amended—

(1) by striking “and” before “(P)”, and

(2) by inserting before the semicolon at the end the following: “, and (Q) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.
SEC. 5041. PAYMENTS FOR TENS DEVICES.

(a) In General.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking “15 percent” the second place it appears and inserting “45 percent”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1994.

SEC. 5042. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) Updates to Payment Amounts.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

“(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and”.

(b) Treatment of Potentially Overused Items and Advanced Determinations of Coverage.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

“(15) Special treatment for potentially overused items.—

“(A) Development of list of items by Secretary.—The Secretary shall develop and
periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, decubitus care mattresses, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

“(i) the item is marketed directly to potential patients;

“(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

“(iii) the item has been subject to a consistent pattern of overutilization; or

“(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).
“(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.”.

(2) Effective January 1, 1994, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

“(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

“(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

“(ii) the item is a specified covered item under subparagraph (B).”.

(3) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section
5013(a), is amended by adding at the end the following new paragraph:

“(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).”.

(4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking “paragraph (10) and paragraph (11)” and inserting “paragraphs (10) and (11)”.

(c) Study of Variations in Durable Medical Equipment Supplier Costs.—

(1) Collection and analysis of supplier cost data.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.
(2) **Development of Geographic Adjustment Index; Reports.**—Not later than January 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator’s recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) **Oxygen Retesting.**—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55” and inserting “56”.

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(e) Other Miscellaneous and Technical Amendments.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking “amendment made by subsection (a)” and inserting “amendments made by this subsection”.

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking “1395m(a)(7)(A)” and inserting “1395m(a)(7)”.

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause (v)” and inserting “clause (vi)”.

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking “or paragraph (3)”.

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA-1990 is amended by striking “1834(a)” and inserting “1834(h)”.

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking “Reconciliation” and inserting “Reconciliation”.

(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—
(i) in subparagraphs (A) and (B) of paragraph (1), by striking ““(2) through (7)”” each place it appears and inserting ““(2) through (5) and (7)””; 
(ii) in paragraph (7), by striking ““(2) through (6)”” and inserting ““(2) through (5)””; 
(iii) in paragraph (8), by striking “paragraphs (6) and (7)” each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting “paragraph (7)”; and 
(iv) in paragraph (8)(A)(i), by striking “described—” and all that follows and inserting “described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.”.
(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

**Subchapter D—Part B Premium**

**SEC. 5051. PART B PREMIUM.**

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—
(1) in paragraph (1)(A), by inserting “and for each month in 1996 and 1997” after “January 1991”, and
(2) in paragraph (2), by striking “1991” and inserting “1998”.

Subchapter E—Other Provisions

SEC. 5061. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking “and” at the end of clause (iii),

(2) in clause (iv), by inserting “and before January 1, 1994,” after “1990,”,

(3) by striking the period at the end of clause (iv) and inserting “, and”, and

(4) by adding at the end the following:

“(v) after December 31, 1993, is equal to 76 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).”.

SEC. 5062. TREATMENT OF INPATIENTS AND PROVISION OF
DIAGNOSTIC AND THERAPEUTIC X-RAY SERVICES
BY RURAL HEALTH CLINICS AND FEDERALLY
QUALIFIED HEALTH CENTERS.
(a) TREATMENT OF INPATIENTS.—Section 1861(aa)
(42 U.S.C. 1395x(aa)) is amended—
(1) in paragraph (1), in the matter following
subparagraph (C), by striking “as an outpatient”
and inserting “as a patient’’;
(2) in paragraph (2)(A), by striking “furnishing
to outpatients” and inserting “furnishing to pa-
tients’’; and
(3) in paragraph (3), in the matter following
subparagraph (B), by striking “as an outpatient”
and inserting “as a patient’’.
(b) TREATMENT OF DIAGNOSTIC AND THERAPEUTIC
X-RAY SERVICES.—Section 1861(aa) (42 U.S.C.
1395x(aa)) is further amended—
(1) in paragraph (1)(A), by inserting “‘(i)’’ after
“(A)” and by adding at the end the following: “and
(ii) diagnostic and therapeutic x-ray services,”, and
(2) in paragraph (2)(A), by striking ““(A)”’’ and
inserting ““(A)(i)’’.
(c) CONFORMING AMENDMENT.—Section
1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by
striking “and services of a certified registered nurse anes-
thetist” and inserting “services of a certified registered nurse anesthetist, rural health clinic services, and Federally-qualified health center services”.

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 1994, and shall apply to services furnished on or after such date.

SEC. 5063. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.

(a) Screening Mammography.—Section 1834(c) (42 U.S.C. 1395m(c)) is amended—

(1) in paragraph (1)(B), by striking “meets the quality standards established under paragraph (3)” and inserting “is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act”; 

(2) in paragraph (1)(C)(iii), by striking “paragraph (4)” and inserting “paragraph (3)”;

(3) by striking paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(b) Diagnostic Mammography.—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by inserting “and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certifi-
cated) issued under section 354 of the Public Health Service Act' after 'necessary'.

(c) Conforming Amendments.—(1) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by striking "or which does not meet the standards established under section 1834(c)(3)" and inserting "or which is not conducted by a facility described in section 1834(c)(1)(B)".

(2) Section 1863 (42 U.S.C. 1395z) is amended by striking "or whether screening mammography meets the standards established under section 1834(c)(3),".

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "whether screening mammography meets the standards established under section 1834(c)(3)"

(4) The third sentence of section 1865(a) (42 U.S.C. 1395bb(a)) is amended by striking "1834(c)(3),".

(d) Effective Date.—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.
SEC. 5064. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION.

Section 9342 of OBRA-1986, as amended by section 4164(a)(2) of OBRA-1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years"; and

(2) in subsection (f)—

(A) by striking "$55,000,000" and inserting "$60,000,000", and

(B) by striking "$3,000,000" and inserting "$5,000,000".

SEC. 5065. ORAL CANCER DRUGS.

(a) Coverage of Certain Self-Administered Anticancer Drugs.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 5070(f)(7)(B), is amended—

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

(2) by adding "and" at the end of subparagraph (O); and

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

"(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredi-
ent (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;’’.

(b) **Effective Date.**—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 5066. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989, is amended—

(1) by striking ‘‘December 31, 1993’’ and inserting ‘‘December 31, 1997’’, and

(2) in the second sentence, by inserting after ‘‘beneficiary costs,’’ the following: ‘‘costs to the medicaid program and other payors, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,’’.
SEC. 5067. TREATMENT OF CERTAIN INDIAN HEALTH PROGRAMS AND FACILITIES AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) In General.—Section 1861(aa)(4) (42 U.S.C. 1395x(aa)(4)) is amended—

(1) by striking “or” at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting “; or”; and

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

“(D) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 4161(a)(2)(C) of OBRA-1990.

SEC. 5068. INTEREST PAYMENTS.

(a) In General.—Section 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied with respect to paper claims received in the 9-month period beginning January 1, 1993, by substituting “27 calendar days” for “24 calendar days” and “17 calendar days”.

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(b) Prohibiting Payment of Interest During Mandatory Payment Delay Period.—Section 1842(c)(2)(C) (42 U.S.C. 1395u(c)(2)(C)) is amended by adding at the end the following: “Notwithstanding any other provision of law, no interest may be paid with respect to a claim pursuant to the preceding sentence within any period following the submission of the claim during which no payment may be issued, mailed, or otherwise transmitted with respect to the claim.”

SEC. 5069. Clarification of Coverage of Certified Nurse-Midwife Services Performed Outside the Maternity Cycle.

(a) In General.—Section 1861(gg)(2) (42 U.S.C. 1395x(gg)(2)) is amended by striking “, and performs services” and all that follows and inserting a period.

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5069A. Increase In, and Study Of, Annual Cap On Amount of Medicare Payment for Outpatient Physical Therapy and Occupational Therapy Services.

(a) Increase in Annual Limitation.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended by striking “$750” and inserting “$900” each place it appears.
(b) Study.—(1) The Physician Payment Review Commission shall conduct a study of the appropriateness of continuing an annual limitation on the amount of payment for outpatient services of independently practicing physical and occupational therapists under the medicare program.

(2) By not later than January 1, 1995, the Commission shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1). Such report shall include such recommendations for changes in such annual limitation as the Commission finds appropriate.

(c) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 5070. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) Revision of Information on Part B Claims Forms.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking “provider number” and inserting “unique physician identification number”; and

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(2) by striking “and indicate whether or not the
referring physician is an interested investor (within
the meaning of section 1877(h)(5))”.

(b) Consultation for Social Workers.— Effective with respect to services furnished on or after January
1, 1991, section 6113(c) of OBRA–1989 is amended—
(1) by inserting “and clinical social worker
services” after “psychologist services”; and
(2) by striking “psychologist” the second and
third place it appears and inserting “psychologist or
clinical social worker”.

(c) Reports on Hospital Outpatient Payment.— OBRA–1989 is amended by striking section
6137.
(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is
amended—
(A) by striking paragraph (6); and
(B) in paragraph (7)—
(i) by striking “systems” each place it ap-
pears and inserting “system”; and
(ii) by striking “paragraphs (1) and (6)”
and inserting “paragraph (1)”.

(d) Radiology and Diagnostic Services Pro-
vided in Hospital Outpatient Departments.—
(1) Effective as if included in the enactment of

(A) by inserting “and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992” after “1989”; and

(B) by striking “1842(b)” and inserting “1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)”.


(e) Payments to Nurse Practitioners in Rural Areas (Section 4155 of OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking “subsection (aa)(3)” and inserting “subsection (aa)(5)”; and

(B) by striking “subsection (aa)(4)” and inserting “subsection (aa)(6)”.

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking “and” before “(N)”; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—
(i) by striking ``(M)'' and inserting ``(O)'', and
(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—
(A) by striking “ambulatory” each place it appears and inserting “or ambulatory”; and
(B) by striking “center,” and inserting “center”.


(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking “subsection (s)(2)(K)(i)” and inserting “clauses (i) or (iii) of subsection (s)(2)(K)”.

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking “this Act” and inserting “this title”.

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking
“1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

(f) **OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—**

(1) **IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.**—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

   (i) by striking “beginning with the first day of the first month in which the individual is no longer enrolled” and inserting “including each month during any part of which the individual is enrolled”; and

   (ii) by striking “and ending seven months later” and inserting “ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled”.

   (B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

   “(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first
month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

“(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.”.

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking “for reporting” and inserting “for portions of cost reporting”; and

(B) by striking “and on or before” and inserting “and ending on or before”.

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5)
of OBRA-1990 is amended by striking “(1)(A)” and inserting “(1)(A),”.

(4) **Separate Payment Under Part B for Certain Services (Section 4157 of OBRA-1990).**—

Section 4157(a) of OBRA-1990 is amended by striking “(a) Services of” and all that follows through “Section” and inserting “(a) Treatment of Services of Certain Health Practitioners.—Section’’.

(5) **Community Health Centers and Rural Health Clinics (Section 4161 of OBRA-1990).**—

(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking “certification” the first place it appears and inserting “approval”; and

(ii) by striking “the Secretary’s approval or disapproval of the certification” and inserting “Secretary’s approval or disapproval”.

(B) Section 4161(a)(7)(B) of OBRA-1990 is amended by inserting “and to the Committee on Finance of the Senate” after “Representatives”.

(6) **Screening Mammography (Section 4163 of OBRA-1990).**—Section 4163 of OBRA-1990 is amended—
(A) by adding at the end of subsection (d) the following new paragraph:

“(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990.”; and

(B) in subsection (e), by striking “The amendments” and inserting “Except as provided in subsection (d)(3), the amendments”.

(7) **Injectable Drugs for Treatment of Osteoporosis.**—

(A) **Clarification of Drugs Covered.**—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA-1990 is amended—

(i) in the matter preceding paragraph (1), by striking “a bone fracture related to”; and

(ii) in paragraph (1), by striking “patient” and inserting “individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual”.

(B) **Limiting Coverage to Drugs Provided by Home Health Agencies.**—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted
by section 4156(a)(2) of OBRA–1990 is amended by striking “if” and inserting “by a home health agency if”.

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking “but excluding” and inserting “and a covered osteoporosis drug (as defined in subsection (kk), but excluding other”.

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding “and” at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) Payment Based on Reasonable Cost.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking “health services” and inserting “health services (other than covered osteoporosis drug (as defined in section 1861(kk)))”;  

(ii) by striking “and” at the end of subparagraph (D);
(iii) by striking the semicolon at the end and inserting ‘‘; and’’; and

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

‘‘(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);’’.

(D) Application of Part B Deductible.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking ‘‘services’’ and inserting ‘‘services (other than covered osteoporosis drug (as defined in section 1861(kk)))’’.

(E) Covered Osteoporosis Drug (Section 4156 of OBRA-1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA-1990, by striking ‘‘(jj) The term’’ and inserting ‘‘(kk) The term’’.

(8) Other Miscellaneous and Technical Corrections (Section 4164 of OBRA-1990).—

(A) Ownership Disclosure Requirements.—(i) Section 1124A(a)(2)(A) (42
U.S.C. 1320a-3(a)(2)(A)) is amended by striking “of the Social Security Act”.

(ii) Section 4164(b)(4) of OBRA-1990 is amended by striking “paragraph” and inserting “paragraphs”.

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA-1990 is amended by striking “publish” and inserting “publish, and shall periodically update,”.

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

CHAPTER 2—PROVISIONS RELATING TO PARTS A AND B

SEC. 5071. ELIMINATION OF ADD-ON FOR OVERHEAD OF HOSPITAL-BASED HOME HEALTH AGENCIES.

(a) GENERAL RULE.—The first sentence of section 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by striking “, with appropriate adjustment for administrative and general costs of hospital-based agencies”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning after fiscal year 1993.
SEC. 5072. STUDY AND REPORT ON MEDICARE GME PAYMENTS.

(a) Study.—The Secretary of Health and Human Services shall conduct a study of the methodology used to determine payments to hospitals under the medicare program for the costs of medical residency training programs and shall include in the study an analysis of the causes of variation among such programs in the per resident costs of direct graduate medical education, including the extent of support for such programs from non-hospital sources.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report any recommendations considered appropriate by the Secretary for modifications to the methodology used to determine payments to hospitals under the medicare program for the costs of medical residency training programs that will encourage greater uniformity among medical residency training programs in the per resident costs of direct graduate medical education.

SEC. 5073. MEDICARE AS SECONDARY PAYER.


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(b) Permanent Application to Disabled Individuals.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended by striking clause (iii).

(c) Application of ESRD Rules to Certain Aged and Disabled Beneficiaries and Extension of Application of 18-Month Rule.—

(1) Subparagraphs (A)(iv) and (B)(ii) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each amended—

(A) by striking "Clause (i) shall not apply" and inserting "Subparagraph (C) shall apply instead of clause (i)", and

(B) by inserting "(without regard to entitlement under section 226)" after "or" the second place it appears.

(2) The second sentence of section 1862(b)(1)(C) is amended by striking "on or before January 1, 1996" and inserting "before October 1, 1998".

(d) Uniform Rules for Size of Employer.—

(1) In General.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following:

"(E) General provisions.—"
“(i) Exclusion of Group Health Plan of a Small Employer.—Subparagraphs (A) through (C) do not apply to a group health plan unless the plan is a plan of, or contributed to by, an employer or employee organization that has 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

“(ii) Exception for Small Employers in Multiemployer or Multiple Employer Group Health Plans.—Subparagraphs (A) through (C) also do not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of current employment status with an employer that does not have 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year and the preceding calendar year; but the exception provided in this clause ap-
plies only if the plan elects treatment under this clause.

“(iii) APPLICATION OF CONTROLLED GROUP RULES.—For purposes of clauses (i) and (ii)—

“(I) all employees of corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of the Internal Revenue Code of 1986, determined without regard to subsection (a)(4) or (e)(3)(C)), shall be treated as employed by a single employer,

“(II) all employees of trades or businesses (whether or not incorporated) which are under common control (under regulations prescribed by the Secretary of the Treasury under section 414(c) of that Code) shall be treated as employed by a single employer,

“(III) all employees of the members of an affiliated service group (as defined in section 414(m) of that
Code) shall be treated as employed by
a single employer, and

"(IV) leased employees (as de-
defined in section 414(n)(2) of that
Code) shall be treated as employees of
the person for whom they perform
services to the extent they are so
treated under section 414(n) of that
Code.

In applying sections of the Internal Reve-
nue Code of 1986 under this clause, the
Secretary shall rely upon the regulations
and decisions of the Secretary of the
Treasury respecting such sections.

"(iv) **GROUP HEALTH PLAN DE-
FINED.**—For purposes of this subsection,
the term ‘group health plan’ has the mean-
ing given such term in section 5000(b) of
the Internal Revenue Code of 1986, with-
out regard to section 5000(d) of such
Code.

"(v) **CURRENT EMPLOYMENT STATUS
DEFINED.**—For purposes of this sub-
section, an individual has ‘current employ-
ment status’ with an employer if the indi-
individual 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-
tled to the same benefits under the
plan under the same conditions as any
such individual (or spouse) under age
65.”;
(B) by striking clauses (ii), (iii), and (v),
and
(C) by redesignating clause (iv) as clause
(ii).

(3) Amendments for disabled individuals.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended—
(A) by amending the heading and clause
(i) of paragraph (1)(B) to read as follows:
“(B) Disabled individuals under
group health plans.—
“(i) In general.—A group health
plan may not take into account that an in-
dividual (or a member of the individual’s
family) who is covered under the plan by
virtue of the individual’s current employ-
ment status with an employer is entitled to
benefits under this title under section
226(b).”;
(B) by striking clause (iv) of paragraph
(1)(B); and
(C) in the second sentence of paragraph (2)(A), by striking “or large group health plan”.

(4) Amendments for Individuals with ESRD.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the matter preceding clause (i), by striking “(as defined in subparagraph (A)(v))”,

(B) by striking “solely” each place it appears,

(C) by striking “by reason of” and inserting “under” each place it appears, and

(D) by inserting “or eligible for” after “entitled to” each place it appears.

(e) Secondary Payer Exemption for Members of Religious Orders.—Effective as if included in the enactment of OBRA-1989, section 6202(e)(2) of such Act is amended by adding at the end the following: “Such amendment also shall apply to items and services furnished before such date with respect to secondary payer cases which the Secretary of Health and Human Services had not identified as of such date.”.

(f) Improving Identification of Medicare Secondary Payer Situations.—

(1) Survey of beneficiaries.—
(A) In General.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

“(D) Obtaining Information from Beneficiaries.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.”.

(B) Distribution of Questionnaire by Contractor.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than April 1, 1994, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) No Medicare Secondary Payer Denial Based on Failure to Complete Questionnaire.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:
(C) Treatment of Questionnaires.—
The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.”.

(2) Mandatory Screening by Providers and Suppliers under Part B.—

(A) In General.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

“(6) Screening Requirements for Providers and Suppliers.—

“(A) In General.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

“(B) Penalties.—An entity that knowingly, willfully, and repeatedly fails to complete
a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 1994.

(g) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking “and” at the end of subparagraph (H); and

(B) by inserting after subparagraph (H) the following new subparagraph:
“(1) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).”.

(2) Requirements under Carrier Performance Evaluation Program.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

“(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the Secretary shall establish standards and criteria relating to the carrier’s success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).”.

(3) Deadline for Reimbursement by Primary Plans.—

(A) In General.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: “If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such
notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).”.

(B) Conforming Amendment.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: “Repayment Required.—”.

(C) Effective Date.—The amendments made by this paragraph shall apply to payments for items and services furnished on or after the date of the enactment of this Act.

(4) Effective Date.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1994.

(h) Miscellaneous and Technical Corrections.—

(1) The sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA-1990 is
amended by striking “clauses (i) and (ii)” and inserting “this subparagraph”.

(2) Effective as if included in the enactment of OBRA-1989, section 1862(b)(1) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting “, without regard to section 5000(d) of such Code” before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking “current calendar year or the preceding calendar year” and inserting “current calendar year and the preceding calendar year”; and

(C) in the matter in subparagraph (C) after clause (ii), by striking “taking into account that” and inserting “paying benefits secondary to this title when”.


(4) Section 4203(c)(2) of OBRA-1990 is amended—

(A) by striking “the application of clause (iii)” and inserting “the second sentence”;
(B) by striking “on individuals” and all that follows through “section 226A of such Act”;  
(C) in clause (ii), by striking “clause” and inserting “sentence”;  
(D) in clause (v), by adding “and” at the end; and  
(E) in clause (vi)—  
(i) by inserting “of such Act” after “1862(b)(1)(C)”, and  
(ii) by striking the period at the end and inserting the following: “, without re- 
gard to the number of employees covered by such plans.”.

(5) Section 4203(d) of OBRA-1990 is amended by striking “this subsection” and inserting “this sec- 
tion”.

(6) Except as provided in paragraph (2), the amendments made by this subsection shall be effec- 
tive as if included in the enactment of OBRA-1990 and shall be executed before the amendments made 
by subsections (a) through (d) of this section.

(i) EFFECTIVE DATE.—  
(1) IN GENERAL.— Except as otherwise pro- 
vided in this section, the amendments made by this
section shall take effect on the date of the enactment of this Act.

(2) ESRD AND UNIFORM SIZE RULES.—The amendments made by subsections (c) and (d) apply to items and services furnished on or after January 1, 1994.

SEC. 5074. EXTENSION OF SELF-REFERRAL BAN TO ADDITIONAL SPECIFIED SERVICES.

(a) EXTENSION TO DESIGNATED HEALTH SERVICES.—

(1) IN GENERAL.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by striking “clinical laboratory services” and “CLINICAL LABORATORY SERVICES” and inserting “designated health services” and “DESIGNATED HEALTH SERVICES”, respectively, each place either appears in subsections (a)(1), (b)(2)(A)(ii), (b)(4), (d)(1), and (d)(3); and

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

“(i) DESIGNATED HEALTH SERVICES DEFINED.—In this section, the term ‘designated health services’ means—

“(1) clinical laboratory services;

“(2) physical or occupational therapy services;

“(3) radiology or other diagnostic services;
“(4) radiation therapy services;
“(5) the furnishing of durable medical equip-
ment;
“(6) the furnishing of parenteral and enteral
nutrition nutrients, supplies, and equipment;
“(7) home health services; and
“(8) home infusion therapy services.”.

(2) **Conforming Amendments.**—Section 1877
is further amended—

(A) in subsection (g)(1), by striking “clinical
laboratory service” and inserting “designated health service”, and

(B) in subsection (h)(7)(B), by striking
“clinical laboratory service” and inserting “designated health service”.

(b) **Multiple Locations for Group Practices.**—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C.
1395nn(b)(2)(A)(ii)(II)) is amended by striking “central-
ized provision” and inserting “provision of some or all”.

(c) **Treatment of Compensation Arrangements.**—

(1) **Rental of Office Space and Equipment.**—Paragraph (1) of section 1877(e) (42
U.S.C. 1395nn(e)) is amended to read as follows:
"(1) Rental of office space; rental of equipment.—

"(A) Office space.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

"(ii) the aggregate space rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease for at least one year,

"(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties,
“(vi) the lease covers all of the premises leased between the parties for the period of the lease, and

“(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

“(B) Equipment.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

“(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

“(ii) the equipment rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

“(iii) the lease provides for a term of rental or lease of at least one year,

“(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into ac-
count the volume or value of any referrals or other business generated between the parties,

“(v) the lease would be commercially reasonable even if no referrals were made between the parties,

“(vi) the lease covers all of the equipment leased between the parties for the period of the lease, and

“(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.”.

(2) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Section 1877(e)(2) (42 U.S.C. 1395nn(e)(2)) is amended—

(A) by striking “AND SERVICE” and “WITH HOSPITALS”;

(B) by striking “An arrangement” and all that follows through “if” and inserting “Any amount paid by an employer to a physician (or immediate family member) who has a bona fide employment relationship with the employer for the provision of services if”;
(C) in subparagraphs (A), (B), and (D), by striking “arrangement” and inserting “employment”;

(D) in subparagraph (C), by striking “to the hospital”; and

(E) by adding at the end the following:

“Subparagraph (B)(ii) shall not be construed as prohibiting the payment of remuneration in the form of shares of overall profits or in the form of a productivity bonus based on services performed personally by the physician or member, if the amount of the remuneration is not determined in a manner that takes into account directly the volume or value of any referrals by the referring physician.”.

(3) PERSONAL SERVICE ARRANGEMENTS.—Section 1877(e) is further amended by adding at the end the following new paragraph:

“(7) PERSONAL SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

“(A) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

“(B) the arrangement covers all of the services to be provided,
“(C) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

“(D) the term of the arrangement is for at least one year,

“(E) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

“(F) the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement of other activity that violates any State or Federal law, and

“(G) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.”.

(4) ADDITIONAL EXCEPTIONS.—Section 1877(e) is further amended by adding at the end the following new paragraphs:
“(8) **Payments by a Physician for Items and Services.**—Payments made by a physician—

“(A) to a laboratory in exchange for the provision of clinical laboratory services, or

“(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value.

“(9) **Payments for Pathology Services of a Group Practice.**—Payments made to a group practice for pathology services under an agreement if—

“(A) the agreement is set out in writing and specifies the services to be provided by the parties and the compensation for services provided under the agreement,

“(B) the compensation paid over the term of the agreement is consistent with fair market value and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

“(C) the compensation is provided pursuant to an agreement which would be commer-
cially reasonable even if no referrals were made to the entity, and

“(D) the compensation arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.”.

(4) Referring Physicians.—Section 1877(h)(7)(C) (42 U.S.C. 1395nn(h)(7)(C)) is amended—

(A) by inserting “a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy,” after “examination services,”, and

(B) by inserting “, radiologist, or radiation oncologist” after “pathologist” the second place it appears.

(d) Treatment of Group Practises.—

(1) Use of Billing Numbers, Etc.—Section 1877 is amended—

(A) in subsection (b)(2)(B), by inserting “under a billing number assigned to the group practice” after “member”,

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(B) in subsection (h)(4)(B), by inserting “and under a billing number assigned to the group” after “in the name of the group”, and

(C) in subsection (h)(4)(C), by striking “‘by members of the group’.

(2) Treatment of Services under Arrangements Between Hospitals and Group Practices.—

(A) In General.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

(i) in subparagraph (B) (as amended by paragraph (1)(B)), by inserting “(or are billed in the name of a hospital for which the group provides designated health services pursuant to an arrangement that meets the requirements of subparagraph (B))” after “assigned to the group’’;

(ii) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(iii) by inserting “‘(A)’’ after ‘‘.—’’; and

(iv) by adding at the end the following new subparagraph:
“(B) The requirements of this subparagraph, with respect to an arrangement for designated health services provided by the group and billed in the name of a hospital, are that—

“(i) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3);

“(ii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

“(iii) the group provides substantially all of the designated health services to the hospital’s patients;

“(iv) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement;

“(v) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or
value of any referrals or other business generated between the parties;

“(vi) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

“(vii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.”.

(B) Conforming Amendment.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by inserting “(or by a hospital for which such a group practice provides designated health services pursuant to an arrangement that meets the requirements of subsection (h)(4)(B))” before “, or by an entity”.

(3) Treatment of Certain Faculty Practice Plans.—The last sentence of section 1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as redesignated by paragraph (2)(A), is amended by inserting “, institution of higher education, or medical school” after “hospital”.

(e) Expanding Rural Provider Exception To Cover Compensation Arrangements.—
(1) **In General.**—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(A) by redesignating paragraph (5) as paragraph (7), and

(B) by inserting after paragraph (4) the following new paragraph:

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(5) **Rural Providers.**—In the case of designated services if—

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(A) the entity furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)), and

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(B) substantially all of the services furnished by the entity to individuals entitled to benefits under this title are furnished to such individuals who reside in such a rural area.”.

(2) **Conforming Amendments.**—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

(f) **Exception for Shared Facility Laboratory Services.**—

(1) **In General.**—Section 1877 is amended—
(A) in subsection (b), as amended by subsection (e)(1), by inserting after paragraph (5) the following new paragraph:

"(6) SHARED FACILITY LABORATORY SERVICES.—

"(A) IN GENERAL.—In the case of shared facility laboratory services of a shared facility—

"(i) that are furnished—

"(I) personally by the referring physician who is a shared facility physician or personally by an individual supervised by such a physician or by another shared facility physician and employed under the shared facility arrangement,

"(II) by a shared facility in a building in which the referring physician furnishes physician’s services unrelated to the furnishing of shared facility laboratory services, and

"(III) to a patient of a shared facility physician; and

"(ii) that are billed by the referring physician or by an entity that is wholly owned by such physician.
“(B) LIMITATION.—The exception under this paragraph shall only apply to a shared facility only if the facility and the shared facility arrangement were established as of June 26, 1992.”; and

(B) in subsection (h), by adding at the end the following new paragraph:

“(8) SHARED FACILITY RELATED DEFINITIONS.—

“(A) SHARED FACILITY LABORATORY SERVICES.—The term ‘shared facility laboratory services’ means, with respect to a shared facility, clinical laboratory services furnished by the facility to patients of shared facility physicians.

“(B) SHARED FACILITY.—The term ‘shared facility’ means an entity that furnishes shared facility laboratory services under a shared facility arrangement.

“(C) SHARED FACILITY PHYSICIAN.—The term ‘shared facility physician’ means, with respect to a shared facility, a physician who has a financial relationship under a shared facility arrangement with the facility.

“(D) SHARED FACILITY ARRANGEMENT.—The term ‘shared facility arrangement’ means,
with respect to the provision of shared facility laboratory services in a building, a financial arrangement—

“(i) which is only between physicians who are providing services (unrelated to shared facility laboratory services) in the same building,

“(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

“(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.”.

(2) GAO STUDY OF SHARED FACILITY ARRANGEMENTS.—

(A) IN GENERAL.—The Comptroller General shall analyze the effect on the utilization of health services of shared facility arrangements for which an exception is provided under the amendments made by paragraph (1). The analysis shall include a review of the effect of the limitation, described in section 1877(b)(6)(B) of the Social Security Act (as added by paragraph
(1)), with respect to such exception and on the availability of services (including hematology services).

(B) Report.—Not later than January 1, 1995, the Comptroller General shall submit a report to Congress on the analysis conducted under subparagraph (A). The report shall include recommendations with respect to changing the limitation.

(g) Exemption of Compensation Arrangements Involving Certain Types of Remuneration.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) by striking subparagraph (B);

(2) in subparagraph (A), by inserting before the period the following: “(other than an arrangement involving only remuneration described in subparagraph (B))”; and

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

“(B) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

“(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly per-
formed tests or procedures, or the correction of
minor billing errors.

“(ii) The provision of items, devices, or
supplies that are used solely to—

“(I) collect, transport, process, or
store specimens for the entity providing
the item, device, or supply, or

“(II) communicate the results of tests
or procedures for such entity.”.

(h) Exception for Publicly-Traded Securities.—Section 1877(c)(2) (42 U.S.C. 1395nn(d)(2)) is
amended by striking “total assets exceeding
$100,000,000” and inserting “stockholder equity exceeding $75,000,000”.

(i) Miscellaneous and Technical Corrections.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (b)(2)(A)(i), in subparagraph
(A)(i), by striking “who are employed by such physi-
cian or group practice and who are personally” and
inserting “who are directly”;

(2) in the fourth sentence of subsection (f)—

(A) by striking “provided” and inserting
“furnished”, and

(B) by striking “provides” and inserting
“furnish”;


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(3) in the fifth sentence of subsection (f)—

(A) by striking “providing” each place it appears and inserting “furnishing”,

(B) by striking “with respect to the providers” and inserting “with respect to the entities”, and

(C) by striking “diagnostic imaging services of any type” and inserting “magnetic resonance imaging, computerized axial tomography scans, and ultrasound services”; and

(4) in subsection (a)(2)(B), by striking “subsection (h)(1)(A)” and inserting “subsection (h)(1)’’.

(j) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply with respect to a referral by a physician for designated health services (as described in section 1877(i) of the Social Security Act) made after December 31, 1994.

(2) The amendments made by this section (other than subsection (a)) shall apply to referrals made on or after January 1, 1992.

SEC. 5075. REDUCTION IN PAYMENT FOR ERYTHROPOIETIN.

(1) by striking “1991” and inserting “1994”,
and
(2) by striking “$11” and inserting “$10”.

(b) EFFECTIVE DATE.—The amendments made by
subsection (a) apply to erythropoietin furnished after
1993.

SEC. 5076. MEDICARE HOSPITAL AGREEMENTS WITH
ORGAN PROCUREMENT ORGANIZATIONS.

(a) IN GENERAL.—Section 1138(a)(1) (42 U.S.C.
1320b-8(a)(1)) is amended—

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

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

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

“(C) in the case of a hospital or rural primary
care hospital that has in effect an agreement (de-
scribed in section 371(b)(3)(A) of the Public Health
Service Act) with an organ procurement organiza-
tion, the agreement is with such organization for the
service area in which the hospital is located (as es-
tablished under such section).”.

(b) EFFECTIVE DATE.—The amendments made by
subsection (a) shall apply to hospitals participating in the
programs under titles XVIII and XIX of the Social Security Act as of January 1, 1994.

SEC. 5077. EXTENSION OF WAIVER FOR WATTS HEALTH FOUNDATION.

Section 9312(c)(3)(D) of OBRA-1986, as added by section 4018(d) of OBRA-1987 and as amended by section 6212(a)(1) of OBRA-1989, is amended by striking “1994” and inserting “1996”.

SEC. 5078. IMPROVED OUTREACH FOR QUALIFIED MEDICARE BENEFICIARIES.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 5079. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.

(a) Extension of Current Waivers.—Section 4018(b) of OBRA-1987, as amended by section 4207(b)(4) of OBRA-1990, is amended—

(1) in paragraph (1) by striking “December 31, 1995” and inserting “December 31, 1997”; and
(2) in paragraph (4) by striking “March 31, 1996” and inserting “March 31, 1998”.

(b) Expansion of Demonstrations.—Section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, is amended—

(1) in the last sentence of subsection (a) by striking “12 months” and inserting “36 months”; and

(2) in subsection (b)(1)(B)—

(A) by striking “or” at the end of clause (iii), and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

“(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or”.
(c) Expansion of Number of Members Per Site.—The Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) Miscellaneous and Technical Corrections.—

(1) The section following section 4206 of OBRA-1990 is amended by striking "Sec. 4027." and inserting "Sec. 4207.", and in this subtitle is referred to as section 4207 of OBRA-1990.

(2) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA-1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(3) Section 4207(b)(4)(B)(iii)(III) of OBRA-1990 is amended by striking the period at the end and inserting a semicolon.

(4) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, are each
amended by striking “12907(c)(4)(A)” each place it appears and inserting “4207(b)(4)(B)”.  

(5) Section 4207(c)(2) of OBRA–1990 is amended by striking “the Committee on Ways and Means” each place it appears and inserting “the Committees on Ways and Means and Energy and Commerce”.

(6) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(7) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking “residents” and inserting “patients”.

(8) Section 4207(j) of OBRA–1990 is amended by striking “title” each place it appears and inserting “subtitle”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

SEC. 5080. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—
(1) In general.—Section 1164 (42 U.S.C. 1320c-13) is repealed.

(2) Conforming amendments.—

(A) Section 1154 (42 U.S.C. 1320c-3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking 

“(and except as provided in section 1164)”.

(B) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (a)(1)(D)(i), by striking “, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)”;

(ii) in subsection (a)(1), by striking clause (G);

(iii) in subsection (a)(2)(A), by striking “to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a
third opinion, if the second opinion was in
disagreement with the first opinion,‘‘;
(iv) in subsection (a)(2)(D)(i)—
(I) by striking ‘‘related basis,’’
and inserting ‘‘related basis or’’, and
(II) by striking ‘‘, or for tests
furnished in connection with obtaining
a second opinion required under sec-
tion 1164(c)(2) (or a third opinion, if
the second opinion was in disagree-
ment with the first opinion)’’;
(v) in subsection (a)(3), by striking
‘‘and for items and services furnished in
connection with obtaining a second opinion
required under section 1164(c)(2), or a
third opinion, if the second opinion was in
disagreement with the first opinion)’’; and
(vi) in the first sentence of subsection
(b), by striking ‘‘(4)’’ and all that follows
through ‘‘and (5)’’ and inserting ‘‘and
(4)’’.
(C) Section 1834(g)(1)(B) (42 U.S.C.
1395m(g)(1)(B)) is amended by striking ‘‘and
for items and services furnished in connection
with obtaining a second opinion required under
section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion’’.

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding ‘‘or’’ at the end of paragraph (14),

(ii) by striking ‘‘; or’’ at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ‘‘, with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),’’.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking ‘‘whether’’ and inserting ‘‘whether’’.
(2)(A) Subparagraph (B) of section 1154(a)(9) (42 U.S.C. 1320c-3(a)(9)) is amended to read as follows:

“(B) If the organization finds, after reasonable notice and opportunity for discussion with the physician or practitioner concerned, that the physician or practitioner has furnished services in violation of section 1156(a), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding.”.

(B) Subparagraph (D) of section 1160(b)(1) (42 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

“(D) to provide notice in accordance with section 1154(a)(9)(B);”.

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking “amendments” and inserting “amendment”.

(4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is amended by striking “‘subpena’” and inserting “‘subpoena’”.

(5) Section 4205(e)(2) of OBRA-1990 is amended by striking “‘amendments’” and inserting “‘amendment’” and by striking “‘all’”.

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(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act.

SEC. 5081. HOSPICE INFORMATION TO HOME HEALTH BENEFICIARIES.

(a) In General.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

"(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).".
(b) **Effective Date.**—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

**SEC. 5082. HEALTH MAINTENANCE ORGANIZATIONS.**

(a) **Adjustment in Medicare Capitation Payments To Account For Regional Variations In Application of Secondary Payer Provisions.**—

(1) **In General.**—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: “In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the area with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.’’.

(2) **Effective Date.**—The amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) **Revisions in the Payment Methodology For Risk Contractors.**—Section 4204(b) of OBRA-1990 is amended to read as follows:
“(b) Revisions in the Payment Methodology for Risk Contractors.—(1) (A) Not later than January 1, 1995, the Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1996 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

“(B) In proposing the revisions required under subparagraph (A) the Secretary shall consider—

“(i) the difference in costs associated with Medicare beneficiaries with differing health status and demographic characteristics; and

“(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

“(2) Not later than 3 months after the date of submittal of the proposal made pursuant to paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.”.

(c) Miscellaneous and Technical Corrections.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking “subsection
(c)(7)” and inserting “subsections (c)(2)(B)(ii) and (c)(7)”.

(2) Section 4204(c)(3) of OBRA-1990 is amended by striking “for 1991” and inserting “for years beginning with 1991”.

(3) Section 4204(d)(2) of OBRA-1990 is amended by striking “amendment” and inserting “amendments”.

(4) Section 1876(a)(1)(E)(ii)(l) (42 U.S.C. 1395mm(a)(1)(E)(ii)(l)) is amended by striking the comma after “contributed to”.

(5) Section 4204(e)(2) of OBRA-1990 is amended by striking “(which has a risk-sharing contract under section 1876 of the Social Security Act)”.

(6) Section 4204(f)(4) of OBRA-1990 is amended by striking “final”.

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking “PLAN” and inserting “PLAN OR A LARGE GROUP HEALTH PLAN”; 

(B) by striking “group health plan” and inserting “group health plan or a large group health plan”; 

(C) by striking “, unless such incentive is also offered to all individuals who are eligible for coverage under the plan”; and
(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

SEC. 5083. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) Survey and Certification Requirements.—

(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) Other Miscellaneous and Technical Provisions.—(1) Section 1833 (42 U.S.C. 1395l) is amended
by redesignating the subsection (r) added by section 4206(b)(2) of OBRA-1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking “1833(r)” and inserting “1833(s)”.

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by section 5070(f)(7)(B)(iii)(II) of this subtitle, two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking “1861(s)(2)(Q)” and inserting “1861(s)(2)(P)”.

(5) Section 4201(d)(2) of OBRA-1990 is amended by striking “(B) by striking”, “(C) by striking”, and “(3) by adding” and inserting “(i) by striking”, “(ii) by striking”, and “(B) by adding”, respectively.

(6)(A) Section 4207(a)(1) of OBRA-1990 is amended by adding closing quotation marks and a period after “such review.”.

(B) Section 4207(a)(4) of OBRA-1990 is amended by striking “this subsection” and inserting “paragraphs (2) and (3)”.

(C) Section 4207(b)(1) of OBRA-1990 is amended by striking “section 3(7)” and inserting “section 601(a)(1)”.

(7) Section 4202 of OBRA-1990 is amended—
(A) in subsection (b)(1)(A), by striking “home hemodialysis staff assistant” and inserting “qualified home hemodialysis staff assistant (as described in subsection (d))’’;

(B) in subsection (b)(2)(B)(ii)(I), by striking “(as adjusted to reflect differences in area wage levels)”;

(C) in subsection (c)(1)(A), by striking “skilled”; and

(D) in subsection (c)(1)(E), by striking “(b)(4)” and inserting “(b)(2)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

CHAPTER 3—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 5091. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA-1990 is amended by striking “(a) IN GENERAL.—’’.

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—
(A) in paragraph (1)(A)—

(i) by striking “promulgates” and inserting “changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate”,

(ii) by striking “(such limitations, language, definitions, format, and standards referred to collectively in this subsection as ‘NAIC standards’),”, and

(iii) by striking “included a reference to the NAIC standards” and inserting “were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the ‘1991 NAIC Model Regulation’)”; 

(B) in paragraph (1)(B)—

(i) by striking “promulgate NAIC standards” and inserting “make the changes in the revised NAIC Model Regulation”,

(ii) by striking “limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred
to collectively as ‘Federal standards’)’’ and
inserting “a regulation”, and

(iii) by striking “included a reference
to the Federal standards” and inserting
“were a reference to the revised NAIC
Model Regulation as changed by the Sec-
retary under this subparagraph (such
changed regulation referred to in this sec-
tion as the ‘1991 Federal Regulation’)’’;

(C) in paragraph (1)(C)(i), by striking
“NAIC standards or the Federal standards”
and inserting “1991 NAIC Model Regulation or
1991 Federal Regulation”;  

(D) in paragraphs (1)(C)(ii)(I), (1)(E),
(2), and (9)(B), by striking “NAIC or Federal
standards” and inserting “1991 NAIC Model
Regulation or 1991 Federal Regulation”;  

(E) in paragraph (2)(C), by striking
“(5)(B)” and inserting“(4)(B)”;

(F) in paragraph (4)(A)(i), by inserting
“or paragraph (6)” after “(B)”;

(G) in paragraph (4), by striking “applica-
ble standards” each place it appears and insert-
ing “applicable 1991 NAIC Model Regulation
or 1991 Federal Regulation”;
(H) in paragraph (6), by striking “in re-
gard to the limitation of benefits described in
paragraph (4)” and inserting “described in
clauses (i) through (iii) of paragraph (1)(A)”;

(I) in paragraph (7), by striking “policy-
holder” and inserting “policyholders”;

(J) in paragraph (8), by striking “after the
effective date of the NAIC or Federal standards
with respect to the policy, in violation of the
previous requirements of this subsection” and
inserting “on and after the effective date speci-
fied in paragraph (1)(C) (but subject to para-
graph (10)), in violation of the applicable 1991
NAIC Model Regulation or 1991 Federal Regu-
lation insofar as such regulation relates to the
requirements of subsection (o) or (q) or clause
(i), (ii), or (iii) of paragraph (1)(A)”;

(K) in paragraph (9), by adding at the end
the following new subparagraph:

“(D) Subject to paragraph (10), this paragraph shall
apply to sales of policies occurring on or after the effective
date specified in paragraph (1)(C).”; and

(L) in paragraph (10), by striking “this
subsection” and inserting “paragraph
(1)(A)(i)”. 
(b) **Guaranteed Renewability.**—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking “paragraph (2)” and inserting “paragraph (4)”, and

(2) in paragraph (4), by striking “the succeeding issuer” and inserting “issuer of the replacement policy”.

(c) **Enforcement of Standards.**—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking “NAIC standards or the Federal standards” and inserting “1991 NAIC Model Regulation or 1991 Federal Regulation”, and

(B) by striking “after the effective date of the NAIC or Federal standards with respect to the policy” and inserting “on and after the effective date specified in subsection (p)(1)(C)”.

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking “The report” and inserting “Each report”,

(B) by inserting “and requirements” after “standards”,

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(C) by striking “and” after “compliance,”,

and

(D) by striking the comma after “Commissioners”.

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking “Panel” and inserting “Secretary”.

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking “the the Secretary” and inserting “the Secretary”.

(d) Preventing Duplication.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

“(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

“(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

“(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or
“(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.”;

(B) by designating the second sentence as clause (ii) and, in such clause, by striking “the previous sentence” and inserting “clause (i)”;

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking “the previous sentence” and inserting “clause (i) with respect to the sale of a medicare supplemental policy”, and

(ii) by striking “and the statement” and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking “65 years of age or older”,

(B) in clause (iii)(I), by striking “another medicare” and inserting “a medicare”,

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(C) in clause (iii)(I), by striking “such a policy” and inserting “a medicare supplemental policy”,

(D) in clause (iii)(II), by striking “another policy” and inserting “a medicare supplemental policy”, and

(E) by amending subclause (III) of clause (iii) to read as follows:

“(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the full amount of medicare cost-sharing as described in subparagraphs (B), (C), and (D) of section 1905(p)(3) for such individual.”.

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking “the selling” and inserting “(i) the sale or issuance”, and

(ii) by inserting before the period at the end the following: “, (ii) the sale or issuance of
a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual”.

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

“(D)(i) If—
“(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

“(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I), each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

“(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted

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in the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.”.

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date of the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) (42 U.S.C. 1395ss(q)(5)(A)) are amended by striking “of the Social Security Act”.

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—
(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking “or sold” and inserting “or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))”;

(B) in paragraph (1)(A), by inserting “for periods after the effective date of these provisions” after “the policy can be expected”;

(C) in paragraph (1)(A), by striking “Commissioners,” and inserting “Commissioners)”;

(D) in paragraph (1)(B), by inserting before the period at the end the following: “, treating policies of the same type as a single policy for each standard package”;

(E) by adding at the end of paragraph (1) the following: “For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies)
and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 5091(m)(4) of the Omnibus Budget Reconciliation Act of 1993.''

(F) in the first sentence of paragraph (2)(A), by striking “by policy number” and inserting “by standard package”;

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: “Paragraph (1)(B) shall not apply to a policy until 12 months following issue.”;

(H) in the last sentence of paragraph (2)(A), by striking “in order” and all that follows through “are effective”;

(I) by adding at the end of paragraph (2)(A), the following new sentence: “In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 5091(m)(4) of the Omnibus Budget Reconciliation Act of 1993.’’;

(J) in paragraph (2), by striking “policy year” each place it appears and inserting “calendar year”;}
(K) in paragraph (4), by striking “February”, “disallowance”, “loss-ratios” each place it appears, and “loss-ratio” and inserting “October”, “disallowance”, “loss ratios”, and “loss ratio”, respectively;

(L) in paragraph (6)(A), by striking “issues a policy in violation of the loss ratio requirements of this subsection” and “such violation” and inserting “fails to provide refunds or credits as required in paragraph (1)(B)” and “policy issued for which such failure occurred”, respectively; and

(M) in paragraph (6)(B), by striking “to policyholders” and inserting “to the policyholder or, in the case of a group policy, to the certificate holder”.

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking “subsection (F)” and inserting “subparagraph (F)”.

(3) Section 4355(d) of OBRA-1990 is amended by striking “sold or issued” and all that follows and inserting “issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after
the date specified in section 1882(p)(1)(C) of such Act.”.

(f) **TREATMENT OF HMO’S.**—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking “a health maintenance organization or other direct service organization” and all that follows through “1833” and inserting “an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1994, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)”.

(2) Section 4356(b) of OBRA-1990 is amended by striking “on the date of the enactment of this Act” and inserting “on the date specified in section 1882(p)(1)(C) of the Social Security Act”.

(g) **PRE-EXISTING CONDITION LIMITATIONS.**—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—
(1) in paragraph (2)(A), by striking “for which
an application is submitted” and inserting “in the
case of an individual for whom an application is sub-
mitted prior to or”;

(2) in paragraph (2)(A), by striking “in which
the individual (who is 65 years of age or older) first
is enrolled for benefits under part B” and inserting
“as of the first day on which the individual is 65
years of age or older and is enrolled for benefits
under part B”, and

(3) in paragraph (2)(B), by striking “before it”
and inserting “before the policy”.

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is
amended—

(A) in paragraph (1), by inserting “med-i-
care supplemental” after “If a”,

(B) in paragraph (1), by striking “NAIC
Model Standards” and inserting “1991 NAIC
Model Regulation or 1991 Federal Regulation”,

(C) in paragraph (1)(A), by inserting “or
agreements” after “contracts”,

(D) in subparagraphs (E)(i) and (F) of
paragraph (1), by striking “NAIC standards”
and inserting “standards in the 1991 NAIC
Model Regulation or 1991 Federal Regulation”,

and

(E) in paragraph (2), by inserting “the issuer” before “is subject to a civil money penalty”.

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(A) by inserting “that is” after “(or”, and

(B) by striking “1882(t)” and inserting “1882(t)(3)”.

(i) Health Insurance Counseling.—Section 4360 of OBRA-1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking “Act” and inserting “Act);”;

(2) in subsection (b)(2)(D), by striking “services” and inserting “counseling”;

(3) in subsection (b)(2)(I), by striking “assistance” and inserting “referrals”;

(4) in subsection (c)(1), by striking “and that such activities will continue to be maintained at such level”;

(5) in subsection (d)(3), by striking “to the rural areas” and inserting “eligible individuals residing in rural areas”; and

(6) in subsection (e)—
(A) by striking “subsection (c) or (d)” and inserting “this section”,

(B) by striking “and annually thereafter, issue an annual report” and inserting “and annually thereafter during the period of the grant, issue a report”, and

(C) in paragraph (1), by striking “State-wide;”,

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b-2) is amended—

(A) by adding at the end of the heading the following: “; MEDICARE AND MEDIGAP INFORMATION”,

(B) by inserting “(a)” after “1804.”, and

(C) by adding at the end the following new subsection:
“(b) The Secretary shall provide information via a
toll-free telephone number on the programs under this
title.”.

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is
amended by adding at the end the following new
paragraph:

“(3) The Secretary shall provide information via a
toll-free telephone number on medicare supplemental poli-
cies (including the relationship of State programs under
title XIX to such policies).”.

(3) Section 1889 (42 U.S.C. 1395zz) is re-
pealed.

(k) Mailing of Policies.—Section 1882(d)(4) (42
U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking “, if such
policy” and all that follows up to the period at the
end, and

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

“(E) Subparagraph (A) shall not apply in the case
of an issuer who mails or causes to be mailed a policy,
certificate, or other matter solely to comply with the re-
quirements of subsection (q).”. 
(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA-1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA-1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1994, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1994, and who were not covered under such section before January 1,
1994, the 6-month period specified in that section shall begin January 1, 1994).

(m) Transition Provisions.—

(1) In general.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC Standards.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the “NAIC”) modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with “unless”, such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(3) Secretary Standards.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such para-
graph, the Secretary of Health and Human Services shall make the modifications described in such para-
graph and such modifications shall be considered to be part of that Regulation for the purposes of sec-
tion 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

   (i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

   (ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Sec-
retary identifies as—

   (i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

   (ii) having a legislature which is not scheduled to meet in 1994 in a legislative
session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle B—Medicaid Program and Other Health Care Provisions

SEC. 5100. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) References to OBRA.—In this subtitle, the terms “OBRA-1986”, “OBRA-1987”, “OBRA-1989”, and “OBRA-1990” refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omni-
bus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), respectively.

(c) Table of Contents of Subtitle.—The table of contents of this subtitle is as follows:

Subtitle B—Medicaid Program and Other Health Care Provisions
Sec. 5100. References in subtitle; table of contents of subtitle.

Chapter 1—Medicaid Program
Subchapter A—Program Savings Provisions
Part I—Repeal of Mandate
Sec. 5101. Personal care services furnished outside the home as optional benefit.

Part II—Outpatient Prescription Drugs
Sec. 5106. Permitting prescription drug formularies under State plans.
Sec. 5107. Elimination of special exemption from prior authorization for new drugs.
Sec. 5108. Technical corrections relating to section 4401 of OBRA-1990.

Part III—Restrictions on Divestiture of Assets and Estate Recovery
Sec. 5111. Transfer of assets.
Sec. 5112. Medicaid estate recoveries.
Sec. 5113. Closing loophole permitting wealthy individuals to qualify for 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. 5182. National Vaccine Injury Compensation Program amendments.
Sec. 5183. Medicaid immunization provisions.
Sec. 5184. Availability of medicaid payments for childhood vaccine replacement programs.
Sec. 5185. Healthy start for infants.
Sec. 5186. Increase in authorization of appropriations for the Maternal and Child Health Services Block Grant Program.
Sec. 5187. Miscellaneous technical corrections to Public Health Service Act provisions.

CHAPTER 1—MEDICAID PROGRAM

Subchapter A—Program Savings Provisions

PART I—REPEAL OF MANDATE

SEC. 5101. PERSONAL CARE SERVICES FURNISHED OUTSIDE THE HOME AS OPTIONAL BENEFIT.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 5174(c)(1), is further amended—

(1) in paragraph (7), by striking “including personal care services” and all that follows through “nursing facility”;
(2) in paragraph (23), by striking “and” at the end;

(3) by redesignating paragraph (24) as paragraph (25); and

(4) by inserting after paragraph (23) the following new paragraph:

“(24) personal care services furnished to an individual who is not an inpatient or resident of a nursing facility that are (A) authorized by a physician for the individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual’s family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; and”.

(b) Conforming Amendments.—(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 5174(c)(2)(A), is amended by striking “through (23)” and inserting “through (24)”.

(2) Section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 5174(c)(2)(B), is amended by striking “through (24)” and inserting “through (25)”.

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 4721(a) of OBRA-90.
PART II—OUTPATIENT PRESCRIPTION DRUGS

SEC. 5106. PERMITTING PRESCRIPTION DRUG FORMULARIES UNDER STATE PLANS.

(a) Elimination of Prohibition Against Use of Formularies.—Paragraph (54) of section 1902(a)(54) (42 U.S.C. 1396a(a)(54)) is amended to read as follows:

"(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;".

(b) Standards for Formularies.—Section 1927(d) (42 U.S.C. 1396r-8(d)), as amended by sections 5107(a) and 5108(b)(4)(A)(iii), is amended—

1. by adding at the end of paragraph (1) the following new subparagraph:

"(C) In the case of a State that establishes a formulary in accordance with paragraph (5), the State may exclude coverage of a covered outpatient drug that is not included in the formulary."; and

2. by inserting after paragraph (4) the following new paragraph:

"(5) Requirements for Formularies.—A State may establish a formulary only if the following requirements are met:

(A) The formulary is established by a committee consisting of physicians, phar-
macists, and other appropriate individuals appointed by the Governor of the State (or, at the option of the State, the State's drug use review board established under subsection (g)(3)).

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under subsection (a).

"(C) The committee may exclude a covered outpatient drug with respect to the treatment of a specific disease or condition for an identified population (if any) only if the committee finds, based on the drug's labeling (or, in the case of a drug whose prescribed use is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (k)(6)), that the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary.
“(D) With respect to a decision to exclude a covered outpatient drug from the formulary or a prescribed use of such a drug, the committee issues a written explanation of its decision that is available to the public, unless the decision was made at a meeting of the committee which was open to the public.

“(E) The manufacturer of the drug, and any person affected by the decision, may obtain a reversal of the committee’s decision to exclude a covered outpatient drug from the formulary under subparagraph (C) on the ground that the decision was arbitrary and capricious, in accordance with an appeals process that is established by the State and that provides an opportunity for judicial review of such decision.

“(F) The State plan permits coverage of a drug excluded from the formulary pursuant to a prior authorization program that is consistent with paragraph (4).

“(G) The formulary meets such other requirements as the Secretary may impose.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or
not regulations to carry out such amendments have been promulgated by such date.

SEC. 5107. ELIMINATION OF SPECIAL EXEMPTION FROM PRIOR AUTHORIZATION FOR NEW DRUGS.

(a) In General.—Section 1927(d) (42 U.S.C. 1396r–8(d)), as amended by section 5108(b)(4)(A)(iii), is amended by striking paragraph (5).

(b) Conforming Amendment.—Section 1927(d)(3) (42 U.S.C. 1396r–8(d)(3)) is amended by striking “(except with respect” and all that follows through “of this paragraph)”.

(c) Effective Date.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 5108. TECHNICAL CORRECTIONS RELATING TO SECTION 4401 OF OBRA–1990.

(a) Section 1903, SSA.—Paragraph (10) of section 1903(i), as inserted by section 4401(a)(1)(B) of OBRA–1990, is amended to read as follows:

“(10) with respect to covered outpatient drugs unless there is a rebate agreement in effect under section 1927 with respect to such drugs or unless section 1927(a)(3) applies;”.

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(b) **Section 1927, SSA.—** (1) Section 1927(a) (42 U.S.C. 1396r-8(a)) is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows: "Any such agreement entered into prior to April 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.", and

(ii) in the third sentence, by striking "March" and inserting "April";

(B) in paragraph (2)—

(i) by striking "first", and

(ii) by striking the period at the end and inserting the following: ", except that such paragraph (and section 1903(i)(10)(A)) shall not apply to the dispensing of such a drug before April 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.";

(C) in paragraph (3), by striking "single source" and all that follows and inserting the following: "covered outpatient drugs if—
“(A) based on information provided by a beneficiary’s physician, the State has made a determination that the availability of the drug is essential to the health of the beneficiary under the State plan, and the Secretary has reviewed and approved such determination; and

“(B) the drug has been given a rating of 1-A by the Food and Drug Administration.”;

(D) in paragraph (4)—

(i) by striking “in compliance with” and inserting “in effect under”, and

(ii) by striking “coverage of the manufacturer’s drugs” and inserting “ingredient costs of the manufacturer’s covered outpatient drugs covered”;

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

“(5) APPLICATION IN CERTAIN STATES AND TERRITORIES.—

“(A) APPLICATION IN STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of section
1902(a)(54) and of this section in the same manner as the State would be required to meet such requirements if the State had in effect a plan approved under this title.

“(B) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section, and sections 1902(a)(54) and 1903(i)(10), shall only apply to a State that is one of the 50 States or the District of Columbia.”.

(2) Section 1927(b) (42 U.S.C. 1396r-8(b)) is amended—

(A) in paragraph (1)(A)—

(i) by striking “(or periodically in accordance with a schedule specified by the Secretary)” and inserting “(or other period specified by the Secretary)”, and

(ii) by inserting “after December 31, 1990, for which payment was made” after “dispensed”;

(B) in paragraph (2)(A)—

(i) by striking “calendar quarter” and “the quarter” and inserting “rebate period” and “the period”, respectively,
(ii) by striking “dosage units” and inserting “units of each dosage form and strength”, and

(iii) by inserting “after December 31, 1990, for which payment was made” after “dispensed”;

(C) in paragraph (3)(A)—

(i) in clause (i), by striking “quarter” each place it appears and inserting “calendar quarter or other rebate period under the agreement”,

(ii) in clause (i), by striking the open parenthesis before “for” and the close parenthesis after “drugs”,

(iii) in clause (i), by striking “subsection (c)(2)(B)) for covered outpatient drugs” and inserting “subsection (c)(1)(C) for each covered outpatient drug”, and

(iv) in clause (ii), by inserting a comma after “this section” and after “1990”; 

(D) in paragraph (3)(B)—

(i) by striking “$100,000” and inserting “$10,000”,

(ii) by striking “if the wholesaler” and inserting “for each instance in which the wholesaler”,
(iii) by inserting “‘in response to such a request’” after “‘false information’, and
(iv) by striking “‘(with respect to amounts of penalties or additional assessments)’”;
(E) in paragraph (3)(C)—
(i) in clause (i), by striking “‘the penalty’” and inserting “‘the rebate next required to be paid’”,
(ii) in clause (i), by striking “‘and such amount shall be paid to the Treasury, and, if’” and inserting “‘. If’”,
(iii) in clause (ii), by inserting “‘under subparagraph (A)’” after “‘provides false information’”, and
(iv) in clause (ii), by striking “‘Such civil money penalties are’” and inserting “‘Any such civil money penalty shall be’”;
(F) in paragraph (3)(D), by striking “‘wholesaler,’” the first place it appears and inserting “‘wholesaler or the’”; and
(G) in paragraph (4)(B)(iii), by adding at the end the following: “In the case of such a termination, a State may terminate coverage of the drugs affected by such termination as of the effective date
of such termination without providing any advance
notice otherwise required by regulation.”.

(3) Section 1927(c) (42 U.S.C. 1396r-8(c)) is
amended—

(A) in paragraph (1) in the matter preceding
subparagraph (A)—

(i) by striking the first sentence,
(ii) in the second sentence, by striking
“Except as otherwise provided” and all that fol-
lows through “the Secretary)” and inserting the
following: “For purposes of this section, the
amount of the rebate under this subsection for
a rebate period”, and
(iii) by inserting “(except as provided in
subsection (b)(3)(C) and paragraph (2))” after
“drugs shall”;

(B) in paragraph (1)(A), by striking “the quar-
ter (or other period)” and inserting “the rebate pe-
period”;

(C) in subparagraph (C)—

(i) by striking “For purposes of this para-
graph” and inserting “B E S T P R I C E D E F I N E D .—
For purposes of this section”,
(ii) by inserting “provider,” after “re-
tailer,”, and
(iii) by striking the semicolon at the end and inserting a period; and
(D) by striking subparagraph (D) and inserting the following:

``
(D) USE OF ESTIMATED BEST PRICES DURING INITIAL YEAR OF AVAILABILITY OF DRUG.—If the Secretary determines that a manufacturer cannot determine the best price for rebate periods during the first year in which an agreement is in effect until after the end of the year, as part of the agreement the Secretary may require the manufacturer to estimate the best price for rebate periods during the year and provide an adjustment to the rebate paid to the State to take into account the difference (if any) between the best price and the estimated best price.”.
``

(4)(A) Section 1927(d) (42 U.S.C. 1396r–8(d)) is amended—

(i) in paragraph (2)—

(I) in subparagraph (A), by inserting “or loss” after “gain”,

(II) by striking subparagraph (I), and

(III) by redesignating subparagraphs (J) and (K) as subparagraphs (I) and (J);
(ii) in paragraph (3)—

(I) by striking “described in paragraph (2)'', and
(II) by inserting “described in paragraph (2)” after “classes of drugs’’;
(iii) by striking paragraph (4) and by redesignating paragraphs (5) through (7) as paragraphs (4) through (6);
(iv) in paragraph (6), as so redesignated, by striking “provided’’ and inserting “if’’; and
(v) by striking the second sentence of paragraph (6), as so redesignated, and paragraph (8) and inserting the following:

“(7) CONSTRUCTION WITH RESPECT TO FRAUD AND ABUSE.—Nothing in this section shall be construed to restrict the authority of a State to apply sanctions under this Act against any person for fraud or abuse.’’.

(B) Section 1927(d)(4), as redesignated by subparagraph (A)(iii), shall first apply to drugs dispensed on or after July 1, 1991.

(5)(A) Section 1927(f) (42 U.S.C. 1396r-8(f)) is amended to read as follows:

“(f) NO REDUCTIONS IN PHARMACY REIMBURSEMENT LIMITS.—
“(1) IN GENERAL.—During the period beginning on November 5, 1990, and ending on December 31, 1994—

“(A) a State may not reduce the amount paid by the State under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug below the amount in effect as of November 5, 1990, and

“(B) the Secretary may not change the regulations in effect on November 5, 1990, governing the amounts described in subparagraph (A) which are eligible for Federal financial participation, to reduce the reimbursement limits described in such regulations.

“(2) CONSTRUCTION.—If the Secretary notified a State before November 5, 1990, that its payment amounts under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug were in excess of those permitted under regulations in effect on such date, paragraph (1)(B) shall not be construed as preventing a State from reducing payment amounts or dispensing fee in order to comply with such regulations.”.
(B) Not later than April 1, 1994, the Secretary of Health and Human Services shall establish an upper limit on the amount of payment which is eligible for Federal financial participation under title XIX of the Social Security Act for each multiple source drug (as defined in section 1927(k)(7)(A)(i) of such Act) for which the Food and Drug Administration has rated at least 3 formulations of such drug as therapeutically and pharmaceutically equivalent, regardless of whether all the formulations of such drug are rated as so equivalent. In establishing such a limit for a drug, the Secretary shall take into account only those formulations of the drug which the Food and Drug Administration has rated as therapeutically and pharmaceutically equivalent.

(6) Section 1927(g) (42 U.S.C. 1396r-8(g)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) REQUIREMENT FOR DRUG USE REVIEW PROGRAM.—Each State shall provide, by not later than January 1, 1993, for a drug use review program for covered outpatient drugs (other than drugs dispensed to residents of nursing facilities) that—

(A) meets the requirements of paragraph (2), and
"(B) is intended to assure that prescriptions for such drugs are appropriate, medically necessary, and not likely to lead to adverse medical results.")

(B) in paragraph (2) —

(i) by amending the matter before subparagraph (A) to read as follows:

"(2) REQUIREMENTS.—",

(ii) by amending subparagraph (A) to read as follows:

"(A) PROSPECTIVE DRUG USE REVIEW.— Each drug use review program shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title (including counseling by pharmacists) consistent with standards established by the Secretary. Nothing in this paragraph shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation."

(iii) in subparagraph (C) —
(I) by striking “APPLICATION OF STANDARDS.—” and inserting “STANDARDS.—(i)”,

(II) by striking “and literature referred to in subsection (1)(B)” and inserting “described in clause (ii)”,

(III) by striking “including but not limited to” and inserting “. Such assessment shall include”,

(IV) by striking “abuse/misuse and, as necessary, introduce remedial strategies,” and inserting “abuse or misuse and introduce remedial strategies”, and

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

“(ii) The compendia described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, and the American Medical Association Drug Evaluations.”, and

(iv) by amending subparagraph (D) to read as follows:

“(D) EDUCATIONAL PROGRAM.—The program shall educate (directly or by contract)
pharmacists, physicians, and other individuals
prescribing or dispensing covered outpatient
drugs under the State plan on common drug
therapy problems in order to improve prescrib-
ing or dispensing practices.”;

(C) in paragraph (3)—

(i) in subparagraph (A), by striking
“(hereinafter” and all that follows and inserting
“(in this paragraph referred to as the ‘DUR
Board’).”,

(ii) in subparagraph (B), by striking “51
percent” and all that follows and inserting “50
percent licensed and actively practicing physi-
cians and at least 1/3 but not more than 50
percent licensed and actively practicing phar-
macists.”,

(iii) by amending subparagraph (C) to
read as follows:

“(C) Responsibilities.—The responsibil-
ities of the DUR Board shall include the follow-
ing:

“(i) Carrying out retrospective drug
use review pursuant to paragraph (2)(B).
“(ii) Establishing and applying standards for drug use review described in paragraph (2)(C).

“(iii) Implementing educational programs described in paragraph (2)(D).

“(iv) Conducting ongoing evaluations of the effectiveness of its programs and activities in improving the quality and safety of drug therapy for individuals receiving benefits under the State plan.”; and

(D) by amending subparagraph (D) to read as follows:

“(4) Annual report.—Each State shall submit a report each year to the Secretary on the nature and scope of the drug use review program under this subsection. Such report shall include an estimate of cost savings resulting from operation of such program.”.

(7) Section 1927(h) (42 U.S.C. 1396r–8(h)) is amended to read as follows:

“(h) Encouraging Electronic Claims Management.—The Secretary shall encourage each single State agency under this title to establish, as its principal means of processing claims for covered outpatient drugs, a point-of-sale electronic claims management system for the pur-
pose of verifying eligibility, transmitting data on claims, and assisting pharmacists and other authorized persons in applying for and receiving payment under the State plan.”.

(8) Section 1927(i) (42 U.S.C. 1396r-8(i)) is amended to read as follows:

“(i) Annual Report on Rebate Program.—Not later than May 1 of each year, the Secretary shall submit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Aging of the Senate a report on the operation of the rebate agreements required for covered outpatient drugs under this section in the preceding fiscal year, and shall include in the report such information in addition to the information required to be reported under section 601(d) of the Veterans Health Care Act of 1992 as the Secretary considers appropriate.”.

(9) Section 1927(j) (42 U.S.C. 1396r-8(j)) is amended to read as follows:

“(j) Exemption From Certain Requirements for Certain Health Maintenance Organizations and Hospitals.—

“(1) Certain Health Maintenance Organizations and Pharmacies.—The requirements of
subsection (g) and (h) shall not apply with respect to covered outpatient drugs dispensed by—

“(A) an entity which receives payment under a prepaid capitation basis or under any other risk basis in accordance with section 1903(m)(2)(A) for services provided under the State plan; or

“(B) a pharmacy that is owned or operated by a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) that operates its own prospective drug use review program.

“(2) HOSPITALS WITH INDEPENDENT FORMULARY SYSTEMS.—

“(A) IN GENERAL.—The requirements of subsections (g) and (h) shall not apply with respect to covered outpatient drugs dispensed by a hospital providing medical assistance under the State plan that dispenses such drugs under a drug formulary system.

“(B) APPLICATION OF STATE FORMULARY.—Nothing in subparagraph (A) shall be construed to permit payment to be made under the State plan for a covered outpatient drug that is included in a drug formulary but
that is not included in the State formulary under subsection (d)(5).

“(3) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in this subsection shall be construed to exclude any covered outpatient drugs subject to the provisions of this subsection from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.”.

(10) Section 1927(k) (42 U.S.C. 1396r–8(k)) is amended—

(A) in paragraph (1), by striking “calendar quarter” and inserting “rebate period”;

(B) in paragraph (2)—

(i) in the matter before clause (i) of subparagraph (A), by striking “paragraph (5)” and inserting “subparagraph (D)”,

(ii) by striking “, and” at the end of subparagraph (A),

(iii) by striking the period at the end of subparagraph (C) and inserting “; and”, and

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

“(D) a drug which may be sold without a prescription (commonly referred to as an ‘over-the-counter drug’), if the drug is prescribed by
a physician (or other person authorized to pre-
scribe under State law).’’;
(C) in paragraph (3)—
    (i) in subparagraph (E), by striking ‘‘****
emergency room visits’’,
    (ii) in subparagraph (F), by striking
‘‘sevices’’ and inserting ‘‘services’’, and
    (iii) in subparagraph (H), by inserting
‘‘services’’ after ‘‘dialysis’’;
(D) by striking paragraph (4);
(E) by amending paragraph (5) to read as fol-
lows:
“(5) MANUFACTURER.—The term ‘manufac-
turer’ means, with respect to a covered outpatient
drug,—
    “(A) the entity (if any) that both manufac-
tures and distributes the drug, or
    “(B) if no such entity exists, the entity
that distributes the drug.
Such term does not include a wholesale distributor
of the drug that does not hold a National Drug Code
number for the drug or a retail pharmacy licensed
under State law.’’;
(F) in paragraph (6), by striking ‘‘, which ap-
ppears’’ and all that follows and inserting ‘‘which is
accepted by any of the compendia described in sub-
section (g)(2)(C)(ii).”;

(G) in paragraph (7)—

(i) in subparagraph (A)(i), by striking "calendar quarter" and inserting "rebate pe-

(ii) in subparagraph (A)(i), by striking "paragraph (5)" and inserting "paragraph (2)(D)";

(iii) in subparagraph (A)(ii), by inserting "or product licensing application" after "appli-

(iv) in subparagraph (C)(i), by striking "pharmaceutically" and inserting "pharma-

(v) in subparagraph (C)(iii), by striking ", provided that" and inserting "and"; and

(H) by redesignating paragraph (8) as para-

paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Rebate Period.—The term ‘rebate pe-

riod’ means, with respect to an agreement under subsection (a), a calendar quarter or other period specified with respect to the agreement under sub-

section (b)(1)(A) for the payment of rebates.".
(d) **Funding.**—Section 4401(b)(2) of OBRA-1990 is amended by striking “75 percent,” and all that follows and inserting “75 percent.”

(e) **Demonstration Projects.**—Section 4401(c)(1) of OBRA-1990 is amended—

(A) in subparagraph (A), by striking “10” and inserting “5”; and

(B) in subparagraph (C), by striking “regiment” and inserting “regimen”.

(f) **Studies.**—Section 4401(d) of OBRA-1990 is amended—

(1) in paragraph (1)(A), by striking “other institutional facilities, and managed care plans” and inserting “nursing facilities, intermediate care facilities for the mentally retarded, and health maintenance organizations”;

(2) in paragraph (1)(B), by striking “under this subsection” and inserting “under this paragraph”;

(3) in paragraph (1)(B)(i), by striking “under this section” and inserting “under section 1927 of the Social Security Act”;

(4) in paragraph (1)(B)(ii)—
(A) by striking “drug use review” the second place it appears and inserting “the type of drug use review that is”, and

(B) by striking “under this section” and inserting “under such section”;

(5) in paragraph (1)(B)(iii), by striking “under this title” and inserting “under title XIX of the Social Security Act”;

(6) in paragraph (1)(C)—

(A) by striking “May 1, 1991” and inserting “May 1, 1992”, and

(B) by striking “hereafter”;

(7) in paragraph (2), by striking “the Committees on Aging of the Senate and House of Representatives an annual report” and inserting “the Committee on Aging of the Senate a report”;

(8) in paragraph (3)—

(A) in subparagraph (A), by striking “, acting in consultation with the Comptroller General,”, and

(B) in subparagraph (B)—

(i) by striking “December 31, 1991, the Secretary and the Comptroller General” and inserting “June 1, 1993, the Secretary”, and
(ii) by striking “the Committees on Aging of the Senate and the House of Representa-
tives” and inserting “the Committee on Aging of the Senate”; (9) in paragraph (4)(A), by striking “each” and by striking the semicolon and inserting a comma; and (10) by striking paragraphs (5) and (6).

PART III—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

SEC. 5111. TRANSFER OF ASSETS.

(a) Period of Ineligibility.—

(1) Extending look-back period to 36 months.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended by striking “30-month period” and inserting “36-month period”.

(2) Eliminating 30-month limit on period of ineligibility.—The second sentence of such section is amended by striking “equal to” and all that follows and inserting the following: “equal to—

“(A) the total uncompensated value of the resources so transferred; divided by

“(B) the average monthly cost, to a private pa-
tient at the time of the application, of nursing facil-
ity services in the State or, at State option, in the
community in which the individual is institutionalized.”.

(3) **Cumulative periods of ineligibility in the case of multiple transfers.**—Such sentence is further amended by inserting “(or, in the case of a transfer which occurs during a period of ineligibility attributable to a previous transfer, the first month after the end of all periods of ineligibility attributable to any previous transfer)” after “shall begin with the month in which such resources were transferred”.

(b) **Criteria for undue hardship exception.**—Section 1917(c)(2)(D) (42 U.S.C. 1396p(c)(2)(D)) is amended to read as follows:

“(D) the State agency determines, under procedures established by the State (in accordance with standards specified by the Secretary) that the denial of eligibility would work an undue hardship (in accordance with criteria established by the Secretary).”.

(c) **Treatment of jointly held assets.**—Section 1917(c) (42 U.S.C. 1936p(c)) is further amended by adding at the end the following new paragraph:

“(6) For purposes of this subsection, in the case of an asset held by an individual in common with another
person or persons in a joint tenancy or a similar arrange-
ment, the asset (or the affected portion thereof) shall be
considered to be transferred by such individual when any
action is taken, either by such individual or by any other
person, that reduces or eliminates such individual’s owner-
ship or control of such asset.”.

(d) MEDICAID QUALIFYING TRUSTS.—Section
1902(k) (42 U.S.C. 1396a(k)) is amended to read as fol-
lows:

“(k) TREATMENT OF TRUST AMOUNTS.—

“(1) IN GENERAL.—For purposes of determin-
ing an individual’s eligibility for or amount of bene-
fits under a State plan under this title, subject to
paragraph (4), the following rules shall apply to a
trust (which term includes, for purposes of this sub-
section, any similar legal instrument or device, such
as an annuity) established by such individual:

“(A) REVOCABLE TRUSTS.—In the case of

a revocable trust—

“(i) the corpus of the trust shall be

considered resources available to the indi-

vidual,

“(ii) payments from the trust to or

for the benefit of the individual shall be

considered income of the individual, and
“(iii) any other payments from the trust shall be considered a transfer of assets by the individual subject to section 1917(c).

“(B) IRREVOCABLE TRUSTS WHICH MAY BENEFIT GRANTOR.—In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual—

“(i) the corpus of the trust (or that portion of the corpus from which, or from the increase whereof, payment to the individual could be made) shall be considered resources available to the individual, and payments from that portion of the corpus (or increase)—

“(I) to or for the benefit of the individual, shall be considered income of the individual, and

“(II) for any other purpose, shall be considered a transfer of assets by the individual subject to the provisions of section 1917(c); and

“(ii) any portion of the trust from which (or from the income whereof) no
payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed), a transfer of assets by the individual subject to section 1917(c), and payments from such portion of the trust after such date shall be disregarded.

“(C) IRREVOCABLE TRUSTS WHICH CANNOT BENEFIT GRANTOR.—In the case of an irrevocable trust, if no payment may be made from the trust under any circumstances to or for the benefit of the individual—

“(i) the corpus of the trust shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed), a transfer of assets subject to section 1917(c), and

“(ii) payments from the trust after the date specified in clause (i) shall be disregarded.

“(2) DETERMINATION OF GRANTOR.—
“(A) TREATMENT OF ACTS BY INDIVIDUAL
AND OTHERS.—For purposes of this subsection, an individual shall be considered to have established a trust if—
“(i) the individual (or the individual’s spouse), or a person (including a court or administrative body) with legal authority to act in place of or on behalf of such individual (or spouse), or any person (including any court or administrative body) acting at the direction or upon the request of such individual (or spouse), established (other than by will) such a trust, and
“(ii) assets of the individual (as defined in subparagraph (B)) were used to form all or part of the corpus of such trust.
“(B) ASSETS.—For purposes of this paragraph, assets of an individual include all income and resources of the individual and of the individual’s spouse, including any income or resources which the individual (or spouse) is entitled to but does not receive because of action by the individual (or spouse), by a person (including a court or administrative body) with legal
authority to act in place of or on behalf of such individual (or spouse), or by any person (including any court or administrative body) acting at the direction or upon the request of such individual (or spouse).

"(C) TRUSTS CONTAINING ASSETS OF MORE THAN ONE INDIVIDUAL.—In the case of a trust whose corpus includes assets of an individual (as determined pursuant to subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(3) APPLICATION; RELATION TO OTHER PROVISIONS.—Subject to paragraph (4), this subsection shall apply without regard to—

"(A) the purposes for which the trust is established,

"(B) whether the trustees have or exercise any discretion under the trust,

"(C) any restrictions on when or whether distributions may be made from the trust, or

"(D) any restrictions on the use of distributions from the trust.

"(4) EXCEPTIONS AND HARDSHIP WAIVER.—
“(A) Exception for certain trusts.—
This subsection shall not apply to any of the following trusts:

“(i) A trust established for the benefit of a disabled individual (as determined under section 1614(a)(3)) by a parent, grandparent, or other representative payee of the individual.

“(ii) A trust established in a State for the benefit of an individual if—

“(I) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),

“(II) the State will receive any amounts remaining in the trust upon the death of the individual, and

“(III) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V), but does not make such assistance available to any group of individuals under section 1902(a)(10)(C).
"(B) **Special treatment of annuities.**—In this subsection, the term ‘trust’ includes an annuity only to such extent and in such manner as the Secretary specifies.

"(C) **Hardship waiver.**—The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection with respect to an individual if the individual establishes (under criteria established by the Secretary) that such application would work an undue hardship on the individual."

(e) **Effective date.**—(1) The amendments made by this section shall apply, except as provided in this subsection, to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before October 1, 1993,
(B) with respect to resources disposed of before May 11, 1993,
(C) with respect to trusts established before May 11, 1993, or
(D) with respect to inter-spousal transfers.

SEC. 5112. MEDICAID ESTATE RECOVERIES.

(a) REQUIRING ESTABLISHMENT OF ESTATE RECOVERY PROGRAMS.—

(1) IN GENERAL.—Section 1902(a)(51) (42 U.S.C. 1396a(a)(51)) is amended by striking “and (B)” and inserting “(B) provide for an estate recovery program that meets the requirements of section 1917(b)(1), and (C)”.

(2) REQUIREMENTS FOR ESTATE RECOVERY PROGRAMS.—Section 1917(b) (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1)—

(i) by striking “(b)(1)” and inserting “(2)”, and

(ii) by striking “(a)(1)(B)” and inserting “(a)(1)(B)(i)”;

(B) in paragraph (2), by striking “(2) Any adjustment or recovery under” and inserting “(3) Any adjustment or recovery under an estate recovery program under”; and
(C) by inserting before paragraph (2), as designated by subparagraph (A), the following:

“(b)(1) For purposes of section 1902(a)(51)(B), the requirements for an estate recovery program of a State are as follows:

“(A) The program provides for identifying and tracking (and, at the option of the State, preserving) resources (whether excluded or not) of individuals who are furnished any of the following long-term care services for which medical assistance is provided under this title:

“(i) Nursing facility services.

“(ii) Home and community-based services (as defined in section 1915(d)(5)(C)(i)).

“(iii) Services described in section 1905(a)(14) (relating to services in an institution for mental diseases).

“(iv) Home and community care provided under section 1929.

“(v) Community supported living arrangements services provided under section 1930.

“(B) The program provides for promptly ascertaining—

“(i) when such an individual dies;
“(ii) in the case of such an individual who was married at the time of death, when the surviving spouse dies; and

“(iii) at the option of the State, cases in which adjustment or recovery may not be made at the time of death because of the application of paragraph (3)(A) or paragraph (3)(B).

“(C)(i) The program provides for the collection consistent with paragraph (3) of an amount (not to exceed the amount described in clause (ii)) from—

“(I) the estate of the individual;

“(II) in the case of an individual described in subparagraph (B)(ii), from the estate of the surviving spouse; or

“(III) at the option of the State, in a case described in subparagraph (B)(iii), from the appropriate person.

“(ii) The amount described in this clause is the amount of medical assistance correctly paid under this title for long-term care services described in subparagraph (A) furnished on behalf of the individual.”.

(b) HARDSHIP WAIVER.—Section 1917(b) (42 U.S.C. 1396p(b)) is further amended by adding at the end the following new paragraph:
“(4) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection if such application would work an undue hardship (in accordance with criteria established by the Secretary).”.

(c) Definition of Estate.—Section 1917(b) (42 U.S.C. 1396(b)) is further amended by adding at the end the following new paragraph:

“(5) For purposes of this section, the term ‘estate’, with respect to a deceased individual, includes all real and personal property and other assets in which the individual had any legally cognizable title or interest at the time of his death, including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, survivorship, life estate, living trust, or other arrangement.”.

(d) Effective Date.—

(1)(A) The amendments made by subsections (a) and (b) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations or standards to carry out
such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply to individuals who died before October 1, 1993.
SEC. 5113. CLOSING LOOPHOLE PERMITTING WEALTHY INDIVIDUALS TO QUALIFY FOR MEDICAID.

(a) IN GENERAL.—Section 1902(r)(2) (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following:

"(C)(i) Notwithstanding subparagraph (A), except as provided in clause (ii), a State plan may not provide pursuant to this paragraph for disregarding any assets—

"(I) to the extent that payments are made under a long-term care insurance policy; or

"(II) because an individual has received (or is entitled to receive) benefits for a specified period of time under a long-term care insurance policy.

"(ii) Clause (i) shall not apply to State plan provisions that are approved as of May 14, 1993."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART IV—IMPROVEMENT IN IDENTIFICATION AND COLLECTION OF THIRD PARTY PAYMENTS

SEC. 5116. LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES.

(a) LIABILITY OF ERISA PLANS.—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking "insurers)" and inserting "insurers and group health plans (as defined in section 607(1) of the Employee
Retirement Income Security Act of 1974) and including a service benefit plan and a health maintenance organization”.

(2) Section 1903(o) of such Act (42 U.S.C. 1396b(o)) is amended by striking “regulation)” and inserting “regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974)), a service benefit plan, and a health maintenance organization”.

(b) Requiring State to Prohibit Insurers from Taking Medicaid Status into Account.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking “and” at the end of subparagraph (F);

(2) by adding “and” at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

“(H) that the State prohibits any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a service benefit plan, and a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or
on the individual’s behalf, from taking into account that the individual is eligible for or is provided medical assistance under a State plan;”.

(c) **State Right to Subrogation.**—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by subsection (b), is further amended—

(1) by striking “and” at the end of subparagraph (G);

(2) by adding “and” at the end of subparagraph (H); and

(3) by adding after subparagraph (H) the following new subparagraph:

“(I) that to the extent that payment has been made under the State plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State is subrogated to the right of any other party to payment for such assistance;”.

(d) **Effective Date.**—(1) Except as provided in paragraph (2), the amendments made by subsections (a)(1), (b), and (c) shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.
(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(3) The amendment made by subsection (a)(2) shall apply to items and services furnished on or after October 1, 1993.

SEC. 5117. HEALTH COVERAGE CLEARINGHOUSE.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:
TITLE XXI—HEALTH COVERAGE

CLEARINGHOUSE

ESTABLISHMENT OF CLEARINGHOUSE

Sec. 2101. (a) In General.—The Secretary shall establish and operate a Health Coverage Clearinghouse (in this title referred to as the ‘Clearinghouse’) for the purpose of identifying, for beneficiaries of a covered health program (as defined in subsection (c)), third parties (which may include a covered health program) which may be liable for payment for health care items and services furnished to such beneficiaries under such program.

(b) Director.—The Clearinghouse shall be headed by a Director (in this title referred to as the ‘Director’) appointed by the Secretary.

(c) Covered Health Program Defined.—In this title, the term ‘covered health program’ means any of the following under which payment is made for health care items or services furnished to a beneficiary:

(1) The medicare program under title XVIII.

(2) A State plan for medical assistance under title XIX (including a State plan operating under a Statewide waiver under section 1115).

(3) The Indian Health Service and any program under the Indian Health Care Improvement Act.
“(4) A State program under title V that provides payment for items or services.

“(d) Other Definitions.—In this title:

“(1) The term ‘administrator’ means, with respect to the covered health program described in—

“(A) subsection (c)(1), the Administrator of the Health Care Financing Administration;

“(B) subsection (c)(2), the single State agency referred to in section 1902(a)(5);

“(C) subsection (c)(3), the Director of the Indian Health Service; and

“(D) subsection (c)(4), the State agency receiving funds under title V.

“(2) The term ‘group health plan’ has the meaning given such term in section 6103(l)(12)(E)(ii) of such Code.

“(3) The term ‘qualified employer’ has the meaning given such term in section 6103(l)(12)(E)(iii) of the Internal Revenue Code of 1986.

“Provision of Information

“Sec. 2102. (a) Request for Information.—An administrator of a covered health program may request from the Director information concerning the employment and group health coverage of a program beneficiary, the beneficiary’s spouse, and (if the beneficiary is a dependent
child) the beneficiary’s parents. The Director shall provide such information if the request—

“(1) is in such form and manner and at such a time as the Director may require, and

“(2) specifies the name and tax identification number of the beneficiary.

“(b) Data Matching Program.—

“(1) Request by Director.—The Director shall, at such intervals as the Director finds appropriate, transmit to the Secretary of the Treasury the names and tax identification numbers of beneficiaries with respect to whom a request has been made pursuant to subsection (a), and request that such Secretary disclose to the Commissioner of Social Security the following information:

“(A) Whether the beneficiary is married and, if so, the name of the spouse and such spouse’s tax identification number.

“(B) If the beneficiary is a dependent child, the name of and tax identification numbers of the beneficiary’s parents.

“(2) Information from Commissioner of Social Security.—The Secretary, acting through the Commissioner of Social Security, shall, upon
written request from the Director, disclose to the Director, the following information:

“(A) For each individual who is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from, and as having available coverage under a group health plan of, an employer in a previous year—

“(i) the name and taxpayer identification number of the individual; 

“(ii) the name, address, and taxpayer identification number of the employer, and whether such employer is a qualified employer; and

“(iii) whether the employer has made available a group health plan to the employee and the plan coverage provided (if any) with respect to the employee and family members of the employee under the group health plan.

“(B) For each individual who is identified as married and whose spouse is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from, and as having available coverage under a
group health plan of, an employer in a previous year—

“(i) the name and taxpayer identification number of the individual and of the individual’s spouse;

“(ii) the name, address, and taxpayer identification number of the spouse’s employer, and whether such employer is a qualified employer; and

“(iii) whether the spouse’s employer has made available a group health plan to the spouse and the plan coverage provided (if any) with respect to the spouse and family members of the spouse under the group health plan.

“(C) For each individual who is identified as a dependent child and whose parent is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from, and as having available coverage under a group health plan of, an employer in a previous year—

“(i) the name and taxpayer identification number of the individual and of the individual’s parent;
“(ii) the name, address, and taxpayer identification number of the parent’s employer, and whether such employer is a qualified employer; and

“(iii) whether the parent’s employer has made available a group health plan to the parent and the plan coverage provided (if any) with respect to the parent and dependent children of the parent under the group health plan.

“(3) INFORMATION FROM EMPLOYERS.—The Director shall—

“(A) request, from the employer of each individual (including each spouse) with respect to whom information was received from the Commissioner of Social Security pursuant to paragraph (2), specific information concerning coverage of such individual (and of the individual’s spouse and dependent children) under the employer’s group health plan (including the period and nature of the coverage, and the name, address, and identifying number of the plan), and

“(B) furnish the information received in response to such request with respect to an in-
individual (or such individual’s spouse or dependent children) to the administrator requesting such information pursuant to subsection (a).

REQUIREMENT THAT EMPLOYERS FURNISH INFORMATION

Sec. 2103. (a) In General.—An employer shall furnish to the Director the information requested pursuant to section 2102(b)(3) within 30 days after receipt of such a request.

(b) Sunset on Requirement.—Subsection (a) shall not apply to inquiries made after September 30, 1998.

(c) Civil Money Penalty for Failure to Cooperate.—

(1) In General.—An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate response to a request for information pursuant to section 2102(b)(3) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $1,000 for each individual with respect to whom such a request is made.

(2) Enforcement Authority.—In cases of failure to respond to the Director in accordance with subsection (a) to inquiries relating to requests pur-
suant to section 2102, the provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under paragraph (1) in the same manner as such provisions apply to penalties or proceedings under section 1128A(a).

``DATA BANK

``SEC. 2104. (a) MAINTENANCE OF INFORMATION.—
The Clearinghouse shall maintain a data bank, containing information on individuals obtained pursuant to this title. Individual information in the data bank shall be retained for not less than one year after the date the information was obtained.

``(b) DISCLOSURE OF INFORMATION IN DATA BANK.—

``(1) IN GENERAL.—The Director is authorized (subject to paragraph (2)) to disclose any information in the data bank established pursuant to subsection (a) with respect to an individual (or an individual’s spouse or parent)—

``(A) to the Commissioner of Social Security, the Secretary of the Treasury, administrators, employers, and insurers, to the extent necessary to assist such administrators;

``(B) to Federal and State law enforcement officials responsible for enforcement of civil or criminal laws, in connection with investigations
or administrative or judicial law enforcement proceedings relating to a covered health program; and

“(C) for research or statistical purposes.

“(2) Restrictions on disclosure.—Information in the data bank may be disclosed under this subsection only for purposes of, and to the extent necessary in, determining the extent to which an individual is covered under any group health plan.

“(c) Use of contractors.—The responsibilities of the Clearinghouse under this section may be carried out by contract.

“(d) Fees.—The Clearinghouse shall—

“(1) establish fees for services under this section designed to cover the full costs to the Clearinghouse of providing such services, and

“(2) require the payment of such fees to provide such services.”.

(b) Conforming Medicare Amendments.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(1) in subparagraph (A)(i)—

(A) by striking “Secretary of the Treasury” and inserting “Director of the Health Coverage Clearinghouse”,

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(B) by striking ``(as defined in section 6103(l)(12) of the Internal Revenue Code of 1986)'' and inserting ``(as defined in clause (iii))'', and

(C) by striking ``and request'' and all that follows and inserting a period;

(2) in subparagraph (A)(ii)—

(A) by striking ``the Commissioner of the Social Security Administration'' and all that follows and inserting ``the Director of the Health Coverage Clearinghouse to obtain and disclose to the Administrator, pursuant to section 2102(b) and to subparagraph (C) of section 6103(l)(12) of the Internal Revenue Code of 1986, the information described in section 2102(b) and subparagraph (B) of such section 6103(l)(12).'', and

(B) by inserting `, pursuant to section 1144(c),'' after ``disclose to the Administrator''; and

(3) by striking subparagraph (C).

(c) MEDICAID USE OF CLEARINGHOUSE.—Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by inserting ``(including making appropriate requests to
the Director of the Health Coverage Clearinghouse under section 2102)‘‘ after ‘‘all reasonable measures’’.

(d) Collection of Third Party Payments under Maternal and Child Health Block Grant Program.—Section 505(a) (42 U.S.C. 705(a)) is amended—

(1) by striking ‘‘and’’ at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting ‘‘; and’’, and

(3) by inserting after paragraph (5) the following new paragraph:

‘‘(6) provides for an entity providing health services with assistance from the State under this title taking all reasonable steps—

‘‘(A) to ascertain the legal liability of third parties to pay for such services, and

‘‘(B) where such liability is found to exist, to seek reimbursement for such services.’’.

(e) Effective Dates.—

(1) The amendments made by subsections (a), (b), and (d) shall take effect on April 1, 1995.

(2) The amendments made by subsection (c) shall apply to allotments for years beginning with fiscal year 1994.
SEC. 5118. MEDICAL CHILD SUPPORT.

(a) State Plan Requirement.—Section 1902(a)(45) (42 U.S.C. 1396a(a)(45)) is amended by striking “owed to recipients” and inserting “and have in effect laws relating to medical child support”.

(b) Medical Child Support Laws.—Section 1912 of such Act (42 U.S.C. 1396k) is amended—

(1) by adding at the end of the heading the following: “; REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT”; and

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

“(c) The laws relating to medical child support, which a State is required to have in effect under section 1902(a)(45), are as follows:

“(1) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child’s parent on the ground that the child was born out of wedlock, on the ground that the child may not be claimed as a dependent on the parent’s Federal income tax return, or on the ground that the child does not reside with the parent or in the insurer’s service area. In this subsection, the term ‘insurer’ includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance...
organization, and an entity offering a service benefit plan.

“(2) A law that requires an insurer, in any case in which a parent is required by court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through the insurer—

“(A) to permit such parent, upon application and without regard to any enrollment season restrictions, to enroll the parent and such child under such family coverage;

“(B) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child’s other parent or by the State agency administering the program under this title or part D of title IV; and

“(C) not to disenroll (or eliminate coverage of) such a child unless the insurer is provided satisfactory written evidence that—

“(i) such court or administrative order is no longer in effect, or

“(ii) the child is or will be enrolled in comparable health coverage through an-
other insurer which will take effect not later than the effective date of such disenrollment.

“(3) A law that requires an employer doing business in the State, in the case of health coverage offered through employment with the employer and providing coverage of a child of an employee pursuant to a court or administrative order, to withhold from such employee’s compensation the employee’s share (if any) of premiums for health coverage (to the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act) and to pay such share of premiums to the insurer.

“(4) A law that prohibits an insurer from imposing requirements upon a State agency, which is acting as an agent or subrogee of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or subrogee of any other individual so covered.

“(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—
“(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

“(B) to permit the custodial parent (or provider, with the custodial parent’s approval) to submit claims for covered services without the approval of the noncustodial parent; and

“(C) to make payment on claims submitted in accordance with subparagraph (B) directly to the custodial parent or the provider.

“(6) A law that requires the State agency under this title to garnish the wages, salary, or other employment income of, and to withhold amounts from State tax refunds to, any person who—

“(A) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

“(B) has received payment from a third party for the costs of such services to such child, but

“(C) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,
to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.”

(c) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by this section apply to calendar quarters beginning on or after April 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall
be deemed to be a separate regular session of the State
legislature.

PART V—ASSURING PROPER PAYMENTS TO
DISPROPORTIONATE SHARE HOSPITALS

SEC. 5121. ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS.

(a) Disproportionate Share Hospitals Required to Provide Minimum Level of Services to Medicaid Patients.—Section 1923 (42 U.S.C. 1396r-4) is amended—

(1) in subsection (a)(1)(A), by striking “requirement” and inserting “requirements”;

(2) in subsection (b)(1), by striking “requirement” and inserting “requirements”;

(3) in the heading to subsection (d), by striking “Requirement” and inserting “Requirements”;

(4) by adding at the end of subsection (d) the following new paragraph:

“(3) No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) or (e) of this section unless the hospital has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of not less than 1 percent.”;

(5) in subsection (e)(1)—
(A) by striking “and” before “(B)”, and
(B) by inserting before the period at the end the following: “, and (C) the plan meets the requirement of subsection (d)(3) and such payment adjustments are made consistent with the fourth sentence of subsection (c)”; and
(6) in subsection (e)(2)—
(A) in subparagraph (A), by inserting “(other than the fourth sentence of subsection (c))” after “(c)”,
(B) by striking “and” at the end of subparagraph (A),
(C) by striking the period at the end of subparagraph (B) and inserting “, and”, and
(D) by adding at the end the following new subparagraph:
“(C) subsection (d)(3) shall apply.”.

(b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS FOR STATE OR COUNTY HOSPITALS TO UNCOVERED COSTS.— Subsection (c) of such section is amended by adding at the end the following: “A payment adjustment during a year is not considered to be consistent with this subsection with respect to a hospital owned or operated by a State (or by an instrumentality of or a unit of government within a State) if the payment adjustment exceeds
the costs of furnishing hospital services (as determined by
the Secretary and net of payments under this title, other
than under this section, and by uninsured patients) by the
hospital to individuals who either are eligible for medical
assistance under the State plan or have no health insur-
ance (or other source of third party payment) for such
services during the year. For purposes of the preceding
sentence, payments made to a hospital for services pro-
vided to indigent patients made by a State or a unit of
local government within a State shall not be considered
to be a source of third party payment.”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to payments to States under sec-
tion 1903(a) of the Social Security Act for payments to
hospitals made under State plans after—

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

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

without regard to whether or not final regulations to carry
out such amendments have been promulgated by either
such date.
Subchapter B—Miscellaneous Provisions

PART I—ANTI-FRAUD AND ABUSE PROVISIONS

SEC. 5131. APPLICATION OF MEDICARE RULES LIMITING CERTAIN PHYSICIAN REFERRALS.

(a) In General.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 5174(b), is amended—

(A) in paragraph (12), by striking or at the end,

(B) in paragraph (13), by striking the period at the end and inserting “; or”, and

(C) by inserting after paragraph (13) the following new paragraph:

“(14) with respect to any amount expended for an item or service for which payment would be denied under section 1877(g)(1) if the item or service were furnished to an individual entitled to benefits under title XVIII.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to items and services furnished on or after October 1, 1993.

SEC. 5132. INTERMEDIATE SANCTIONS FOR KICKBACK VIOLATIONS.

(a) Penalty for Kickbacks.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—
(1) by striking "or" at the end of paragraphs
(1) and (2); (2) by adding "or" at the end of paragraph (3); (3) by inserting after paragraph (3) the follow-
ing new paragraph:
``(4) carries out any activity in violation of
paragraph (1) or (2) of section 1128B(b);'';
(4) by striking "given)." at the end of the first
sentence and inserting "given or, in cases under
paragraph (4), $50,000 for each such violation).'';
(5) in the second sentence, by inserting "in
cases under paragraphs (1), (2), and (3)," after "In
addition,"; and (6) by inserting after the second sentence, the
following new sentence: "In cases under paragraph
(4), such a person shall be subject to an assessment
of not more than twice the total amount of the re-
muneration offered, paid, solicited, or received in
violation of section 1128B(b), determined without
regard to whether a portion of such remuneration
was offered, paid, solicited, or received for a lawful
purpose.".
(b) AUTHORIZATION TO ACT.—The first sentence of
section 1128A(c)(1) (42 U.S.C. 1320a-7a(c)(1)) is
amended by striking all that follows ""(b)"" and inserting
the following: "unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States."

(c) Effective Dates.—

(1) The amendments made by subsection (a) shall apply to remuneration offered, paid, solicited, or received before, on, or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

SEC. 5133. REQUIRING MAINTENANCE OF EFFORT FOR STATE MEDICAID FRAUD CONTROL UNITS.

(a) In General.—Section 1902(a)(49) (42 U.S.C. 1396a(a)(49)) is amended—

(1) by inserting ""(A)"" after ""(49)"", and

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

""(B) provide that the State will expend for its medicaid fraud and abuse control unit (as defined in section 1903(q)), for each State fiscal year, an amount that is not less than the amount expended for such unit in the State fiscal year that ended in
1992 adjusted to reflect the percentage increase in total expenditures under the State plan between such State fiscal year and the State fiscal year involved;”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to State fiscal years ending after 1993.

PART II—MANAGED CARE PROVISIONS

SEC. 5135. MEDICAID MANAGED CARE ANTI-FRAUD PROVISIONS.

(a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking “and” at the end of clause (x),

(ii) by striking the period at the end of clause (xi) and inserting “; and”, and

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

“(xii) the entity complies with the requirements of paragraph (3) (relating to certain protections against fraud and abuse).”;
(B) in paragraph (2)(B), as amended by section 5158(b), by striking “clause (ix)” and inserting “clauses (ix) and (xii)”; and

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

“'(3)(A)(i) A health maintenance organization may not have a person described in clause (iv) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of organization’s equity.

“(ii) A health maintenance organization may not have an employment, consulting, or other agreement with a person described in clause (iv) for the provision of goods and services that are significant and material to the organization’s obligations under its contract with the State described in paragraph (2)(A)(iii).

“(iii) If a health maintenance organization is not in compliance with clause (i) or clause (ii)—

“(I) a State may continue an existing agreement with the organization unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

“(II) a State may not renew or otherwise extend the duration of an existing agreement with the organization unless the Secretary (in consultation
with the Inspector General of the Department of Health and Human Services) provides a written statement describing compelling reasons that exist for renewing or extending the agreement.

“(iv) A person described in this clause is a person that—

“(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and sub-contracting, or

“(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in subclause (I).”.

(2) Effective Date.—The amendments made by paragraph (1) shall apply to agreements between a State and an entity under section 1903(m) of the Social Security Act entered into or renewed on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date.

(b) Requirement for State Conflict-of-Interest Safeguards in Medicaid Risk Contracting.—

(1) In general.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a)(1)(C), is amended—
(A) by striking “and” at the end of clause (xi),

(B) by striking the period at the end of clause (xii) and inserting “; and”, and

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

“(xiii) the State certifies to the Secretary that it has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibility with respect to contracts with organizations under this subsection that are at least as effective as the Federal safeguards, provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply as of July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(c) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—
(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1)(C), is amended by adding at the end the following new subparagraph:

“(B) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that—

“(i) the entity agrees to report to the State such financial information as the Secretary or the State may require to demonstrate that the entity has a fiscally sound operation; and

“(ii) the entity agrees to make available to its enrollees upon reasonable request—

“(I) the information reported under paragraph (1),

“(II) the information required to be disclosed under sections 1124 and 1126, and

“(III) a description of each transaction, described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act, between the entity and a party in interest (as defined in section 1318(b) of such Act).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date, with respect to information.
mation reported or required to be disclosed, or transactions occurring, before, on, or after such date.

(d) Prohibiting Marketing Fraud.—

(1) In general.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsection (c)(1), is amended by adding at the end the following new subparagraph:

“(C) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity agrees to comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the entity, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.”.

(2) Effective date.—The amendment made by paragraph (1) shall apply to contract years that begin on or after October 1, 1993, without regard to whether regulations to carry out such amendment are promulgated by such date.

(e) Requiring Adequate Equity for For-Profit Entities.—

(1) In general.—Section 1903(m)(3), as previously amended by this section, is further amended
by adding at the end the following new subpara-
graph:

“(D)(i) The contract between the State and an entity
referred to in paragraph (2)(A)(iii) shall require, in the
case of a for-profit entity, that the entity shall maintain
an average ratio of—

“(I) equity capital to

“(II) payments made by the State to the entity
under the contract on a capitation basis or any other
risk basis,

of not less than such minimum ratio as the Secretary shall
specify.

“(ii) The contract between the State and a non-profit
entity referred to in paragraph (2)(A)(iii) shall require
that no payment shall be made directly or indirectly under
an agreement between the non-profit entity and a related
for-profit entity (as defined by the Secretary) unless the
for-profit entity maintains an average ratio of equity cap-
ital to payments under such agreement of not less than
such ratio as the Secretary shall specify.”.

(2) EFFECTIVE DATE.—The amendment made
by paragraph (1) shall apply to contract years begin-
ning on or after July 1, 1994, without regard to
whether regulations to carry out such amendment
are promulgated by such date.
(f) Requiring Adequate Provision Against Risk of Insolvency.—

(1) In General.—Section 1903(m)(1)(A)(ii) (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by inserting “, which meets such standards as the Secretary shall prescribe” after “satisfactory to the State”.

(2) Effective Date and Transition.—(A) The amendment made by paragraph (1) shall apply to contract years beginning on or after July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(B) If the Secretary of Health and Human Services has not promulgated standards to carry out the amendment made by paragraph (1) by July 1, 1994, until such standards have been promulgated a provision of a health maintenance organization against the risk of insolvency shall not be considered to meet standards prescribed by the Secretary, for purposes of section 1903(m)(1)(A)(ii) of the Social Security Act, unless such provision has been found satisfactory by the Secretary under section 1876(b)(2)(E) of such Act.

(g) Requiring Report on Net Earnings and Additional Benefits.—
(1) IN GENERAL.—Section 1903(m)(3), as previously amended by this section, is amended by adding at the end the following new subparagraph:

“(E) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

“(i) a financial statement of the entity’s net earnings under the contract during the contract year, which statement has been audited using auditing standards established by the Secretary in consultation with the States; and

“(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the entity and entitled to medical assistance under the plan.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after October 1, 1993, without regard to whether regulations to carry out such amendments are promulgated by such date.

(h) REPORT ON NET EARNINGS OF CONTRACTORS.—Not later than 6 months after the date of the enactment
of this Act, the Secretary of Health and Human Services
shall submit a report to Congress on the earnings of orga-
nizations with contracts to receive payment for providing
medical assistance under title XIX of the Social Security
Act on a prepaid capitation or any other risk basis. The
report shall include the Secretary’s recommendations on
options for requiring such organizations, as a condition
of participation under such title, to dedicate a portion of
such earnings to the provision of additional benefits to in-
dividuals enrolled with the organization.

SEC. 5136. CLARIFICATION OF TREATMENT OF HMO EN-
ROLLEES IN COMPUTING THE MEDICAID IN-
PATIENT UTILIZATION RATE IN QUALIFYING
HOSPITALS AS DISPROPORTIONATE SHARE
HOSPITALS.

(a) In General.—Section 1923(b)(2) (42 U.S.C.
1396r–4(b)(2)) is amended by inserting before the period
at the end the following: “and whether or not the individ-
ual is enrolled with an entity contracting with the State
on a prepaid capitation basis or other risk basis under sec-
tion 1903(m)”.

(b) Effective Date.—The amendment made by
subsection (a) shall apply to payments to States under sec-
tion 1903(a) of the Social Security Act for payments to
hospitals made under State plans on and after the first
day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 5137. EXTENSION OF PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO CERTAIN HEALTH MAINTENANCE ORGANIZATIONS PROVIDING SERVICES UNDER DAYTON AREA HEALTH PLAN.

Section 2 of Public Law 102–276 is amended by striking “January 31, 1994” and inserting “December 31, 1995”.

SEC. 5138. EXTENSION OF MEDICAID WAIVER FOR TENNESSEE PRIMARY CARE NETWORK.

Section 6411(f) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 1 of Public Law 102–317, is amended by striking “January 31, 1994” and inserting “December 31, 1995”.

SEC. 5139. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO DISTRICT OF COLUMBIA CHARTERED HEALTH PLAN, INC.

(a) In general.—The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act to the entity known as the District of Columbia Chartered Health Plan, Inc., for the period described
in subsection (b), if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

(b) **Period of Applicability.**—The period referred to in subsection (a) is the period that begins on October 1, 1992, and ends on December 31, 1995.

**SEC. 5140. EXTENSION OF MINNESOTA PREPAID MEDICAID Demonstration Project.**

(a) **In General.**—Section 507 of the Family Support Act of 1988, as amended by section 6411(j) of OBRA-1989 and by section 4733 of OBRA-1990, is amended by striking “1996” and inserting “1998”.

(b) **Authority to Impose Premium.**—

(1) **In General.**—Notwithstanding section 1916 of the Social Security Act and subject to paragraph (2), the State of Minnesota may impose a premium on individuals receiving medical assistance under the Minnesota Prepaid Demonstration Project operated under a waiver granted by the Secretary of Health and Human Services under section 1115(a) of the Social Security Act and other individuals eligible under the State’s plan for medical assistance under title XIX of such Act.

(2) **Limitation on Amount of Premium.**—In no case may the amount of any premium imposed on
an individual receiving medical assistance under the
State plan or under the Demonstration Project de-
scribed in paragraph (1) exceed 10 percent of the
amount by which the family income (less expenses
for the care of a dependent child) of the individual
exceeds 110 percent of the income official poverty
line (as defined by the Office of Management and
Budget), and revised annually in accordance with
section 673(2) of the Omnibus Budget Reconcili-
ation Act of 1981) applicable to a family of the size
involved.

PART III—EMERGENCY SERVICES TO
UNDOCUMENTED ALIENS

SEC. 5141. INCREASE IN FEDERAL FINANCIAL PARTICIPA-
TION FOR EMERGENCY MEDICAL ASSIST-
ANCE TO UNDOCUMENTED ALIENS.

(a) In General.—Section 1905(b) (42 U.S.C.
1396d(b)) is amended by adding at the end the following:
“Notwithstanding the first sentence of this section, sub-
ject to 1903(v)(4), the Federal medical assistance percent-
age shall be 100 per centum with respect to amounts ex-
pended by an eligible State in a covered fiscal year (as
defined in section 1903(v)(4)(C)) as medical assistance for
care and services described in section 1903(v)(2) to aliens
described in section 1903(v)(1).”
(b) LIMITATION.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended by adding at the end the following new paragraphs:

“(4)(A) With respect to any eligible State (as defined in subparagraph (C)(i)), the amount of the increase in payments to a State under subsection (a) in a covered fiscal year (as defined in subparagraph (C)(ii)), resulting from the increase in the Federal medical assistance percentage under the fourth sentence of section 1905(b), shall not exceed the State’s allotment determined under subparagraph (B).

“(B)(i) The total of the allotments to all States for a covered fiscal year under this paragraph shall be $300,000,000.

“(ii) From the total allotment under clause (i) for a covered fiscal year, the Secretary shall determine the amount of the allotment for each eligible State. Subject to clause (iii), the amount of such allotment for such a fiscal year shall bear the same ratio to the total amount specified in clause (i) for the fiscal year as the ratio of—

“(I) the allotment to the State for fiscal year 1993 under section 204 of the Immigration Reform and Control Act of 1986, to

“(II) the total of such allotments for all such eligible States for fiscal year 1993.
“(iii) In the case of an eligible State which notifies
the Secretary that an amount of its allotment will not be
used by the State under this paragraph, the State’s allot-
ment shall be reduced by such amount and such amount
shall be redistributed among the other eligible States in
proportion to the amount otherwise allotted to such State
under clause (ii).

“(C) For purposes of this paragraph and the fourth
sentence of section 1905(b):

“(i) The term ‘eligible State’ means a State—
“(I) with a plan approved under this title
(including a State which is providing medical
assistance to its residents under a statewide
waiver granted under section 1115), and
“(II) for which its allotment for fiscal year
1993 under section 204 of the Immigration Re-
form and Control Act of 1986 is at least 1 per-
cent of the total of such allotments for all the
States for fiscal year 1993.

“(ii) The term ‘covered fiscal year’ means only
fiscal year 1994.

“(D) Nothing in this paragraph or the fourth sen-
tence of section 1905(b) shall be construed as establishing
entitlement authority (within the meaning of section 3(9)
SEC. 5142. LIMITING FEDERAL MEDICAID MATCHING PAYMENT TO BONA FIDE EMERGENCY SERVICES FOR UNDOCUMENTED ALIENS.

(a) In General.—Section 1903(v)(2) (42 U.S.C. 1396b(v)(2)) is amended—

(1) by striking “and” at the end of sub-paragraph (A),

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

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

“(C) such care and services are not related to an organ transplant procedure.”.

(b) Effective Date.—(1) Subject to paragraph (2), the amendments made by subsection (a) shall apply as if included in the enactment of OBRA-1986.

(2) The Secretary of Health and Human Services shall not disallow expenditures made for the care and services described in section 1903(v)(2)(C) of the Social Security Act, as added by subsection (a), furnished before the date of the enactment of this Act.
PART IV—MISCELLANEOUS PROVISIONS

SEC. 5144. INCREASE IN LIMIT ON FEDERAL MEDICAID MATCHING PAYMENTS TO PUERTO RICO AND OTHER TERRITORIES.

(a) In General.—Paragraphs (1) through (5) of section 1108(c) (42 U.S.C. 1308(c)) are amended to read as follows:

“(1) Puerto Rico shall not exceed (A) $104,000,000 for fiscal year 1994 and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the twelve-month period ending in March preceding the beginning of the fiscal year, rounded to the nearest $100,000;

“(2) the Virgin Islands shall not exceed (A) $3,425,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000;

“(3) Guam shall not exceed (A) $3,290,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the
preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000;

“(4) Northern Mariana Islands shall not exceed (A) $990,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000; and

“(5) American Samoa shall not exceed (A) $1,910,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply beginning with fiscal year 1994.

SEC. 5145. CRITERIA FOR MAKING DETERMINATIONS OF DENIAL OF FEDERAL MEDICAID MATCHING PAYMENTS TO STATES.

(a) In General.—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

“(x)(1) In any case in which the Secretary proposes to disallow under section 1116(d) a claim by a State under
this section and the State exercises its right of reconsider-
ation under section 1116(d), the Departmental Appeals
Board established in the Department of Health and
Human Services shall, if such Board upholds the basis for
the disallowance, determine whether the amount of the
disallowance should be reduced. In making this determina-
tion, the Board shall take into account (to the extent the
State makes a showing) factors which shall include—

“(A) the nature of the basis for the disallow-
ance;

“(B) whether the amount of the disallowance is
proportionate to the error or deficiency on which the
disallowance is based;

“(C) whether the basis of the disallowance con-
stitutes noncompliance that prevented or materially
affected the provision of appropriate services to indi-
viduals eligible under this title; or

“(D) whether Federal guidance with respect to
the action that is the basis for the proposed dis-
allowance was insufficient and the State made good
faith efforts to conform its action to the intent of
the applicable Federal statute or regulation.

“(2) No disallowance shall be taken or upheld if the
action of the State on which the disallowance would be
based is consistent with its approved State plan.”.
(b) **Effective Date.**—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

**SEC. 5146. RENEWAL OF UNFUNDED DEMONSTRATION PROJECT FOR LOW-INCOME PREGNANT WOMEN AND CHILDREN.**

(a) **In General.**—Section 6407 of OBRA-89 is amended—

(1) in subsection (d), by striking “3 years” and inserting “5 years’’;

(2) in subsection (f), by striking “$10,000,000 in each of fiscal years 1990, 1991, and 1992” and inserting “$30,000,000”; and

(3) in subsection (g)(2), by striking “January 1, 1994” and inserting “one year after the termination of the demonstration projects”.

(b) **Effective Date.**—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA-89.
SEC. 5147. OPTIONAL MEDICAID COVERAGE OF TB-RELATED SERVICES FOR CERTAIN TB-INFECTED INDIVIDUALS.


(1) by striking “or” at the end of subclause (X),

(2) by adding “or” at the end of subclause (XI), and

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

“(XII) who are described in subsection (z)(1) (relating to certain TB-infected individuals);”.

(b) Group and Benefit Described.—Section 1902 is amended by adding at the end the following new subsection:

“(z)(1) Individuals described in this paragraph are individuals not described in subsection (a)(10)(A)(i)—

“(A) who have tested positively to be infected with tuberculosis;

“(B) whose income (as determined under the State plan under this title with respect to disabled individuals) does not exceed the maximum amount of income a disabled individual described in sub-
section (a)(10)(A)(i) may have and obtain medical assistance under the plan; and

“(C) whose resources (as determined under the State plan under this title with respect to disabled individuals) do not exceed the maximum amount of resources a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan.

“(2) For purposes of subsection (a)(10), the term ‘TB-related services’ means each of the following services relating to treatment of infection with tuberculosis:

“(A) Prescribed drugs.

“(B) Physicians’ services and services described in section 1905(a)(2).

“(C) Laboratory and X-ray services.

“(D) Clinic services and Federally-qualified health center services.

“(E) Case management services (as defined in section 1915(g)(2)).

“(F) Services (other than room and board) designed to encourage completion of regimens of prescribed drugs by outpatients, including services to observe directly the intake of prescribed drugs.”.
(c) **Limitation on Benefits.**—Section 1902(a)(10), as amended by section 5162(a), is amended, in the matter following subparagraph (F)—

1. by striking ‘‘, and (XII)’’ and inserting ‘‘, (XII)’’, and
2. by inserting before the semicolon at the end the following: ‘‘, and (XIII) the medical assistance made available to an individual described in subsection (z)(1) who is eligible for medical assistance only because of subparagraph (A)(ii)(XII) shall be limited to medical assistance for TB-related services (as defined in subsection (z)(2))’’.

(d) **Conforming Expansion of Case Management Services Option.**—Section 1915(g)(1) (42 U.S.C. 1396n(g)(1)) is amended by inserting ‘‘or to individuals described in section 1902(z)(1)(A),’’ after ‘‘or with either,’’.

(e) **Conforming Amendment.**—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

1. by striking ‘‘or’’ at the end of clause (ix),
2. by adding ‘‘or’’ at the end of clause (x),
3. by inserting after clause (x) the following new clause:

‘‘(xi) individuals described in section 1902(z)(1),’’, and
(4) by amending paragraph (19) to read as follows:

“(19) case management services (as defined in section 1915(g)(2)) and TB-related services described in section 1902(z)(2)(F);”.

(f) Effective Date.—The amendments made by this section shall apply to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

**SEC. 5148. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS UNDER THE MEDICAID PROGRAM.**

(a) In General.—Section 1902(a)(9) (42 U.S.C. 1396a(a)(9)) is amended—

(1) by striking “and” at the end of subparagraph (B),

(2) by striking the semicolon at the end of subparagraph (C) and inserting “, and”, and

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

“(D) that any mammography paid for under such plan must be conducted by a facility that has a certificate (or provisional certificate)
(b) **Effective Date.**—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to mammography furnished by a facility during calendar quarters beginning on or after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a)(3), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year
of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 5149. REMOVAL OF SUNSET ON EXTENSION OF ELIGIBILITY FOR WORKING FAMILIES.

Subsection (f) of section 1925 (42 U.S.C. 1396r-6) is repealed.

SEC. 5150. EXTENSION OF MORATORIUM ON TREATMENT OF CERTAIN FACILITIES AS INSTITUTIONS FOR MENTAL DISEASES.

Effective as if included in the enactment of OBRA-1989, section 6408(a)(3) of such Act is amended by striking “180 days” and all that follows and inserting “December 31, 1995.”

SEC. 5150A. TREATMENT OF CERTAIN CLINICS AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)), as amended by section 5158(c), is amended—

(1) by striking “or” at the end of clause (ii)(II),

(2) by adding “or” at the end of clause (iii), and

(3) by inserting after clause (iii) the following new clause:
“(iv) was treated by the Secretary, for purposes of part B of title XVIII, as a comprehensive Federally funded health center as of January 1, 1990;”.

(b) Effective Date.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after July 1, 1993.

SEC. 5150B. NURSING HOME REFORM.

(a) Suspension of Decertification of Nurse Aide Training and Competency Evaluation Programs Based on Extended Surveys.—

(1) In General.—Section 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: “, unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;”.

(2) Effective Date.—The amendment made by paragraph (1) shall take effect as included in the enactment of OBRA-1990.

(b) Requirements for Consultants Conducting Reviews of Use of Drugs.—

(1) In General.—Section 1919(c)(1)(D) (42 U.S.C. 1396r(c)(1)(D)) is amended by adding at the end the following sentence: “In determining whether
such a consultant is qualified to conduct reviews under the previous sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.’’.

(2) **Effective Date.**—The amendment made by paragraph (1) shall take effect as included in the enactment of OBRA-1987.

(c) **Increase in Minimum Amount Required for Separate Deposit of Personal Funds.**—

(1) **In General.**—Section 1919(c)(6)(B)(i) (42 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking ‘‘$50’’ and inserting ‘‘$100’’.

(2) **Effective Date.**—The amendment made by paragraph (1) shall take effect October 1, 1993.

(d) **Due Process Protections for Nurse Aides.**—

(1) **Prohibiting State from Including Undocumented Allegations in Nurse Aide Registry.**—Section 1919(e)(2)(B) (42 U.S.C. 1396r(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ‘‘, but shall not include any allegations of resident abuse or neglect or misappropriation of
resident property that are not specifically docu-
mented by the State under such subsection.”.

(2) Due process requirements for rebut-
ting allegations.—Section 1919(g)(1)(C) (42
U.S.C. 1396r(g)(1)(C)) is amended by striking the
second sentence and inserting the following: “The
State shall, after providing the individual involved
with a written notice of the allegations (including a
statement of the availability of a hearing for the in-
dividual to rebut the allegations) and the oppor-
tunity for a hearing on the record, make a written
finding as to the accuracy of the allegations.”.

(3) Effective date.—The amendments made
by this subsection shall take effect October 1, 1993.

Subchapter C—Miscellaneous and Technical
Corrections Relating to OBRA-1990

SEC. 5151. EFFECTIVE DATE.
Except as otherwise provided, the amendments made
by this subchapter shall take effect as if included in the
enactment of OBRA-1990.

SEC. 5152. CORRECTIONS RELATING TO SECTION 4402 (EN-
ROLLMENT UNDER GROUP HEALTH PLANS).
Section 4402(b) of OBRA-1990 is amended by strik-

SEC. 5153. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).

(a) Section 1902(a)(10)(E)(iii), as added by section 4501(b)(3) of OBRA-1990, is amended by striking “cost sharing” and inserting “cost-sharing”.

(b) Section 1905(p)(4)(B), as amended by section 4501(c)(1) of OBRA-1990, is amended by striking “1902(a)(10)(E)(iii)” and inserting “section 1902(a)(10)(E)(iii)”.

SEC. 5154. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).

(a) Section 1902(a)(10)(A)(i)(VII), as added by section 4601(a)(10)(A)(iii) of OBRA-1990, is amended by striking “family;” and inserting “family; and”.

(b) Section 1902(l), as amended by section 4601(a)(1)(C) of OBRA-1990, is amended—

(1) in paragraph (1)(C), by striking “children” after “(C)”; 

(2) in paragraph (3), by striking “(a)(10)(A)(i)(VII),” and inserting “(a)(10)(A)(i)(VII),”; and

(3) in paragraph (4)(B), by inserting a comma before “(a)(10)(A)(i)(VI),”.
(c) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925, as amended by section 4601(a) of OBRA-1990, are each amended by striking “(i)(VI)” and inserting “(i)(VI),”.

SEC. 5155. CORRECTIONS RELATING TO SECTION 4602 (OUT-REACH LOCATIONS).

(a) Section 1902(a)(55), as added by section 4602(a)(3) of OBRA-1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking “subsection” and inserting “paragraph”, and

(B) by striking “(a)” each place it appears; and

(2) in subparagraph (A), by striking “1905(1)(2)(B)” and inserting “1905(l)(2)(B)”.

(b) Section 1902(l)(1) is amended by striking “who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and”.}

SEC. 5156. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).

(a) Section 1902(a)(10) is amended in clause (X) in the matter following subparagraph (F) by striking “under one year of age” and inserting “under 6 years of age”.
Section 1902(s), as added by section 4604(a) of OBRA-1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1))."

(c) Section 1923(a)(2)(C) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—
“(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

“(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.”

SEC. 5157. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) is amended—

(1) in paragraph (2), by striking “paragraph (b)(3)” and inserting “subsection (b)(3)”;

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking “the payment adjustment described in paragraph (2)” and inserting “a payment adjustment described in paragraph (2) or (3)”.

(b) Effective December 22, 1987, section 1923(d)(2)(A)(ii) is amended by striking “the date of the enactment of this Act” and inserting “December 22, 1987”.

(c) Section 4703(d) of OBRA–1990 is amended by striking “412(a)(2)” and inserting “4112(a)(2)”. 

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SEC. 5158. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).

(a) Clause (ix) of section 1903(m)(2)(A), as added by section 4704(b)(1)(C) of OBRA-1990, is amended—

(1) by striking “of such center” the first place it appears;

(2) by striking “federally qualified” and inserting “Federally-qualified’’;

(3) by inserting “section” before “1905(a)(2)(C)’’; and

(4) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B), as amended by section 4704(b)(2) of OBRA-1990, is amended by striking “except with respect to clause (ix) of subparagraph (A),’’ and inserting “(except with respect to clause (ix) of such subparagraph)”.

(c) Section 1905(l)(2), as amended by section 4704(c) of OBRA-1990, is amended—

(1) in subparagraph (A)—

(A) by striking “Federally-qualified’’ and inserting “Federally-qualified’’, and

(B) by striking “an patient’’ and inserting “a patient’’; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking “a entity’’ and inserting “an entity’’,
(B) by striking “or” at the end of clause (i),

(C) by striking the semicolon at the end of clause (ii)(II) and inserting “, or”,

(D) by moving clause (ii) 4 ems to the left, and

(E) in the last sentence, by striking “clause (ii)” and inserting “clause (iii)”.

SEC. 5159. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).

Section 1902(a)(32)(C), as added by section 4708(a)(3) of OBRA–1990, is amended to read as follows:

“(C) payment may be made to a physician for physicians’ services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such
services includes the second physician’s unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this clause for payment to the first physician.”.

SEC. 5160. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAILS ELDERLY).

(a) Section 1929, as added by section 4711(b) of OBRA–1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking “they manage” and inserting “it manages”;

(3) in subsection (d)(2)(F)(iii), by inserting “the agency or organization” after “(iii)”;

(4) in subsection (e)(2)(B), by striking “fiscal year 1989” and inserting “fiscal year 1990”;

(5) in subsection (f)(1), by striking “Community care” and inserting “community care”;

(6) in subsection (g)(1)—

(A) by striking “SETTINGS” and inserting “SETTING”, and

(B) in subparagraph (B), by striking “setting.” and inserting “setting in which home and
community care under this section is provided.”;

(7) in subsection (g)(2), by striking “community care” the second, third, and fourth places it appears and inserting “home and community care”;

(8) in subsection (h)(1)—

(A) by striking “more than 8” each place it appears and inserting “8 or more”, and

(B) in subparagraph (B), by inserting “(other than merely board)” after “personal services”;

(9) in subsection (h)(2), by striking “community care” the second and third places it appears and inserting “home and community care”;

(10) in subsection (j)(1)—

(A) in subparagraph (B)(ii), by striking “1990” and inserting “1991”, and

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

“(C) APPLICABILITY TO COMMUNITY CARE SETTINGS.—Subparagraphs (A) and (B) shall apply to community care settings in the same manner as such subparagraphs apply to providers of home or community care.”;
(11) in subsection (j)(2), by adding at the end the following new subparagraph:

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(D) APPLICABILITY TO COMMUNITY CARE SETTINGS.—Subparagraphs (A), (B), and (C) shall apply to community care settings in the same manner as such subparagraphs apply to providers of home or community care.”;
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(12) in subsection (k)(1)(A)(i)—

(A) by striking “(d)(2)(E)” and inserting “(d)(2)”, and

(B) by striking “settings,” and inserting “settings),”;

(13) in subsection (l), by striking “State wide-ness” and inserting “Statewideness”;  

(14) in subsection (m)—

(A) in paragraph (2), by striking “Individual Community Care Plan” and inserting “individual community care plan”,

(B) in paragraph (3), by striking “and need for services” and inserting “need for services, and income”,

(C) in the second sentence in paragraph (4), by striking “elderly individuals” and all that follows and inserting “individuals receiving home and community care under this section
who reside in such State in relation to the total number of individuals receiving home and community care under this section.”, and

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

“\(5\) **NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.**—

‘‘(A) **NOTICE TO SECRETARY.**—In order to receive Federal medical assistance for expenditures for home and community care under this section for a fiscal year (beginning with fiscal year 1994), a State shall submit a notice to the Secretary of its intention to provide such care under this section not later than 3 months before the beginning of the fiscal year.

‘‘(B) **NOTICE TO STATES.**—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under subparagraph (A) for the fiscal year of the amount of Federal medical assistance that will be available to the State for the fiscal year (as established under paragraph (4)).’’; and
(15) by adding at the end the following new subsection:

“(n) Community Care Setting Defined.—In this section, the term ‘community care setting’ means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1)).”.

(b) Section 1905(r)(5) is amended by striking “1905(a)” and inserting “subsection (a) (other than services described in paragraph (22) or (23) of such subsection)”.

(c) Section 4711(f) of OBRA-1990 is amended by striking “Act” each place it appears and inserting “section”.

SEC. 5161. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES).

(a) Section 1930, as added by section 4712(b)(2) of OBRA-1990, is amended—

(1) in subsection (b)—

(A) by striking “title the term,” and inserting “title, the term”,

(B) by striking “guardian” and inserting “guardian or”, and
(C) by striking “3 other” and inserting “3’’;
(2) in subsection (d)—
(A) in the matter preceding paragraph (1),
by striking “program,” and inserting “pro-
gram”, and
(B) in the second sentence, by striking
“plan” each place it appears and inserting
“program”; and
(3) in subsection (i), by striking “FUNDS” and
inserting “FUNDS’’.
(b) Section 4712(c) of OBRA±1990 is amended—
(1) in paragraph (1), by inserting “of section
1930 of the Social Security Act’’ after “subsection
(h)’’; and
(2) in paragraph (2), by striking “this section’’
and inserting “such section’’.
SEC. 5162. CORRECTION RELATING TO SECTION 4713
(COBRA CONTINUATION COVERAGE).
(a) Section 1902(a)(10) is amended in the matter fol-
lowing subparagraph (F)—
(1) by striking “; and (XI)” and inserting “,
(XI)”;
(2) by striking “individuals, and (XI)” and in-
serting “individuals, and (XII)”’’; and
(3) by striking “COBRA continuation premiums” and inserting “COBRA premiums”.

(b) Section 1902(u)(3), as added by section 4713(a)(2) of OBRA-1990, is amended by striking “title VI” and inserting “part 6 of subtitle B of title I”.

SEC. 5163. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).

Section 4716(a) of OBRA-1990 is amended by striking “AMENDMENTS.—Subsection (f) of section” and inserting “IN GENERAL.—Section”.

SEC. 5164. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPENDDOWN OPTION).

Section 1903(f)(2), as amended by section 4723(a) of OBRA-1990, is amended—

(1) by striking “(A)” after “(2)”;

(2) by striking “or, (B)” and inserting “. There shall also be excluded,”;

(3) by striking “to the State, provided that” and inserting “to the State if”; and

(4) by striking “pursuant to this subparagraph.” and inserting “pursuant to the previous sentence”.

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SEC. 5165. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).

Section 1902(v), as added by section 4724 of OBRA-1990, is amended—

(1) by striking "(v)(1)" and inserting "(v)"; and

(2) by striking "of the Social Security Act".

SEC. 5166. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).

Section 1903(m)(2)(F)(i), as amended by section 4732(b)(2)(B) of OBRA-1990, is amended by striking "or" before "with an eligible organization".

SEC. 5167. CORRECTIONS RELATING TO SECTION 4741 (HOME AND COMMUNITY-BASED WAIVERS).

The first sentence of section 1915(d)(3) is amended by striking the period at the end and inserting the following: 

", and a waiver of the requirements of section 1902(a)(23) (relating to choice of providers) insofar as such requirements relate to the provision of case management services and the State provides assurances satisfactory to the Secretary that a waiver of such requirements will not substantially limit access to such services)."
SEC. 5168. CORRECTIONS RELATING TO SECTION 4744 (FRAIL ELDERLY WAIVERS).

(a) Section 1924(a)(5), as added by section 4744(b)(1) of OBRA-1990, is amended by striking “1986.” and inserting “1986 or a waiver under section 603(c) of the Social Security Amendments of 1983.”.

(b) Section 603(c) of the Social Security Amendments of 1983 is amended—

(1) by striking “(c)” and inserting “(c)(1)”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

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

“(2) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.”.

SEC. 5169. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).

Section 4747 of OBRA-1990 is amended—

(1) in subsection (a), by striking “subsection (c)” and inserting “subsection (b)”; and

(2) in subsection (b)(2)—

(A) by striking “preventative” each place it appears and inserting “preventive”, and

(B) by adding a period at the end of sub-paragraph (J);
(3) in subsection (c)(1)—
   (A) by striking “subsection (c)” and inserting “subsection (b)”, and
   (B) by striking “paragraphs (1) and (2)
of”; and
(4) in subsection (d)—
   (A) by striking “paragraph (3)” and inserting “subsection (b)”, and
   (B) by striking “paragraph (1)” and inserting “subsection (a)”.

SEC. 5170. CORRECTION RELATING TO SECTION 4751 (ADVANCE DIRECTIVES).
Section 1903(m)(1)(A), as amended by section 4751(b)(1) of OBRA±1990, is amended—
(1) by striking “1902(w)” and inserting “1902(w) and”; and
(2) by striking “1902(a)” and inserting “1902(w)”.

SEC. 5171. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS’ SERVICES).
(a) The paragraph (58) of section 1902(a) added by section 4752(c)(1)(C) of OBRA±1990 is amended by
striking “subsection (v)” and inserting “subsection (x)”.

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(b) Subparagraphs (A) and (B) of the paragraph (14) of section 1903(i) added by section 4752(e)(2) of OBRA-1990 are each amended—

(1) by striking “or” at the end of clause (v);

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

“(vi) delivers such services in the emergency department of a hospital participating in the state plan approved under this title, or”.

SEC. 5172. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).

(a) Section 1919(b)(3)(C)(i)(I), as amended by section 4801(e)(3) of OBRA-1990, is amended by striking “no later than” before “not to exceed 14 days”.

(b) Section 1919(b)(5)(D), as amended by section 4801(a)(4) of OBRA-1990, is amended by striking the comma before “or a new competency evaluation program.”.

(c) Section 1919(b)(5)(G) is amended by striking “or licensed or certified social worker” and inserting “licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician”.

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(d) Section 1919(f)(2)(B)(i) is amended by striking “facilities,” and inserting “facilities (subject to clause (iii)),”.

(e) Section 1919(f)(2)(B)(iii)(I)(c) is amended by striking “clauses” each place it appears and inserting “clause”.

(f) Section 1919(g)(5)(B) is amended by striking “paragraphs” and inserting “paragraph”.

(g) Section 4801(a)(6)(B) of OBRA–1990 is amended—

(1) by striking “The amendments” and inserting “(i) The amendments”;

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

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

“(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility.”.
SEC. 5173. OTHER TECHNICAL CORRECTIONS.

(a) Section 1905(o)(1)(A) is amended—

(1) in the first sentence, by striking “intermediate care facility services” and inserting “for nursing facility services or intermediate care facility services for the mentally retarded”; and

(2) in the second sentence, by striking “or intermediate care facility” and inserting “(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded”.

(b) Section 1915(d) is amended—

(1) by striking “skilled nursing facility or intermediate care facility” each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting “nursing facility”;

(2) in paragraph (2)(B)(i), by striking “skilled nursing or intermediate care facility” and inserting “nursing facility”;

(3) in paragraph (5)(A), by striking “under” the second place it appears and inserting “(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under”; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking “furnished” and inserting “(or, with respect to waiver years
beginning on or after October 1, 1990, for nursing facility services) furnished’’; and

(B) in clause (iii)(I), by striking ‘‘(regardless’’ and inserting ‘‘(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless’’.

SEC. 5174. CORRECTIONS TO DESIGNATIONS OF NEW PROVISIONS.

(a) Paragraphs Added to Section 1902(a).—

Section 1902(a) is amended—

(1) by striking ‘‘and’’ at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA-1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA-1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA-1990, im-
mediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA-1990, by striking the period at the end and inserting ‘‘; and’’; and

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA-1990 as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act.

(b) Paragraphs Added to Section 1903(i).—Section 1903(i), as amended by section 2(b)(2) of the Medicare Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) in the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA-1990, by striking all that follows ‘‘1927(g)’’ and inserting a semicolon;

(2) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA-1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA-1990, and by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA-1990 as para-
graph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting “; or”; and

(4) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA-1990 as paragraph (13) and by transferring and inserting it after paragraph (12), as redesignated by paragraph (3).

(c) Paragraphs Added to Section 1905(a).—

(1) In general.—Section 1905(a) is amended—

(A) by striking “and” at the end of paragraph (21);

(B) in paragraph (24), by striking the period at the end and inserting “; and”; and

(C) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24) after paragraph (23), as so redesignated.

(2) Conforming amendments.—(A) Effective July 1, 1991, section 1902(a)(10)(C)(iv), as amended by section 4755(c)(1)(A) of OBRA-1990, is
amended by striking “through (21)” and inserting “through (23)”.

(B) Effective July 1, 1991, section 1902(j), as amended by section 4711(d)(1) of OBRA-1990, is amended by striking “through (22)” and inserting “through (24)”.

(d) Final Sections.—Section 1928, as redesignated by section 4401(a)(3) of OBRA-1990, is amended—

(1) by transferring such section to the end of title XIX of the Social Security Act; and

(2) by redesignating such section as section 1931.

**CHAPTER 2—UNIVERSAL ACCESS TO CHILDHOOD IMMUNIZATIONS**

**SEC. 5181. ESTABLISHMENT OF ENTITLEMENT AND MONITORING PROGRAMS WITH RESPECT TO CHILDHOOD IMMUNIZATIONS.**

(a) In General.—Title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by adding at the end the following subtitle:
Subtitle 3—Entitlement and Monitoring Programs With Respect to Childhood Immunizations

PART A—ENTITLEMENT PROGRAM

SEC. 2151. DELIVERY TO STATES OF SUFFICIENT QUANTITIES OF PEDIATRIC VACCINES.

(a) In General.—In the case of any State that submits to the Secretary an application in accordance with section 2157, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall provide for the purchase and delivery on behalf of the State of such quantities of pediatric vaccines as may be necessary for the immunization of each eligible child in the State. The preceding sentence is subject to sections 2152(d) and 2159(a).

(b) Eligible Children.—For purposes of this part, the term ‘eligible child’ means an individual 18 years of age or younger who—

(1) with respect to the State involved, is entitled to medical assistance under the plan approved for the State under title XIX of the Social Security Act (including a State operating under a statewide waiver under section 1115 of such Act);

(2)(A) is uninsured with respect to health insurance policies or plans (including group health
plans or prepaid health plans and including employee welfare benefit plans under the Employee Retirement Income Security Act of 1974); or

“(B) is covered under such a policy or plan, but under the policy or plan benefits are not available with respect to immunizations; or

“(3) is an Indian.

SEC. 2152. ENTITLEMENTS.

“(a) ENTITLEMENT OF STATES.—Subject to subsection (d), in the case of any State that submits to the Secretary an application in accordance with section 2157, the State is entitled to have the Secretary provide for the purchase and delivery on behalf of the State of pediatric vaccines under section 2151. The preceding sentence constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the purchase and delivery to the State of the vaccines.

“(b) ENTITLEMENTS OF CHILDREN AND HEALTH CARE PROVIDERS.—Subject to subsection (d), the Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees as follows:

“(1) Each eligible child in the State, in receiving an immunization with a pediatric vaccine from
a program-registered provider (as defined in section 2153(a)), is entitled to receive the immunization without charge for the cost of such vaccine.

“(2) Each program-registered provider in the State who administers a pediatric vaccine to an eligible child in the State is entitled to receive such vaccine from the State without charge.

“(3) The State will carry out a program to administer the entitlements established pursuant to paragraphs (1) and (2).

“(c) Enforcement of Provider Rights by Eligible Children.—With respect to the obligation of a State under the entitlement established in subsection (b)(2), an eligible child (or representative of the child) may enforce the rights of the provider under such paragraph if—

“(1) the provider administered a pediatric vaccine to the child notwithstanding the failure of the State to carry out such obligation with respect to the vaccine; or

“(2) an immunization with the vaccine was sought for the child by a parent of the child, but the provider, on the basis of such failure of the State, did not administer the vaccine to the child.

“(d) Certain Conditions.—
“(1) In general.—This part does not apply with respect to any vaccine administered before October 1, 1994.

“(2) Relationship to purchase contracts with manufacturers.—With respect to a pediatric vaccine, the obligation of the Federal Government pursuant to subsection (a), and the obligations of the State pursuant to subsection (b), are effective only to the extent that there is in effect a contract under section 2158 for the purchase and delivery of the vaccine.

“(3) Submission of application.—

“(A) Subject to subparagraph (C), the entitlements established pursuant to subsections (a) and (b) are established with respect to a State upon the State submitting to the Secretary an application in accordance with section 2157.

“(B) An application submitted to the Secretary under section 2157 is deemed to have been submitted in accordance with such section unless the Secretary, not later than 30 days after the date on which the application is submitted, notifies the State that the application is not in accordance with such section.
“(C) In the case of a State whose application submitted under section 2157 is not submitted in accordance with such section, the Secretary may, upon the submission by the State of an application that is in accordance with such section, provide that the entitlements established pursuant to such submission are deemed to have been established on the date on which the State first submitted the application.

“SEC. 2153. VOLUNTARY PARTICIPATION OF HEALTH CARE PROVIDERS.

“(a) In General.—

“(1) Request for participation; required approval.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees that federally-supplied pediatric vaccines will not be distributed to a health care provider unless—

“(A) the provider submits to the State a written request to participate in the program established by the State pursuant to section 2152(b)(3);

“(B) the request is in such form and is made in such manner as the Secretary may require; and
“(C) the provider makes the agreements described in this section.

“(2) PROGRAM-REGISTERED PROVIDERS.— For purposes of this part, the term ‘program-registered provider’ means a health care provider that meets the conditions specified in subparagraphs (A) through (C) of paragraph (1).

“(b) ELIGIBILITY OF CHILDREN.—

“(1) IN GENERAL.— An agreement for a health care provider under subsection (a) is that the provider—

“(A) before administering a pediatric vaccine to a child, will ask a parent of the child such questions as are necessary to determine whether the child is an eligible child;

“(B) will, for a period of time specified by the Secretary, maintain records of responses made to the questions; and

“(C) will, upon request, make such records available to the State involved and to the Secretary, subject to paragraph (2).

“(2) RESTRICTION ON USE OF INFORMATION.— Records provided to a State or to the Secretary under paragraph (1)(C) may be used only for pur-
poses of audit of the program carried out under section 2152(b)(3) by the State.

“(c) CHARGES FOR VACCINES.—

“(1) VACCINES PER SE.—An agreement for a health care provider under subsection (a) is that, in administering a federally-supplied pediatric vaccine to an eligible child, the provider will not impose a charge for the cost of the vaccine.

“(2) ADMINISTRATION OF VACCINES.—With respect to compliance with an agreement under paragraph (1), a program-registered provider may impose a charge for the administration of a federally-supplied pediatric vaccine, subject to an agreement by the provider that the provider will not impose such charge with respect to a child if a parent of the child certifies to the provider that the parent is unable to pay the charge.

“(d) RULES OF CONSTRUCTION.—

“(1) EXTENT OF PARTICIPATION.—This section may not be construed as requiring that a program-registered provider administer a federally-supplied pediatric vaccine to each eligible child for whom an immunization with the vaccine is sought from the provider.
(2) Verification of Information.—With respect to compliance with agreements under subsections (b) and (c), such agreements may not be construed as requiring a program-registered provider to verify independently the information provided to the provider by a parent pursuant to such subsections.

"SEC. 2154. Intrastate Distribution of Pediatric Vaccines.

(a) In General.—Not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall, through publication in the Federal Register, establish criteria for the delivery on behalf of the States of federally-supplied pediatric vaccines to program-registered providers in the State.

(b) Involvement of Certain Providers.—

(1) In General.—In establishing criteria under subsection (a), the Secretary shall establish criteria with respect to encouraging the entities described in paragraph (2) to become program-registered providers.

(2) Relevant Providers.—The entities referred to in paragraph (1) are—

(A) private health care providers; and
“(B)(i) health care providers that receive funds under title V of the Indian Health Care Improvement Act;

“(ii) the Indian Health Service; and

“(iii) health programs or facilities operated by Indian tribes or tribal organizations.

“(c) CULTURAL CONTEXT OF SERVICES.—In establishing criteria under subsection (a), the Secretary shall require that, in providing a federally-supplied pediatric vaccine to any population of eligible children a substantial portion of whose parents have a limited ability to speak the English language, a State have in effect a reasonable plan to administer the vaccines through program-registered providers who are able to communicate with the population involved in the language and cultural context that is most appropriate.

“(d) COMPLIANCE BY STATES.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees to maintain compliance with the criteria established under subsection (a).

“SEC. 2155. GENERAL PROVISIONS.

“(a) FEDERAL STANDARDS ON ACCOUNTABILITY.—

“(1) ESTABLISHMENT OF STANDARDS.—Not later than 180 days after the date of the enactment
of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall, through publication in the Federal Register, establish standards with respect to determining the extent to which States and program-registered providers are in compliance with the agreements made under this part.

"(2) Compliance by States.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2151 on behalf of a State only if the State agrees to maintain compliance with the standards established under subsection (a).

“(b) State Maintenance of Immunization Laws.—The Secretary may provide for the purchase and delivery of vaccines under section 2151 on behalf of a State only if the State certifies to the Secretary that, if it had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

“(c) Participation in National Monitoring System.—On and after January 1, 1998, the Secretary may provide for the purchase and delivery of vaccines under section 2151 on behalf of a State only if the State certifies
to the Secretary that the State is operating a registry in accordance with part B.

"SEC. 2156. STATE OPTION REGARDING IMMUNIZATION OF ADDITIONAL CATEGORIES OF CHILDREN.

“(a) State Purchases.—Subject to subsections (b) and (c), for the purpose of administering a pediatric vaccine to children in addition to eligible children, any participating State under section 2151 may, pursuant to section 2158(a)(2), purchase the vaccine from a manufacturer of the vaccine at the price in effect under section 2158.

“(b) Requirements.—A State may purchase pediatric vaccines pursuant to subsection (a) only if the following conditions are met:

“(1) The State agrees that the vaccines will be used to provide immunizations for children who are not eligible children.

“(2) The State designates the particular categories of children who are to receive the immunizations, and submits to the Secretary a description of the categories so designated.

“(3) The State provides to the Secretary such information as the Secretary determines to be necessary to provide for quantities of pediatric vaccines for the State to purchase pursuant to section 2158(a)(2)."
“(4) The State agrees, subject to subsection (c), that the program established by the State pursuant to section 2152(b)(3) applies to children designated under paragraph (2) to the same extent and in the same manner as the program applies to eligible children (except for the State being the purchaser of the pediatric vaccines involved).

“(c) Certain Limitations.—A State may purchase pediatric vaccines pursuant to subsection (a) only if the State agrees as follows:

“(1) The authorization established in such subsection with respect to a pediatric vaccine is subject to the quantity of the vaccine that, on behalf of the State, the Secretary provides for under section 2158(a)(2).

“(2) In any case in which multiple contracts are in effect under section 2158 with respect to such a vaccine and the State elects to purchase the vaccine pursuant to subsection (a), the Secretary will determine which of such contracts will be applicable to the purchase.

“SEC. 2157. STATE APPLICATION FOR VACCINES.

“(a) In General.—An application by a State for pediatric vaccines under section 2151(a) is in accordance with this section if the application—
“(1) is submitted not later than the date specified by the Secretary;

“(2) contains each agreement required in this part (including the agreements required in section 2156, if the State is electing to purchase pediatric vaccines pursuant to such section);

“(3) contains any information required in this part to be submitted to the Secretary (including the information required in section 2156, if the State is electing to purchase pediatric vaccines pursuant to such section);

“(4) contains the certification required in subsection (b) of section 2155 and, as applicable, the certification required in subsection (c) of such section; and

“(5) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

“(b) FAILURE TO APPLY.—

“(1) IN GENERAL.—If, as of January 1, 1998, a State is not receiving pediatric vaccines under section 2151 and carrying out a program pursuant to section 2152(b)(3), the Secretary shall, subject to
paragraph (2), terminate payments to the State under part A of title XIX.

“(2) EXCEPTIONS.—Paragraph (1) does not apply in the case of a State described in such paragraph that—

“(A) is, through all willing health care providers, providing for the immunization of eligible children with pediatric vaccines, and is not imposing a charge on such providers or children for the costs of the vaccines; or

“(B) meets or exceeds the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States who are 2 years of age.

“SEC. 2158. CONTRACTS WITH MANUFACTURERS OF PEDIATRIC VACCINES.

“(a) IN GENERAL.—Subject to the provisions of this section, the Secretary shall periodically enter into negotiations with manufacturers of pediatric vaccines for the purpose of maintaining contracts under which—

“(1) the Secretary provides for the purchase of quantities of pediatric vaccines necessary for carrying out section 2151, and provides for the delivery of the vaccines to participating States under such section; and
“(2) each participating State, at the option of
the State under section 2156, is permitted to obtain
additional quantities of pediatric vaccines (subject to
limits in such contracts regarding quantities)
through purchasing the vaccines from the manufac-
turers at the price negotiated by the Secretary for
the quantities specified in paragraph (1).

The Secretary shall enter into the initial negotiations
under the preceding sentence not later than 180 days after
the date of the enactment of the Omnibus Budget

“(b) Negotiation of Purchase Price.—
“(1) In general.—In negotiating the prices at
which pediatric vaccines will be purchased from a
manufacturer under subsection (a), the Secretary
shall negotiate a price that provides a reasonable
profit for the manufacturer.

“(2) Certain factors.—
“(A) In determining a reasonable profit for
a manufacturer under paragraph (1), the Sec-
retary shall consider the following factors:
“(i) The costs of the manufacturer in
researching, developing, and producing the
pediatric vaccine involved.
“(ii) The costs of the manufacturer in researching and developing new or improved vaccines (pediatric or otherwise).

“(iii) The costs of shipping and handling pediatric vaccines in compliance with the agreement under subsection (c).

“(iv) Such other factors as the Secretary determines to be appropriate.

“(B) With respect to factors considered under subparagraph (A), the Secretary may enter into a contract under subsection (a) only if the manufacturer involved provides to the Secretary such information regarding the factors as the Secretary determines to be appropriate.

“(3) CONFIDENTIALITY.—With respect to information provided to the Secretary by a manufacturer under paragraph (2), the following applies:

“(A) The Secretary shall maintain the confidentiality of the information, with provision for reasonable disclosures.

“(B) For purposes of section 552(b)(4) of title 5, United States Code, the information shall be considered to be trade secrets and com-
mmercial or financial information obtained from a person and privileged or confidential.

“(C) Section 1905 of title 18, United States Code, applies to information maintained confidentially under subparagraph (A).

“(c) Charges for Shipping and Handling.—The Secretary may enter into a contract under subsection (a) only if the manufacturer involved agrees that the manufacturer will provide for delivering the vaccines on behalf of the States in accordance with the programs established by the States pursuant to section 2152(b)(3), and will not impose any charges for the costs of such delivery (except to the extent such costs are provided for in the price negotiated under subsection (b)).

“(d) Quantity of Vaccines.—For the purpose of ensuring that the Federal Government has the ability to carry out section 2151, the Secretary, in negotiations under subsection (a), shall negotiate for maintaining a supply of pediatric vaccines to meet unanticipated needs for the vaccines. For purposes of the preceding sentence, the Secretary shall negotiate for a 6-month supply of vaccines in addition to the quantity that the Secretary otherwise would provide for in such negotiations. In carrying out this paragraph, the Secretary shall consider the poten-
tial for outbreaks of the diseases with respect to which
the vaccines have been developed.

“(e) Negotiating Authority of Secretary.— In
carrying out subsection (a), the Secretary, to the extent
determined by the Secretary to be appropriate, may enter
into contracts described in such subsection, may decline
to enter into such contracts, and with the consent of the
manufacturers involved, may modify such agreements and
may extend such agreements.

“(f) Certain Contract Provisions.—

“(1) Duration.— A contract entered into by
the Secretary under subsection (a) is effective for
such period as the Secretary and the manufacturer
involved may agree in the contract.

“(2) Advance Funding.— The Secretary may,
pursuant to section 2152(a), enter into contracts
under subsection (a) under which the Federal Gov-
ernment is obligated to make outlays, the budget au-
thority for which is not provided for in advance in
appropriations Acts.

“(g) Reports to Secretary.— The Secretary may
enter into a contract under subsection (a) only if the man-
ufacturer involved agrees to submit to the Secretary such
reports as the Secretary determines to be appropriate with
respect to compliance with the contract. For purposes of
paragraph (3) of subsection (b), such reports shall be con-
considered to be information provided by the manufacturer
to the Secretary under paragraph (2) of such subsection.

“(h) MULTIPLE SUPPLIERS.—

“(1) IN GENERAL.—In the case of the pediatric
vaccine involved, the Secretary shall, as appropriate,
enter into a contract under subsection (a) with each
manufacturer of the vaccine that meets the terms
and conditions of the Secretary for an award of such
a contract (including terms and conditions regarding
safety, quality, and price).

“(2) RULE OF CONSTRUCTION.—With respect
to multiple contracts entered into pursuant to para-
graph (1), such paragraph may not be construed as
prohibiting the Secretary from having in effect dif-
ferent prices under each of such contracts.

“SEC. 2159. CERTAIN ADMINISTRATIVE VARIATIONS.

“(a) TRIBES AND TRIBAL ORGANIZATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2),
the Secretary shall provide for the purchase and de-
livery on behalf of each Indian tribe and each tribal
organization of such quantities of pediatric vaccines
as may be necessary for the immunization of each
Indian child in the State in which the tribe or orga-
nization (as the case may be) is located.
“(2) Entitlements; Administering Program.—The Secretary may provide for the purchase and delivery of pediatric vaccines under paragraph (1) on behalf of an Indian tribe or tribal organization only if the tribe or organization (as the case may be) agrees that this part applies to the tribe or organization (in relation to Indian children) to the same extent and in the manner as such part applies to States (in relation to eligible children).

“(b) State as Manufacturer.—

“(1) Payments in Lieu of Vaccines.—In the case of a participating State under section 2151 that manufactures a pediatric vaccine and is not receiving the vaccine under such section, if the Secretary determines that the program of the State under 2152(b)(3) is carried out with respect to the vaccine, the Secretary shall provide to the State an amount equal to the value of the quantity of such vaccine that otherwise would have been delivered to the State under section 2151, subject to the provisions of this subsection.

“(2) Determination of Value.—In determining the amount to pay a State under paragraph (1) with respect to a pediatric vaccine, the value of the quantity of vaccine shall be determined on the
basis of the price in effect for the vaccine under contracts under section 2158. If more than 1 such contract is in effect, the Secretary shall determine such value on the basis of the average of the prices under the contracts, after weighting each such price in relation to the quantity of vaccine under the contract involved.

"(3) USE OF PAYMENTS.—A State may expend payments received under paragraph (1) only for purposes relating to pediatric vaccines.

"SEC. 2160. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR ADMINISTRATION.

"(a) RECOMMENDED PEDIATRIC VACCINES.—

"(1) IN GENERAL.—The Secretary shall establish a list of the vaccines that the Secretary recommends for administration to all children for the purpose of immunizing the children, subject to such contraindications for particular medical categories of children as the Secretary may establish under subsection (b)(1)(D). The Secretary shall periodically review the list, and shall revise the list as appropriate.

"(2) RULE OF CONSTRUCTION.—
“(A) The list of vaccines specified in subparagraph (B) is deemed to be the list of vaccines maintained under paragraph (1).

“(B) The list of vaccines specified in this subparagraph is the list of vaccines that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices, an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

“(b) Recommended Schedule for Administration.—

“(1) In general.—Subject to paragraph (2), in the case of a pediatric vaccine, the Secretary shall establish (and periodically review and as appropriate revise) a schedule of nonbinding recommendations for the following:

“(A) The number of immunizations with the vaccine that children should receive.

“(B) The ages at which children should receive the immunizations.

“(C) The dosage of vaccine that should be administered in the immunizations.
“(D) Any contraindications regarding administration of the vaccine to particular medical categories of children.

“(E) Such other guidelines as the Secretary determines to be appropriate with respect to administering the vaccine to children.

“(2) Variations in Medical Practice.—In establishing and revising a schedule under paragraph (1), the Secretary shall ensure that, in the case of the pediatric vaccine involved, the schedule provides for the full range of variations in medical judgment regarding the administration of the vaccine, subject to remaining within medical norms.

“(3) Rule of Construction.—

“(A) The schedule specified in subparagraph (B) is deemed to be the schedule maintained under paragraph (1).

“(B) The schedule specified in this subparagraph is the schedule that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the advisory committee specified in subsection (a)(2)(B).

“(c) Generally Applicable Rules of Construction.—
``(1) IN GENERAL.—The list established under subsection (a) and the schedules established under subsection (b) do not constitute guidelines, standards, performance measures, or review criteria for purposes of the program carried out by the Administrator for Health Care Policy and Research under part B of title IX or under section 1142 of the Social Security Act.

``(2) STATE LAWS.—This section does not supersede any State law on requirements with respect to receiving immunizations (including any such law relating to religious exemptions or medical exemptions).

``(d) ISSUANCE OF LIST AND SCHEDULES.—Not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall establish the initial list required in subsection (a) and the schedule required in subsection (b).

"SEC. 2161. CHILDHOOD IMMUNIZATION TRUST FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the National Childhood Immunization Trust Fund (in this section referred to as the ‘Fund’). The Fund shall consist of such amounts as may be appropriated to the Fund in appropriations Acts, in the Internal Revenue
Code of 1986, or in subsection (c)(3). Amounts appropriated to the Fund shall remain available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for the purpose of carrying out this part. Payments under the program under this part, and the costs of carrying out such program, shall be exempt from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and
proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

“SEC. 2162. DEFINITIONS.

“For purposes of this subtitle:

“(1) The term ‘eligible child’ has the meaning given such term in section 2151(b).

“(2) The term ‘federally-supplied’, with respect to a pediatric vaccine, means that such vaccine is purchased and delivered on behalf of a State under section 2151(a).

“(3) The term ‘health care provider’, with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such administration under the law of the State in which the entity administers the vaccine, subject to section 333(e).

“(4) The term ‘immunization’ means an immunization against a vaccine-preventable disease.

“(5) Each of the terms ‘Indian’, ‘Indian tribe’, and ‘tribal organization’ has the meaning given such term in section 4 of the Indian Health Care Improvement Act.

“(6) The term ‘Indian child’ means an Indian who is 18 years of age or younger.
"(7) The term ‘manufacturer’ means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any pediatric vaccine. The term ‘manufacture’ means to manufacture, import, process, or distribute a vaccine.

"(8) The term ‘parent’, with respect to a child, means a legal guardian of the child.

"(9) The term ‘participating State under section 2151’ means a State that has submitted to the Secretary an application in accordance with section 2157.

"(10) The term ‘pediatric vaccine’ means a vaccine included on the list established under section 2160(a).

"(11) The term ‘program-registered provider’ has the meaning given such term in 2153(a)(2).

"SEC. 2163. TERMINATION OF PROGRAM.

This part shall cease to be in effect beginning on such date as may be prescribed in Federal law providing for immunization services for all children as part of a broad-based reform of the national health care system.
PART B—NATIONAL SYSTEM FOR MONITORING IMMUNIZATION STATUS OF CHILDREN

SEC. 2171. FORMULA GRANTS FOR STATE REGISTRIES WITH RESPECT TO MONITORING.

(a) In General.—For the purpose described in subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 2175. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 2174.

(b) Authorized Activities.—The Secretary may make a grant under subsection (a) only if the State agrees to expend the grant for the purpose of—

(1) collecting the data described in section 2172;

(2) operating registries to maintain the data (and establishing such registries, in the case of a State that is not operating such a registry);

(3) utilizing the data to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2160(b);
“(4) notifying parents if children have not received immunizations in accordance with such schedule; and

“(5) such other activities as the Secretary may authorize with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

“(c) REQUIREMENT REGARDING STATE LAWS.—

“(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved—

“(A) provides assurances satisfactory to the Secretary that, not later than October 1, 1996, the State will be operating a registry in accordance with this part, including having in effect such laws and regulations as may be necessary to so operate such a registry; and

“(B) agrees that, prior to such date, the State will make such efforts to operate a registry in accordance with this part as may be authorized in the law and regulations of the State.

“(2) RULES OF CONSTRUCTION.—

“(A) With respect to the agreements made by a State under this part, other than the
agreement under paragraph (1)(B), the Secretary may require compliance with the agreements only to the extent consistent with such paragraph.

"(B) This part does not authorize the Secretary, as a condition of the receipt of a grant under subsection (a) by a State, to prohibit the State from providing any parent, upon the request of the parent, with an exemption from the requirements established by the State pursuant to this part for the collection of data regarding any child of the parent.

"SEC. 2172. REGISTRY DATA.

"(a) In General.—For purposes of section 2171(b)(1), the data described in this section are the data described in subsection (b) and the data described in subsection (c). This section applies to data regarding a child without regard to whether the child is an eligible child as defined in section 2162.

"(b) Data Regarding Birth of Child.—With respect to the birth of a child, the data described in this subsection is as follows:

"(1) The name of each child born in the State involved on or after October 1, 1993.

"(2) Demographic data on the child.
“(3) The name of one or both of the parents of the child.

“(4) The address, as of the date of the birth of the child, of each parent whose name is received in the registry pursuant to paragraph (3).

“(c) Data Regarding Individual Immunizations.—With respect to a child to whom a pediatric vaccine is administered in the State involved, the data described in this subsection is as follows:

“(1) The name, age, and address of the child.

“(2) The date on which the vaccine was administered to the child.

“(3) The name and business address of the health care provider that administered the vaccine.

“(4) The address of the facility at which the vaccine was administered.

“(5) The name and address of one or both parents of the child as of the date on which the vaccine was administered, if such information is available to the health care provider.

“(6) The type of vaccine.

“(7) The number or other information identifying the particular manufacturing batch of the vaccine, if such information appears on the container or
packaging for the vaccine or is otherwise readily accessible to the health care provider.

“(8) The dosage of vaccine that was administered.

“(9) A description of any adverse medical reactions that the child experienced in relation to the vaccine and of which the health care provider is aware.

“(10) Any other contraindications noted by the health care provider with respect to administration of the vaccine to the child.

“(11) Such other data regarding immunizations for the child, including identifying data, as the Secretary may require consistent with applicable law (including social security account numbers furnished pursuant to section 205(c)(2)(E) of the Social Security Act).

“(d) Date Certain for Submission to Registry.—The Secretary may make a grant under section 2171 only if the State involved agrees to ensure that, with respect to a child—

“(1) the data described in subsection (b) are submitted to the registry under such section not later than 6 weeks after the date on which the child is born; and
“(2) the data described in subsection (c) with respect to a vaccine are submitted to such registry not later than 6 weeks after the date on which the vaccine is administered to the child.

“SEC. 2173. GENERAL PROVISIONS.

“(a) FEDERAL STANDARDS ON CONFIDENTIALITY.—

The Secretary shall by regulation establish standards providing for maintaining the confidentiality of the identity of individuals with respect to whom data are maintained in registries under section 2171. Such standards shall, with respect to a State, provide that the State is to have in effect laws regarding such confidentiality, including appropriate penalties for violation of the laws. The Secretary may make a grant under such section only if the State involved agrees to comply with the standards.

“(b) USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Any usage or disclosure of data in registries under section 2171 that consists of social security account numbers and related information which is otherwise permitted under this part may be exercised only to the extent permitted under section 205(c)(2)(E) of the Social Security Act. For purposes of the preceding sentence, the term ‘related information’ has the meaning given such term in clause (iv)(II) of such section.
“(c) Uniformity in Methodologies.—The Secretary shall establish standards regarding the methodologies used in establishing and operating registries under section 2171, and may make a grant under such section only if the State agrees to comply with the standards. The Secretary shall provide for a reasonable degree of uniformity among the States in such methodologies for the purpose of ensuring the utility, comparability, and exchange of the data maintained in such registries.

“(d) Coordination Among States.—The Secretary may make a grant under section 2171 to a State only if, with respect to the operation of the registry of the State under such section, the State agrees to cooperate with the Secretary and with other States in carrying out activities with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

“(e) Reports to Secretary.—The Secretary may make a grant under section 2171 only if the State involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to the activities of the State under this part.

“Sec. 2174. Application for Grant.

“An application by a State for a grant under section 2171 is in accordance with this section if the application—
“(1) is submitted not later than the date specified by the Secretary;
“(2) contains each agreement required in this part;
“(3) contains any information required in this part to be submitted to the Secretary; and
“(4) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

“SEC. 2175. DETERMINATION OF AMOUNT OF ALLOTMENT.
“The Secretary shall determine the amount of the allotments required in section 2171 for States for a fiscal year in accordance with a formula established by the Secretary that allots the amounts appropriated under section 2177 for the fiscal year on the basis of the costs of the States in establishing and operating registries under section 2171.

“SEC. 2176. DEFINITIONS.
“For purposes of this part, each of the terms ‘health care provider, ‘pediatric vaccine’ and ‘parent’ has the meaning given the term in section 2162.

“SEC. 2177. AUTHORIZATION OF APPROPRIATIONS.
“For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000, for fiscal year
1994, $152,000,000 for fiscal year 1995, $125,000,000 for fiscal year 1996, and $35,000,000 for each of the fiscal years 1997 through 1999.

"PART C—FUNDING FOR OTHER PURPOSES REGARDING CHILDHOOD IMMUNIZATIONS"

"SEC. 2181. GRANTS REGARDING YEAR 2000 HEALTH OBJECTIVES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States for the purpose of carrying out activities with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States, other than providing for the purchase and delivery on behalf of the State of any pediatric vaccine (as defined in section 2162).

"(b) CERTAIN ACTIVITIES.—Subject to subsection (a), the purposes for which a grant under such subsection may be expended include the following:

"(1) Research into the prevention and control of diseases that may be prevented through vaccination.

"(2) Demonstration projects for the prevention and control of such diseases.
“(3) Public information and education programs for the prevention and control of such diseases.

“(4) Education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel).

“(5) Such other activities as the Secretary determines to be appropriate.

“(c) Application for Grant.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(d) Supplies and Services in Lieu of Grant Funds.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

“(1) the fair market value of any supplies or equipment furnished the grant recipient, and

“(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the grant re-
recipient and the amount of any other costs incurred
in connection with the detail of such officer or
employee.
When the furnishing of such supplies or equipment or the
detail of such an officer or employee is for the convenience
of and at the request of such grant recipient and for the
purpose of carrying out a program with respect to which
the grant under subsection (a) is made. The amount by
which any such grant is so reduced shall be available for
payment by the Secretary of the costs incurred in furnish-
ing the supplies or equipment, or in detailing the person-
nel, on which the reduction of such grant is based, and
such amount shall be deemed as part of the grant and
shall be deemed to have been paid to the grant recipient.
``(e) Authorization of Appropriations.—For the
purpose of carrying out this part, there are authorized to
be appropriated $580,000,000 for fiscal year 1993,
$680,000,000 for fiscal year 1994, and such sums as may
be necessary for each of the fiscal years 1995 through
1999.''.
(b) Authority to Use Social Security Account
Numbers.—Section 205(c)(2) of the Social Security Act
(42 U.S.C. 405(c)(2)) is amended—
(1) by redesignating subparagraphs (E) and
(F) as subparagraphs (F) and (G), respectively; and
(2) by inserting after subparagraph (D) the following new subparagraph:

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(E)(i) The Secretary and each State receiving grants under section 2171(a) of the Public Health Service Act may utilize social security account numbers issued by the Secretary under this subsection for purposes of—

(1) operating registries under such section to maintain information including such numbers (and establishing such registries, in the case of a State that is not operating such a registry),

(II) utilizing such numbers to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2160(b) of the Public Health Service Act, and

(III) notifying parents if children have not received immunizations in accordance with such schedule.

(ii) Disclosure by individuals of social security account numbers may be required by a State for purposes of identification of children in a registry operated pursuant to a grant referred to in clause (i), except that such disclosure may be required to be made only to persons specifically authorized in regulations of the Secretary prescribed under part B of subtitle 3 of title XXI of the Pub-
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lic Health Service Act. The Secretary shall take such ac-
tions as are necessary to restrict access to information
consisting of such numbers and related information only
to such authorized persons whose duties or responsibilities
require access for the purposes described in clause (i). The
Secretary shall issue regulations governing the use, main-
tenance, and disclosure by any holder of such information,
including appropriate administrative, technical, and phys-
ical safeguards, to ensure that only such authorized per-
sons have access to such information. Any use or disclo-
sure of such information in violation of such regulations
shall be deemed a disclosure in violation of subparagraph
(C)(vii).

“(iii) The Secretary shall submit a report to the Com-
mittee on Ways and Means of the House of Representa-
tives and the Committee on Finance of the Senate not
later than January 1, 1996, and biennially thereafter, on
the operation of this subparagraph.

“(iv) For purposes of this subparagraph—
“(I) the term ‘State’ has the meaning provided
such term under section 2(f) of the Public Health
Service Act, and
“(II) the term ‘related information’ means any
record, list, or compilation which indicates, directly
or indirectly, the identity of any individual with re-
spect to whom a social security account number is maintained pursuant to this subparagraph and part B of subtitle 3 of title XXI of the Public Health Service Act.”.

(c) RELATIONSHIP OF NEW PROGRAM OF IMMUNIZATION GRANTS TO CURRENT PROGRAM.—

(1) STRIKING OF CURRENT PROGRAM.—Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended—

(A) in subsection (j)—

(i) by striking paragraph (1); and

(ii) by striking the remaining paragraph designation; and

(B) in subsection (k)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) TRANSITIONAL AUTHORITY UNDER NEW PROGRAM.—With respect to activities that the Secretary of Health and Human Services was authorized to carry out pursuant to section 317(j)(1) of the Public Health Service Act (as in effect on the day before the date of the enactment of this Act), the Secretary may, for fiscal year 1994, carry out
any such activity under section 2181 of the Public Health Service Act (as added by subsection (a) of this section), notwithstanding the provisions of such section 2181. The authority established in the preceding sentence includes the authority to purchase vaccines.

(d) Continued Coverage of Costs of a Pediatric Vaccine under Group Health Plans.—

(1) Requirement.—The requirement of this paragraph, with respect to a group health plan for plan years beginning after the date of the enactment of this Act, is that the group health plan not reduce its coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.

(2) Enforcement.—

(A) For purposes of section 2207 of the Public Health Service Act, the requirement of paragraph (1) is deemed a requirement of title XXII of such Act.

(B) For purposes of subsections (a) through (e) of section 4980B of the Internal Revenue Code of 1986, paragraph (1) is
deemed a requirement of subsection (f) of such section.

(C) For purposes of section 502 of the Employee Retirement Income Security Act of 1974, paragraph (1) is deemed a provision of part 6 of subtitle B of title I of such Act.

SEC. 5182. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) USE OF VACCINE INJURY COMPENSATION TRUST FUND.—Section 6601(r) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "$2,500,000 for each of fiscal years 1991 and 1992" each place it appears and inserting "$3,000,000 for fiscal year 1994 and each fiscal year thereafter" (in three places).

(b) AMENDMENT OF VACCINE INJURY TABLE.—Section 2116(b) of the Public Health Service Act (42 U.S.C. 300aa–16(b)) is amended by striking "such person may file" and inserting "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file".

(c) EXTENSION OF TIME FOR DECISION.—Section 2112(d)(3)(D) of such Act (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking "540 days" and inserting "30 months (but for no more than 6 months at a time)".
(d) **Simplification of Vaccine Information Materials.**—

(1) Section 2126(b) of such Act (42 U.S.C. 300aa-26(b)) is amended—

(A) by striking “by rule” in the matter preceding paragraph (1);

(B) by striking, in paragraph (1), “, opportunity for a public hearing, and 90” and inserting “and 30”; and

(C) by striking, in paragraph (2), “, appropriate health care providers and parent organizations”.

(2) Section 2126(c) of such Act (42 U.S.C. 300aa-26(c)) is amended—

(A) by inserting “shall be based on available data and information,” after “such materials” in the matter preceding paragraph (1), and

(B) by striking paragraphs (1) through (10) and inserting the following:

“(1) a concise description of the benefits of the vaccine,

“(2) a concise description of the risks associated with the vaccine,
“(3) a statement of the availability of the National Vaccine Injury Compensation Program, and

“(4) such other relevant information as may be determined by the Secretary.”.

(3) Subsections (a) and (d) of section 2126 of such Act (42 U.S.C. 300aa-26) are each amended by inserting “or to any other individual” after “to the legal representatives of any child”.

(4) Subsection (d) of section 2126 of such Act (42 U.S.C. 300aa-26) is amended—

(A) by striking all after “subsection (a),”

the second place it appears in the first sentence and inserting “supplemented with visual presentations or oral explanations, in appropriate cases.”, and

(B) by striking “or other information” in

the last sentence.

SEC. 5183. MEDICAID IMMUNIZATION PROVISIONS.

(a) Outreach and Education.—

(1) Immunization Outreach through EPSDT Program.—Section 1902(a)(43)(A) (42 U.S.C. 1396a(a)(43)(A)) is amended by inserting before the comma at the end the following: “and the need for age-appropriate immunizations against vaccine-preventable diseases”.

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(2) Coordination with Maternal and Child Health Block Grant Programs and WIC Programs.—Section 1902(a)(11) (42 U.S.C. 1396a(a)(11)) is amended—

(A) in clause (B)—

(i) by striking “effective July 1, 1969,”,

(ii) by striking “and” before “(ii),” and

(iii) by striking “to him under section 1903” and inserting “to the individual under section 1903, and (iii) providing for coordination of information and education on childhood vaccinations and delivery of immunization services”; and

(B) in clause (C), by inserting “(including the provision of information and education on childhood vaccinations and the delivery of immunization services)” after “operations under this title”.

(4) **Effective Date.**—(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.
(b) **Schedule of Immunizations Under EPSDT.**—

(1) **In General.**—Section 1905(r)(1) (42 U.S.C. 1396d(r)(1)) is amended—

(A) in subparagraph (A)(i), by inserting “and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule recommended by the Secretary under section 2160 of the Public Health Service Act” after “child health care”; and

(B) in subparagraph (B)(iii), by inserting “(according to the schedule recommended by the Secretary under section 2160 of the Public Health Service Act)” after “appropriate immunizations”.

(2) **Effective Date.**—The amendments made by subparagraphs (A) and (B) of paragraph (1) shall first apply 90 days after the date the Secretary of Health and Human Services first issues the recommended schedule referred to in subparagraphs (A)(i) and subparagraph (B)(iii) of section 1905(r)(1) of the Social Security Act (as amended by such respective subparagraphs).

(c) **Assuring Adequate Payment Rates for Administration of Vaccines to Children.**—
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(1) **Payment Rates.**—Section 1926(a)(4)(B) (42 U.S.C. 1396r-7(a)(4)(B)) is amended by inserting ``(including the administration of vaccines)'' after ``means services''.

(2) **Effective Date.**—The amendment made by paragraph (1) shall apply to the plan amendment required to be submitted under section 1926(a)(2) of the Social Security Act by not later than April 1, 1994.

(d) **Denial of Federal Financial Participation for Inappropriate Administration of Single-Antigen Vaccine.**—

(1) **In General.**—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by sections 5174(b) and 5131(a), is amended—

(A) in paragraph (13), by striking ``or'' at the end,

(B) in paragraph (14), by striking the period at the end and inserting ``; or'', and

(C) by inserting after paragraph (14) the following new paragraph:

``(15) with respect to any amount expended for a single-antigen vaccine and its administration in any case in which the administration of a combined-
antigen vaccine was medically appropriate (as determined by the Secretary).”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to amounts expended for vaccines administered on or after October 1, 1993.

(e) REQUIRING MEDICAID MANAGED CARE PLANS TO COMPLY WITH IMMUNIZATION AND OTHER EPSDT REQUIREMENTS.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A), as amended by subsections (a)(1) and (b)(1) of section 5135—

(i) by striking “and” at the end of clause (xii),

(ii) by striking the period at the end of clause (xiii) and inserting “; and”, and

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

“(xiv) the entity complies with the requirements of paragraph (7) (relating to EPSDT compliance).”;

and

(B) by adding at the end the following new paragraph:
“(7) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall—

“(A) specify which early and periodic screening, diagnostic, and treatment services are to be provided under the contract to individuals under age 21 enrolled with the entity;

“(B) in the case of such services which are not to be so provided, specify the steps the entity will take (through referrals or other arrangements) to assure that such individuals will receive such services; and

“(C) require the entity to submit such periodic reports as may be necessary to enable the State to prepare and submit timely reports under section 1902(a)(43)(D) and section 506(a)(2).”.

(2) Application of intermediate sanctions for failure to provide immunizations and other EPSDT services.—Section 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is amended—

(A) by striking “, or” at the end of clause (iv) and inserting a semicolon,

(B) by striking the comma at the end of clause (v) and inserting “; or”, and
(C) by inserting after clause (v) the following new clause:

“(vi) fails substantially to provide early and periodic screening, diagnostic, and treatment services to the extent specified in the contract under paragraph (7)(A);”.

(3) **Effective Date.**—The amendments made by this subsection shall apply to contract years beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(f) **Transition Rule.**—

(1) **Medicaid Use of CDC Contract Price.**—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, enter into a contract for the purchase by the Centers for Disease Control and Prevention of pediatric vaccines for distribution (as provided for in section 317 or section 2181 of the Public Health Service Act) unless such contract provides that the charge for such vaccines, for which medical assistance is provided under a State plan under title XIX of the Social Security Act, will not exceed the price negotiated under the contract. The previous sentence shall not apply, with respect to a vaccine for which
medical assistance is provided by a State, on and after such date as the State becomes entitled to have the Secretary provide for the purchase and delivery on behalf of the State of that vaccine under section 2151 of the Public Health Service Act.

(2) Optional use by states of CDC contract price.—Nothing in paragraph (1) shall be construed as limiting the Federal financial participation available to States, under title XIX of the Social Security Act, for the cost of a pediatric vaccine to the contract price described in such paragraph for the vaccine.

SEC. 5184. AVAILABILITY OF MEDICAID PAYMENTS FOR CHILDHOOD VACCINE REPLACEMENT PROGRAMS.

(a) In General.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)) is amended—

(1) by striking “and” at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting “; and”, and

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

“(D) in the case of payment for a childhood vaccine administered to individuals enti-
tled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a voluntary replacement program agreed to by the State pursuant to which the manufacturer (i) supplies doses of the vaccine to providers administering the vaccine, (ii) periodically replaces the supply of the vaccine, and (iii) charges the State the manufacturer’s bid price to the Centers for Disease Control and Prevention for the vaccine so administered plus a reasonable premium to cover shipping and the handling of returns;’’.

(b) **Effect Date.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 5185. HEALTHY START FOR INFANTS.**

(a) **In General.**—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by inserting after section 330 the following section:

``HEALTHY START FOR INFANTS
``
``Sec. 330A. (a) GRANTS FOR COMPREHENSIVE SERVICES.—
``
``‘‘(1) IN GENERAL.—The Secretary may make grants for the operation of not more than 21 demonstration projects to provide the services described
``
in subsection (b) for the purpose of reducing, in the geographic areas in which the projects are carried out—

“(A) the incidence of infant mortality and morbidity;

“(B) the incidence of fetal deaths;

“(C) the incidence of maternal mortality;

“(D) the incidence of fetal alcohol syndrome; and

“(E) the incidence of low-birthweight births.

“(2) Achievement of Year 2000 Health Status Objectives.—With respect to the objectives established by the Secretary for the health status of the population of the United States for the year 2000, the Secretary shall, in providing for a demonstration project under paragraph (1) in a geographic area, seek to meet the objectives that are applicable to the purpose described in such paragraph and the populations served by the project.

“(b) Authorized Services.—

“(1) In General.—Subject to subsection (h), the services referred to in this subsection are comprehensive services (including preventive and primary health services for pregnant women and in-
fants and childhood immunizations in accordance
with the schedule recommended by the Secretary
under section 2160) for carrying out the purpose de-
scribed in subsection (a), including services other
than health services.

“(2) CERTAIN PROVIDERS.—The Secretary may
make a grant under subsection (a) only if the appli-
cant involved agrees that, in making any arrange-
ments under which other entities provide authorized
services in the demonstration project involved, the
applicant will include among the entities with which
the arrangements are made grantees under any of
sections 329, 330, 340, and 340A, if such grantees
are providing services in the service area of such
project and the grantees are willing to make such
arrangements with the applicant.

“(c) ELIGIBLE GEOGRAPHIC AREAS.—The Secretary
may make a grant under subsection (a) only if—

“(1) the applicant for the grant specifies the
geographic area in which the demonstration project
under such subsection is to be carried out and
agrees that the project will not be carried out in
other areas; and
“(2) the rate of infant mortality in the geographic area equals or exceeds 150 percent of the national average in the United States of such rates.

“(d) Minimum Qualifications of Grantees.—

“(1) Public or Nonprofit Private Entities.—The Secretary may make a grant under subsection (a) only if the applicant for the grant is a State or local department of health, or other public or nonprofit private entity, or a consortium of public or nonprofit private entities.

“(2) Approval of Political Subdivisions.—With respect to a proposed demonstration project under subsection (a), the Secretary may make a grant under such subsection only if—

“(A) the chief executive officer of each political subdivision in the service area of such project approves the applicant for the grant as being qualified to carry out the project; and

“(B) the leadership of any Indian tribe or tribal organization with jurisdiction over any portion of such area so approves the applicant.

“(3) Status as Medicaid Provider.—

“(A) In the case of any service described in subsection (b) that is available pursuant to the State plan approved under title XIX of the
Social Security Act for a State in which a demonstration project under subsection (a) is carried out, the Secretary may make a grant under such subsection for the project only if, subject to subparagraph (B)—

“(i) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

“(ii) the applicant will enter into an agreement with a public or private entity under which the entity will provide the service, and the entity has entered into such a participation agreement under the State plan and is qualified to receive such payments.

“(B)(i) In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-
party payor, including reimbursement under
any insurance policy or under any Federal or
State health benefits plan.

“(ii) A determination by the Secretary of
whether an entity referred to in clause (i) meets
the criteria for a waiver under such clause shall
be made without regard to whether the entity
accepts voluntary donations regarding the pro-
vision of services to the public.

“(e) State Approval of Project.—With respect
to a proposed demonstration project under subsection (a),
the Secretary may make a grant under such subsection
to the applicant involved only if—

“(1) the chief executive officer of the State in
which the project is to be carried out approves the
proposal of the applicant for carrying out the
project; and

“(2) the leadership of any Indian tribe or tribal
organization with jurisdiction over any portion of the
service area of the project so approves the proposal.

“(f) Eligibility for Services Provided With
Grant Funds.—

“(1) In general.—With respect to any au-
thorized service under subsection (b), if the service
is a service that States are required or authorized to
provide under title XIX of the Social Security Act, the Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended to provide the service to any individual to whom States are required or authorized under such title to provide the service. The Secretary may not make a grant under subsection (a) unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(A) under a health insurance policy or plan (including a group health plan or a pre-paid health plan),

"(B) under any Federal or State health benefits program, including any program under title V, XVIII, or XIX of the Social Security Act, or

"(C) under subpart 2 of part B of title XIX of this Act.

"(2) Rules of Construction.—For purposes of paragraph (1):

"(A) Individuals to whom States are authorized to provide services under title XIX of
the Social Security Act include, pursuant to section 1902(l) of such title, pregnant women, infants, and children with an income level not less than 133 percent, and not more than 185 percent, of the official poverty line.

“(B) Authorized services under subsection (b) that are authorized to be provided under title XIX of such Act include, pursuant to section 1920 of such title, ambulatory prenatal services during a period of presumptive eligibility.

“(C) Authorized services under subsection (b) that are required to be provided under title XIX of such Act include, pursuant to section 1905(a)(4)(B) of such title, early and periodic screening, diagnostic, and treatment services for children under the age of 21.

“(D) Authorized services under subsection (b) that are authorized to be provided under title XIX of such Act include, pursuant to section 1905(a)(19) of such title, case-management services.

“(g) MAINTENANCE OF EFFORT.—

“(1) GRANTEE.—With respect to authorized services under subsection (b), the Secretary may
make a grant under subsection (a) only if the applicant involved agrees to maintain expenditures of non-Federal amounts for such services at a level that is not less than the level of such expenditures maintained by the applicant for fiscal year 1991.

“(2) Relevant political subdivisions.—
With respect to authorized services under subsection (b), the Secretary may make a grant under subsection (a) only if each political subdivision in the service area of the demonstration project involved agrees to maintain expenditures of non-Federal amounts for such services at a level that is not less than the level of such expenditures maintained by the political subdivision for fiscal year 1991.

“(h) Restrictions on expenditure of grant.—

“(1) In general.—Except as provided in paragraph (3), the Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended—

“(A) to provide inpatient services, except with respect to residential treatment for substance abuse provided in settings other than hospitals;
“(B) to make cash payments to intended recipients of health services or mental health services; or
“(C) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment (other than mobile medical units for providing ambulatory prenatal services).

“(2) Administrative expenses; data collection.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that not more than an aggregate 10 percent of the grant will be expended for administering the grant and the collection and analysis of data.

“(3) Waiver.—If the Secretary finds that the purpose described in subsection (a) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified applicant, waive the restriction established in paragraph (1)(C).

“(i) Determination of cause of infant deaths.—The Secretary may make a grant under subsection (a) only if the applicant involved—
“(1) agrees to provide for a determination of
the cause of each infant death in the service area of
the demonstration project involved; and
“(2) the applicant has made such arrangements
with public entities as may be necessary to carry out
paragraph (1).
“(j) Annual Reports to Secretary.—The Sec-
retary may make a grant under subsection (a) only if the
applicant involved agrees that, for each fiscal year for
which the applicant operates a demonstration project
under such subsection the applicant will, not later than
April 1 of the subsequent fiscal year, submit to the Sec-
retary a report providing the following information with
respect to the project:
“(1) The number of individuals that received
authorized services, and the demographic character-
istics of the population of such individuals.
“(2) The types of authorized services provided,
including the types of ambulatory prenatal services
provided and the trimester of the pregnancy in
which the services were provided.
“(3) The sources of payment for the authorized
services provided.
“(4) The extent to which children under age 2
receiving authorized services have received the ap-
propriate number and variety of immunizations against vaccine-preventable diseases.

“(5) An analysis of the causes of death determined under subsection (i).

“(6) The extent of progress being made toward meeting the health status objectives specified in subsection (a)(2).

“(7) The extent to which, in the service area involved, progress is being made toward meeting the participation goals established for the State by the Secretary under section 1905(r) of the Social Security Act (relating to early periodic screening, diagnostic, and treatment services for children under the age of 21).

“(k) Community Participation.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in preparing the proposal of the applicant for the demonstration project involved, and in the operation of the project, the applicant will consult with the residents of the service area for the project and with public and nonprofit private entities that provide authorized services to such residents.

“(l) Application for Grant.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the appli-
cication is in such form, is made in such manner, and con-
tains such agreements, assurances, and information as the
Secretary determines to be necessary to carry out this sub-
section.

“(m) R e p o r t t o C o n g r e s s.—N o t l a t e r t h a n F e b-
ruary 1, 1998, the Secretary shall submit to the Commit-
tee on E n e r g y a n d C o m m e r c e o f t h e H o u s e o f R e p r e s e n t a-
tives, and the Committee on L a b o r a n d H u m a n R e s o u r c e s
of the Senate, a report—

“(1) summarizing the reports received by the
Secretary under subsection (j);

“(2) describing the extent to which demonstra-
tion projects under subsection (a) have been cost ef-
fective; and

“(3) describing the extent to which the Sec-
etary has, in the service areas of such projects,
been successful in meeting the health status objec-
tives specified in subsection (a)(2).

“(n) L i m i t a t i o n o n C e r t a i n E x p e n s e s o f S e c-
retary.—Of the amounts appropriated under subsection
(o) for a fiscal year, the Secretary may not obligate more
than an aggregate 5 percent for the administrative costs
of the Secretary in carrying out this section, for the provi-
sion of technical assistance regarding demonstration
projects under subsection (a), and for evaluations of such projects.

“(o) Definitions.—For purposes of this section:

“(1) The term ‘authorized services’ means the services specified in subsection (b).

“(2) The terms ‘Indian tribe’ and ‘tribal organization’ have the meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

“(3) The term ‘service area’, with respect to a demonstration project under subsection (a), means the geographic area specified in subsection (c).

“(p) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated for each of the fiscal years 1994 through 1997 such sums as may be necessary.

“(q) Sunset.—Effective October 1, 1997, this section is repealed.”.

(b) Report for Fiscal Year 1993.—With respect to grants under section 330A of the Public Health Service Act, as added by subsection (a) of this section, the Secretary of Health and Human Services may make a grant under such section for fiscal year 1994 only if the applicant for the grant agrees to submit to the Secretary, not later than April 1 of such year, a report on any federally-
supported project of the applicant that is substantially
similar to the demonstration projects authorized in such
section 330A, which report provides, to the extent prac-
ticable, the information described in subsection (j) of such
section.

(c) Savings Provision.—With respect to grants
under section 330A of the Public Health Service Act, as
added by subsection (a) of this section and in effect for
the fiscal years 1994 through 1997, such grants remain
available for obligation and expenditure in accordance with
the terms upon which the grants were made, notwith-
standing the repeal of such section 330A pursuant to sub-
section (q) of such section.

(d) Use of General Authority Under Public
Health Service Act.—With respect to the program es-
tablished in section 330A of the Public Health Service Act,
as added by subsection (a) of this section, section 301 of
the Public Health Service Act may not be construed as
providing to the Secretary of Health and Human Services
any authority to carry out, during any fiscal year in which
such program is in operation, any demonstration project
to provide any of the services specified in subsection (b)
of such section 330A.
SEC. 5186. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

Section 501(a) (42 U.S.C. 701(a)) is amended by striking "$686,000,000 for fiscal year 1990" and inserting "$705,000,000 for fiscal year 1994".

SEC. 5187. MISCELLANEOUS TECHNICAL CORRECTIONS TO PUBLIC HEALTH SERVICE ACT PROVISIONS.

(a) Compensation for Members of National Advisory Council on National Health Service Corps.—

(1) In General.—Section 337(b)(2) of the Public Health Service Act (42 U.S.C. 254j(b)(2)) is amended—

(A) by inserting after "so serving" the following: "compensation at a rate fixed by the Secretary (but not to exceed", and

(B) by striking "Schedule;" and inserting "Schedule);".

(2) Effective Date.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) Liability Protections for Individuals Providing Services at Certain Clinics.—

(1) Clarification of Voluntary Participation by Certain Entities.—(A) Section 224(g) of the Public Health Service Act (42 U.S.C.
133(g)(1)), as added by section 2(a) of the Federally Supported Health Centers Assistance Act of 1992, is amended—

(i) in paragraph (4), by striking “An entity” and inserting “Except as provided in paragraph (6), an entity”, and

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

“(6) An entity may elect not to be treated as being described in paragraph (4) if the entity establishes that on a continuous basis since October 24, 1992, the entity has been a participant in, and partial owner of, a nonprofit risk retention group which offers malpractice and other liability coverage to the entity.”.

(B) Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking “entities receiving funds” and all that follows through “subsection (g)” and inserting the following: “entities described in subsection (g)(4) and receiving funds under each of the grant programs described in such subsection”.

(2) Clarification of coverage of officers and employees of clinics.—The first sentence of section 224(g)(1) of the Public Health Service Act
(42 U.S.C. 233(g)(1)) is amended by striking “officer, employee, or contractor” and inserting the following: “officer or employee of such an entity, and any contractor”.

(3) **Coverage for services furnished to individuals other than patients of clinic.**—

Section 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended by paragraph (1), is amended—

(A) in the first sentence of paragraph (1), by inserting after “Service” the following: “with respect to services provided to patients of the entity and (subject to paragraph (7)) to certain other individuals”; and

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

“(7) For purposes of paragraph (1), an officer, employee, or contractor described in such paragraph may be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are not patients of an entity described in paragraph (4) only if the Secretary determines—

“(A) that the provision of the services to such individuals is necessary to assure the treatment of patients of such an entity; or
“(B) that such services are otherwise required
to be provided to such individuals under an employ-
ment contract (or other similar arrangement) be-
tween the individual and the entity.”.

(4) **Determining compliance of entity**
with requirements for coverage.—Section
224(h) of such Act (42 U.S.C. 233(h)), as added by
section 2(b) of the Federally Supported Health Cen-
ters Assistance Act of 1992, is amended by striking
“the entity—” and inserting the following: “the Sec-
retary, after receiving such assurances and conduct-
ing such investigation as the Secretary considers
necessary, finds that the entity—”.

(5) **Effective date.**—The amendments made
by this subsection shall take effect as if included in
the enactment of the Federally Supported Health

(c) **Elimination of duplicate waiver authority for participants in National Health Service Corps.**—Section 338E(c) of the Public Health Service
Act (42 U.S.C. 254o(c)) is amended by striking paragraph
(3) and redesignating paragraph (4) as paragraph (3).

(d) **Clarification of prohibition against resale of drugs under drug rebate agreements.**—Section 340B(a)(5)(B) of the Public Health Service Act
(42 U.S.C. 256b(a)(5)(B)), as added by section 602(a) of the Veterans Health Care of 1992, is amended by striking “entity.” and inserting “covered entity.”.

Subtitle C—Communications Licensing Improvement

SEC. 5200. TABLE OF CONTENTS.

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.
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CHAPTER 2—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

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CHAPTER 1—COMPETITIVE BIDDING AUTHORITY

SEC. 5201. SHORT TITLE.

This chapter may be cited as the “Licensing Improvement Act of 1993”.

HR 2264 RH
SEC. 5202. FINDINGS.

The Congress finds that—

(1) current licensing procedures often delay delivery of services to the public and can result in the unjust enrichment of applicants on the basis of the value of the public airwaves;

(2) if licensees are engaged in reselling the use of the public airwaves to subscribers for a fee, the licensee should pay reasonable compensation to the public for those public resources;

(3) a carefully designed system to obtain competitive bids from competing qualified applicants can speed delivery of services, promote efficient and intensive use of the electromagnetic spectrum, prevent unjust enrichment, and produce revenues to compensate the public for the use of the public airwaves; and

(4) therefore, the Federal Communications Commission should have the authority to differentiate among multiple qualified applicants for a single license using a system of competitive bids.

SEC. 5203. AUTHORITY TO USE COMPETITIVE BIDDING.

Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

“(j) USE OF COMPETITIVE BIDDING.—
“(1) **GENERAL AUTHORITY.**—If mutually exclusive applications are filed for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection.

“(2) **USES TO WHICH BIDDING MAY APPLY.**—A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

“(A) the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return—

“(i) for the licensee enabling those subscribers to receive communications signals that are transmitted utilizing frequencies on which the licensee is licensed to operate; or

“(ii) for the licensee enabling those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and
“(B) a system of competitive bidding will promote the objectives described in paragraph (3).

“(3) Design of systems of competitive bidding.—For each license or permit, or class of licenses or permits, that the Commission grants through the use of a competitive bidding system, the Commission shall, by rule, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. In identifying licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall seek to promote the purposes specified in section 1 of this Act and the following objectives:

“(A) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

“(B) promoting economic opportunity and competition and ensuring that new and innova-
ative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women;

“(C) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource; and

“(D) efficient and intensive use of the electromagnetic spectrum.

“(4) CONTENTS OF REGULATIONS.—In prescribing rules pursuant to paragraph (3), the Commission shall—

“(A) consider alternative payment schedules and methods of calculation, including initial lump sums, installment or royalty payments, guaranteed annual minimum payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

“(B) include performance requirements, such as appropriate deadlines and penalties for
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performance failures, to ensure prompt delivery
of service to rural areas, to prevent stockpiling
or warehousing of spectrum by licensees or per-
mittees, and to promote investment in and
rapid deployment of new technologies and serv-
ices;

“(C) consistent with the public interest,
convenience, and necessity, the purposes of this
Act, and the characteristics of the proposed
service, prescribe area designations and band-
width assignments that promote (i) an equitable
distribution of licenses and services among geo-
graphic areas, (ii) economic opportunity for a
wide variety of applicants, including small busi-
nesses and businesses owned by members of mi-
nority groups and women, and (iii) investment
in and rapid deployment of new technologies
and services; and

“(D) require such transfer disclosures and
antitrafficking restrictions and payment sched-
ules as may be necessary to prevent unjust en-
richment as a result of the methods employed
to issue licenses and permits.

“(5) BIDDER AND LICENSEE QUALIFICATION.—
No person shall be permitted to participate in a sys-
tem of competitive bidding pursuant to this subsection unless such bidder submits such information
and assurances as the Commission may require to demonstrate that such bidder’s application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) and sections 308(b) and 310. Consistent with the objectives described in paragraph (3), the Commission shall, by rule, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) for the resolution of any substantial and material issues of fact concerning qualifications.

“(6) Rules of Construction.—Nothing in this subsection, or in the use of competitive bidding, shall—

“(A) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 706, or any other provision of this Act (other than subsections (d)(2) and (e) of this section);

“(B) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other
licenses within the same service that were not
issued pursuant to this subsection; or

“(C) be construed to prohibit the Commis-

sion from issuing nationwide licenses or per-

mits.

“(7) L I M I T A T I O N O F E F F E C T O N A L L O C A T I O N

D E C I S I O N S.— I n m a k i n g a d e c i s i o n p u r s u a n t
to section 303(c) to assign a band of frequencies to a use
for which licenses or permits will be issued pursuant
to this subsection, and in prescribing regulations
pursuant to paragraph (4)(A) and (4)(C) of this
subsection, the Commission may not base a finding
of public interest, convenience, and necessity solely
or predominantly on the expectation of Federal reve-

nues from the use of a system of competitive bidding
under this subsection.

“(8) T R E A T M E N T O F R E V E N U E S.— A l l p r o c e e d s
from the use of a competitive bidding system under
this subsection shall be deposited in the Treasury in
accordance with chapter 33 of title 31, United
States Code. A license or permit issued by the Com-
mission under this section shall not be treated as the
property of the licensee for tax purposes by any
State or local government entity.
(9) TERMINATION; EVALUATION.—The authority of the Commission to grant a license or permit under this subsection shall expire September 30, 1998. Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

"(A) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

"(B) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

"(C) evaluating the extent to which such methodologies have secured prompt delivery of service to rural areas; and

"(D) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection.".

SEC. 5204. CONFORMING AMENDMENTS.

Section 309 of the Communications Act of 1934 is further amended—

(1) by striking subsection (i)(1) and inserting the following:
(i) RANDOM SELECTION.—

(1) GENERAL AUTHORITY.—If—

(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

(B) the Commission has determined that the use is not described in subsection (j)(2)(A); then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.''

(2) in paragraph (2)—

(A) by indenting paragraph (2), including subparagraphs (A) through (C), by an additional 2 em spaces; and

(B) by inserting "DETERMINATIONS OF QUALIFICATIONS.—" after "(2)"

(3) in paragraph (3)—

(A) by indenting subparagraphs (A) and (B), and so much of subparagraph (C) as precedes clause (i), by an additional 2 em spaces;

(B) by indenting clauses (i) and (ii) of subparagraph (C) by an additional 4 em spaces; and
(C) by inserting "Preferences; diversity.—" after "(3)";
(4) in paragraph (4)—
(A) by indenting subparagraphs (A) and
(B) of such paragraph by an additional 2 em spaces;
(B) by inserting "Rulemaking schedule
and authority.—" after "(4)"; and
(C) by adding at the end the following new
subparagraph:
"(C) Not later than 180 days after the date of
enactment of this subparagraph, the Commission
shall prescribe such transfer disclosures and
antitrafficking restrictions and payment schedules as
are necessary to prevent the unjust enrichment of
recipients of licenses or permits as a result of the
methods employed to issue licenses under this sub-
section.''.

SEC. 5205. REGULATORY PARITY.

(a) Amendment.—Section 332 of the Communications Act of 1934 (47 U.S.C. 332) is amended—
(1) by striking "private land" from the heading of the section; and
(2) by amending striking subsection (c) and in-
serting the following:
"(c) Regulatory Treatment of Mobile Services.—

"(1) Common Carrier Treatment of Commercial Mobile Services.—(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except for such provisions of title II as the Commission may, consistent with the public interest, specify as inapplicable by rule. In prescribing any such rule, the Commission may not specify section 201, 202, or 208, or any other provision that the Commission determines to be necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or is otherwise in the public interest.

"(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this Act. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed
as a limitation or expansion of the Commission's au-

thority to order interconnection pursuant to this

Act.

“(2) Noncommon Carrier Treatment of

Private Land Mobile Services.—A person en-
gaged in private land mobile service shall not, inso-
far as such person is so engaged, be treated as a
common carrier for any purpose under this Act. A
common carrier (other than a person that was treat-
ed as provider of private land mobile services prior
to the enactment of the Licensing Improvement Act
of 1993) shall not provide any dispatch service on
any frequency allocated for common carrier service,
except to the extent such dispatch service is provided
on stations licensed in the domestic public land mo-
bile radio service before January 1, 1982. The Com-
mission may by regulation terminate, in whole or in
part, the prohibition contained in the preceding sen-
tence if the Commission determines that such termi-
nation will serve the public interest.

“(3) State Authority to Regulate.—(A)

Notwithstanding sections 2(b) and 221(b), no State
or local government shall have any authority to im-
pose any rate or entry regulation upon any commer-
cial mobile service or any private land mobile service,
except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

“(B) Notwithstanding subparagraph (A), a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that (i) such service is a substitute for land line telephone exchange service for a substantial portion of the public within such State, or (ii) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.
``(4) REGULATORY TREATMENT OF COMMUNICATIONS SATELLITE CORPORATION.—Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite of 1962 of the corporation authorized by title III of such Act.

``(d) DEFINITIONS.—For purposes of this section—

``(1) the term ‘commercial mobile service’ means all mobile services (as defined in section 3(n)) that—

``(A) are provided for profit (i) to the public, (ii) on an indiscriminate basis, or (iii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public; and

``(B) are interconnected (or have requested interconnection pursuant to paragraph (1)(B)) with the public switched network (as such terms are defined by regulation by the Commission); and

``(2) the term ‘private mobile service’ means any mobile service (as defined in section 3(n)) that is not a commercial mobile service.”.

(b) CONFORMING AMENDMENTS.—
(1) Amendments to Definitions.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(A) in subsection (n)—

(i) by inserting ``(1)'' after ``(and includes''; and

(ii) by inserting before the period at the end the following: ``(2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled ‘Amendment of the Commission’s Rules to Establish New Personal Communications Services’ (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding’’; and

(B) by striking subsection (gg).
(2) **Conforming amendments to section 332.**—Section 332 of such Act is further amended—

(A) in subsection (a), by inserting after "(a)" the following: "**Management of Private Land Mobile Frequencies.—**";

(B) in subsection (b)—

(i) by indenting the margin of paragraphs (2) through (4) by 2 em spaces;

(ii) by striking "(b)(1)" and inserting the following:

"(b) **Use of Advisory Committee.—**

"(1) **Coordination of Frequency Assignment.—**";

(iii) by inserting "**Exemption.—**" after "(2)";

(iv) by inserting "**Nonemployee Status.—**" after "(3)"; and

(v) by inserting "**Application of Federal Advisory Committee Act.—**" after "(4)."

***SEC. 5206. EFFECTIVE DATES; DEADLINES FOR COMMISSION ACTION.***

(a) **Effective Dates.—**
(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this chapter are effective on the date of enactment of this Act.

(2) EFFECTIVE DATE OF MOBILE SERVICE AMENDMENTS.—The amendments made by section 5205 shall be effective 1 year after such date of enactment, except that any person that provides private land mobile services before such date of enactment shall continue to be treated as a provider of private land mobile service until 3 years after such date of enactment.

(b) DEADLINES FOR COMMISSION ACTION.—

(1) GENERAL RULEMAKING.—The Federal Communications Commission shall prescribe rules to implement section 309(j) of the Communications Act of 1934 (as added by this chapter) within 210 days after the date of enactment of this Act.

(2) PCS ORDERS AND LICENSING.—The Commission shall—

(A) within 180 days after such date of enactment, issue a final report and order (i) in the matter entitled “Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies” (ET Docket No. 92-9); and (ii) in the matter enti-
tled "Amendment of the Commission’s Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100); and

(B) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.

(3) Mobile Service Rulemaking Required.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission shall—

(A) issue such modifications or terminations of its regulations concerning private land mobile services as are necessary to implement the amendments made by section 5205;

(B) make such other modifications of such regulations as may be necessary to equalize the regulatory treatment of providers of all commercial mobile services that offer services that are substantially similar; and

(C) include in such modifications and terminations such provisions as are necessary to provide for an orderly transition to the regulatory treatment required by such amendments.
(c) Special Rule.—The Federal Communications Commission shall not issue any license or permit pursuant to section 309(i) of the Communications Act of 1934 after the date of enactment of this Act unless the Commission has made the determination required by paragraph (1)(B) of such section (as added by this chapter).

CHAPTER 2—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

SEC. 5221. SHORT TITLE.

This chapter may be cited as the “Emerging Telecommunications Technologies Act of 1993”.

SEC. 5222. AMENDMENT TO THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ORGANIZATION ACT.

The National Telecommunications and Information Administration Organization Act is amended—

(1) by striking the heading of part B and inserting the following:

“PART D—SPECIAL AND TEMPORARY PROVISIONS”;

(2) by redesignating sections 131 through 135 as sections 151 through 155, respectively; and

(3) by inserting after part A the following new part:
PART B—EMERGING TELECOMMUNICATIONS TECHNOLOGIES

SEC. 111. FINDINGS.

"The Congress finds that—

"(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

"(2) many of such frequencies are underutilized by Federal Government licensees;

"(3) the public interest requires that many of such frequencies be utilized more efficiently by Federal Government and non-Federal licensees;

"(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

"(5) scarcity of assignable frequencies for licensing by the Commission can and will—

"(A) impede the development and commercialization of new telecommunications products and services;

"(B) limit the capacity and efficiency of the United States telecommunications systems;

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“(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

“(D) adversely affect the productive capacity and international competitiveness of the United States economy;

“(6) a reassignment of these frequencies can produce significant economic returns; and

“(7) the Secretary of Commerce, the President, and the Federal Communications Commission should be directed to take appropriate steps to correct these deficiencies.

“SEC. 112. NATIONAL SPECTRUM PLANNING.

“(a) Planning Activities.—The Assistant Secretary and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues—

“(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

“(2) the spectrum allocation actions necessary to accommodate those uses; and

“(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of
the spectrum that does not cause harmful interference as a means of increasing commercial access.

“(b) Reports.—The Assistant Secretary and the Chairman of the Commission shall submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Secretary, and the Commission on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities.

“(c) Reporting Requirements.—The first annual report submitted after the date of the report by the advisory committee under section 113(d)(4) shall—

“(1) include an analysis of and response to that committee report; and

“(2) include an analysis of the effect on spectrum efficiency and the cost of equipment to Federal spectrum users of maintaining separate allocations for Federal Government and non-Federal Government licensees for the same or similar services.

“SEC. 113. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

“(a) Identification Required.—The Secretary shall, within 24 months after the date of the enactment
of this part, prepare and submit to the President and the Congress a report identifying bands of frequencies that—

“(1) are allocated on a primary basis for Federal Government use and eligible for licensing pursuant to section 305(a) of the Act (47 U.S.C. 305(a));

“(2) are not required for the present or identifiable future needs of the Federal Government;

“(3) can feasibly be made available, as of the date of submission of the report or at any time during the next 15 years, for use under the Act (other than for Federal Government stations under such section 305);

“(4) will not result in costs to the Federal Government, or losses of services or benefits to the public, that are excessive in relation to the benefits that may be obtained by non-Federal licensees; and

“(5) are most likely to have the greatest potential for productive uses and public benefits under the Act.

“(b) Minimum Amount of Spectrum Recommended.—

“(1) In general.—Based on the report required by subsection (a), the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the
Act (47 U.S.C. 305), bands of frequencies that span a total of not less than 200 megahertz, that are located below 6 gigahertz, and that meet the criteria specified in paragraphs (1) through (4) of subsection (a). The Secretary may not include, in such 200 megahertz, bands of frequencies that span more than 20 megahertz and that are located between 5 and 6 gigahertz. If the report identifies (as meeting such criteria) bands of frequencies spanning more than 200 megahertz, the report shall identify and recommend for reallocation those bands (spanning not less than 200 megahertz) that meet the criteria specified in paragraph (5) of such subsection.

“(2) Mixed uses permitted to be counted.—Bands of frequencies which the Secretary’s report recommends be partially retained for use by Federal Government stations, but which are also recommended to be reallocated to be made available under the Act for use by non-Federal stations, may be counted toward the minimum spectrum required by paragraph (1) of this subsection, except that—

“(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the minimum required by paragraph (1) of this subsection;
"(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

"(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures which the Commission shall establish and implement to ensure against harmful interference.

"(c) CRITERIA FOR IDENTIFICATION.—

"(1) NEEDS OF THE FEDERAL GOVERNMENT.— In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

"(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial carrier or other vendor;
“(B) seek to promote—

“(i) the maximum practicable reliance
on commercially available substitutes;
“(ii) the sharing of frequencies (as
permitted under subsection (b)(2));
“(iii) the development and use of new
communications technologies; and
“(iv) the use of nonradiating commun-
ications systems where practicable; and
“(C) seek to avoid—
“(i) serious degradation of Federal
Government services and operations; and
“(ii) excessive costs to the Federal
Government and users of Federal Govern-
ment services.

“(2) Feasibility of Use.—In determining
whether a frequency band meets the criteria speci-
fied in subsection (a)(3), the Secretary shall—
“(A) assume such frequencies will be as-
signed by the Commission under section 303 of
the Act (47 U.S.C. 303) over the course of not
less than 15 years;
“(B) assume reasonable rates of scientific
progress and growth of demand for tele-
communications services;
“(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for licensing by the Commission for non-Federal use;

“(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

“(E) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

“(3) Analysis of Benefits.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(4), the Secretary shall consider—

“(A) the extent to which equipment is or will be available that is capable of utilizing the band;

“(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use; and

“(C) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to
support their domestic manufacturers of equipment.

"(4) Power Agency Frequencies.—

"(A) Eligible for Mixed Use Only.—
The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas and shall not be recommended for the purposes of withdrawing that assignment. In any case where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall, consistent with the procedures established under subsection (b)(2)(C), not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

"(B) Definition.—As used in this paragraph, the term ‘Federal power agency’ means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

"(d) Procedure for Identification of Reallocable Bands of Frequencies.—
“(1) Submission of preliminary identification to Congress.—Within 12 months after the date of the enactment of this part, the Secretary shall prepare and submit to the Congress a report which makes a preliminary identification of reallocable bands of frequencies which meet the criteria established by this section.

“(2) Convening of advisory committee.—Not later than the date the Secretary submits the report required by paragraph (1), the Secretary shall convene an advisory committee to—

“(A) review the bands of frequencies identified in such report;

“(B) advise the Secretary with respect to (i) the bands of frequencies which should be included in the final report required by subsection (a), and (ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

“(C) receive public comment on the Secretary’s report and on the final report; and

“(D) prepare and submit the report required by paragraph (4).
The advisory committee shall meet at least monthly until each of the actions required by section 114(a) have taken place.

"(3) Composition of Committee; Chairman.—The advisory committee shall include—

"(A) the Chairman of the Commission and the Assistant Secretary, and one other representative of the Federal Government as designated by the Secretary; and

"(B) representatives of—

"(i) United States manufacturers of spectrum-dependent telecommunications equipment;

"(ii) commercial carriers;

"(iii) other users of the electromagnetic spectrum, including radio and television broadcast licensees, State and local public safety agencies, and the aviation industry; and

"(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

A majority of the members of the committee shall be members described in subparagraph (B), and one of
such members shall be designated as chairman by
the Secretary.

“(4) Recommendations on Spectrum Allocation Procedures.—The advisory committee
shall, not later than 36 months after the date of the
enactment of this part, submit to the Secretary, the
Commission, the Committee on Energy and Com-
merce of the House of Representatives, and the
Committee on Commerce, Science, and Transpor-
tation of the Senate, a report containing such rec-
ommendations as the advisory committee considers
appropriate for the reform of the process of allocat-
ing the electromagnetic spectrum between Federal
and non-Federal use, and any dissenting views
thereon.

“(e) Timetable for Reallocation and Limitation.—

“(1) Timetable Required.—The Secretary
shall, as part of the report required by subsection
(a), include a timetable that recommends immediate
and delayed effective dates by which the President
shall withdraw or limit assignments on the fre-
quencies specified in the report.

“(2) Expedited Reallocation of Initial 30
MHz Permitted.—The Secretary may prepare and
submit to the President a report which specifically identifies an initial 30 megahertz of spectrum that meets the criteria described in subsection (a) and that can be made available for reallocation immediately upon issuance of the report required by this section.

“(3) **Delayed Effective Date.**—The recommended delayed effective dates shall—

“(A) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 115(1);

“(B) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

“(C) be based on the need to coordinate frequency use with other nations; and

“(D) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

**SEC. 114. **WITHDRAWAL OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

“(a) **In General.**—The President shall—
“(1) within 6 months after receipt of the Secretary's report under section 113(a), withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

“(2) within such 6-month period, limit the assignment to a Federal Government station of any frequency which the report recommends be made immediately available for mixed use under section 113(b)(2);

“(3) by the delayed effective date recommended by the Secretary under section 113(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report recommends be reallocated or made available for mixed use on such delayed effective date;

“(4) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

“(5) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

“(b) EXCEPTIONS.—
"(1) Authority to substitute.—If the President determines that a circumstance described in paragraph (2) exists, the President—

"(A) may substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

"(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) Grounds for substitution.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

"(A) the reassignment would seriously jeopardize the national defense interests of the United States;

"(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;
“(C) the reassignment would seriously jeopardize public health or safety; or

“(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

“(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report of the Secretary under section 113(a) unless the substituted frequency also meets each of the criteria specified by section 113(a).

“(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the delayed effective date recommended by the Secretary pursuant to section 113(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission’s plan under section 115, the President may—

“(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each committee speci-
fied in paragraph (1)(B) and the Commission
of the reason that withdrawal or limitation at
a later date is required; or
“(B) substitute alternative frequencies pur-
suant to the provisions of this subsection.
“(c) LIMITATION ON DELEGATION.—Notwithstand-
ing any other provision of law, the authorities and duties
established by this section may not be delegated.
“SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COM-
MISSION.
“Not later than 1 year after the President notifies
the Commission pursuant to section 114(a)(5), the Com-
mission shall prepare, in consultation with the Assistant
Secretary when necessary, and submit to the President
and the Congress, a plan for the distribution under the
Act of the frequency bands reallocated pursuant to the
requirements of this part. Such plan shall—
“(1) not propose the immediate distribution of
all such frequencies, but, taking into account the
timetable recommended by the Secretary pursuant to
section 113(e), shall propose—
“(A) gradually to distribute the frequencies
remaining, after making the reservation re-
quired by subparagraph (B), over the course of
a period of not less than 10 years beginning on
the date of submission of such plan; and

“(B) to reserve a significant portion of
such frequencies for distribution beginning after
the end of such 10-year period;

“(2) contain appropriate provisions to ensure—

“(A) the availability of frequencies for new
technologies and services in accordance with the
policies of section 7 of the Act (47 U.S.C. 157);

and

“(B) the availability of frequencies to stim-
ulate the development of such technologies;

“(3) address (A) the feasibility of reallocating
spectrum from current commercial and other non-
Federal uses to provide for more efficient use of the
spectrum, and (B) innovation and marketplace de-
developments that may affect the relative efficiencies
of different spectrum allocations; and

“(4) not prevent the Commission from allocat-
ing bands of frequencies for specific uses in future
rulemaking proceedings.

“SEC. 116. AUTHORITY TO RECOVER REASSIGNED FRE-
QUENCIES.

“(a) AUTHORITY OF PRESIDENT.—Subsequent to the
withdrawal of assignment to Federal Government stations
pursuant to section 114, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

“(b) Procedure for Reclaiming Frequencies.—

“(1) Unallocated Frequencies.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part.

“(2) Allocated Frequencies.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part, except that the notification required by section 114(b)(1)(A) shall include—

“(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

“(B) an estimate of the cost of displacing spectrum users licensed by the Commission.
“(c) Costs of Reclaiming Frequencies; Appropriations Authorized.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency band, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

“(d) Effective Date of Reclaimed Frequencies.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President’s notification is received.

“(e) Effect on Other Law.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under sections 305 and 706 of the Act (47 U.S.C. 305, 606).

“SEC. 117. DEFINITIONS.

“As used in this part:

“(1) The term ‘allocation’ means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.
“(2) The term ‘assignment’ means an authorization given to a station licensee to use specific frequencies or channels.

“(3) The term ‘commercial carrier’ means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

“(4) The term ‘the Act’ means the Communications Act of 1934 (47 U.S.C. 151 et seq.).”.

CHAPTER 3—COMMUNICATIONS
TECHNICAL AMENDMENTS

SEC. 5241. CLERICAL CORRECTIONS.

(a) Amendments to the Communications Act of 1934.—The Communications Act of 1934 is amended—

(1) in section 4(f)(3), by striking “overtime exceeds beyond” and inserting “overtime extends beyond”;

(2) in section 5, by redesignating subsection (f) as subsection (e);

(3) in section 220(b), by striking “clasess” and inserting “classes”;

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(4) in section 223(b)(3), by striking “defendant restrict access” and inserting “defendant restricted access”;
(5) in section 226(d), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;
(6) in section 227(e)(2), by striking “national database” and inserting “national database”;
(7) in section 228(c)(6)(D), by striking “conservation” and inserting “conversation”;
(8) in section 308(c), by striking “May 24, 1921” and inserting “May 27, 1921”;
(9) in section 331, by amending the heading of such section to read as follows:
“VERY HIGH FREQUENCY STATIONS AND AM RADIO STATIONS”;
(10) in section 358, by striking “(a)”;
(11) in part III of title III—
(A) by inserting before section 381 the following heading:
“VESSELS TRANSPORTING MORE THAN SIX PASSENGERS FOR HIRE REQUIRED TO BE EQUIPPED WITH RADIO TELEPHONE”;
(B) by inserting before section 382 the following heading:
“VESSELS EXCEPTED FROM RADIO TELEPHONE REQUIREMENT”; 

(C) by inserting before section 383 the following heading:

“EXEMPTIONS BY COMMISSION”; 

(D) by inserting before section 384 the following heading:

AUTHORITY OF COMMISSION; OPERATIONS, INSTALLATIONS, AND ADDITIONAL EQUIPMENT”;

(E) by inserting before section 385 the following heading:

INSPECTIONS”; and

(F) by inserting before section 386 the following heading:

FORFEITURES”;

(12) in section 410(c), by striking “, as referred to in sections 202(b) and 205(f) of the Interstate Commerce Act,”;

(13) in section 705(e)(3)(A), by striking “paragraph (4) of subsection (d)” and inserting “paragraph (4) of this subsection”;

(14) in section 705, by redesignating subsections (f) and (g) (as added by Public Law 100-667) as subsections (g) and (h); and
(15) in section 705(h) (as so redesignated), by striking “subsection (f)” and inserting “subsection (g)”.

(b) Amendments to the Communications Satellite Act of 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 303(a)—

(A) by striking “section 27(d)” and inserting “section 327(d)”;

(B) by striking “sec. 29–911(d)” and inserting “sec. 29–327(d)”;

(C) by striking “section 36” and inserting “section 336”; and

(D) by striking “sec. 29–916d” and inserting “sec. 29–336(d)”;

(2) in section 304(d), by striking “paragraphs (1), (2), (3), (4), and (5) of section 310(a)” and inserting “subsection (a) and paragraphs (1) through (4) of subsection (b) of section 310”; and

(3) in section 304(e)—

(A) by striking “section 45(b)” and inserting “section 345(b)”;

(B) by striking “sec. 29–920(b)” and inserting “sec. 29–345(b)”;

and
(4) in sections 502(b) and 503(a)(1), by strik-
ing “Communications Satellite Corporation” and in-
serting “communications satellite corporation estab-
lished pursuant to title III of this Act”.

(c) CONFORMING AMENDMENT.—Section 1253 of the
Omnibus Budget Reconciliation Act of 1981 is repealed.

SEC. 5242. TRANSFER OF PROVISIONS OF LAW CONCERN-
ING PUBLIC TELECOMMUNICATIONS FACILI-
TIES, CHILDREN’S EDUCATIONAL TELE-
VISION, AND TELECOMMUNICATIONS DEM-
ONSTRATION PROGRAM.

(a) AMENDMENTS.—The Communications Act of
1934 (hereinafter in this section referred to as “the 1934
Act”) and the National Telecommunications and Informa-
tion Administration Organization Act (hereinafter in this
section referred to as “the NTIAO Act”) are amended as
follows:

(1) The NTIAO Act is amended by inserting
after part B (as added by chapter 2 of this subtitle)
a new part C, the heading of which shall be as fol-
 lows:
“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:

“Subpart 2—National Endowment for Children's Television” and;

(C) by inserting before section 135 the following:

“Subpart 3—Telecommunications Demonstrations”.

(4) Section 125 of the NTIAO Act (as added by paragraph (2) of this subsection) is amended by striking “section 390” and inserting “section 121”.

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(5) Each of such sections 121 through 135 is amended so that the section designation and section heading of each such shall be in the form and typeface of the section designation and section heading of this section.

(b) Conforming Amendment to Communications Act of 1934.—Part IV of title III of the 1934 Act is amended by striking out subparts A, B, and C.

(c) References in Other Laws and Documents.—Any reference to any section or other provision of subpart A, B, or C of part IV of title III of the 1934 Act in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this section shall be deemed to refer to the section or other provision of subpart 1, 2, or 3 of part C of the NTIAO Act to which such section or other provision is transferred by this section.

SEC. 5243. ELIMINATION OF EXPIRED AND OUTDATED PROVISIONS.

(a) Amendments to the Communications Act of 1934.—The Communications Act of 1934 is amended—

(1) in section 7(b), by striking “or twelve months after the date of the enactment of this section, if later” both places it appears;
(2) in section 212, by striking “After sixty days from the enactment of this Act it shall” and inserting “It shall”;

(3) in section 213, by striking subsection (g) and redesignating subsection (h) as subsection (g);

(4) in section 214(a), by striking “section 221 or 222” and inserting “section 221”;

(5) in section 220(b), by striking “, as soon as practicable,”;

(6) in section 222—

(A) by striking paragraph (1) of subsection (a);

(B) by redesignating paragraphs (2) and (3) of such subsection as paragraphs (1) and (2), respectively;

(C) by striking paragraph (2) of subsection (b);

(D) by redesignating subsection (b)(1) as subsection (b); and

(E) by striking subsections (c), (d), and (e);

(7) in section 224(b)(2), by striking “Within 180 days from the date of enactment of this section the Commission” and inserting “The Commission”;

(8) in 226(e)(1), by striking “, within 9 months after the date of enactment of this section,”;

(9) in section 309(i)(4)(A), by striking “The commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall,” and inserting “The Commission shall,”;

(10) by striking section 328;

(11) in section 331(b), by striking the last sentence;

(12) in section 413, by striking “, within sixty days after the taking effect of this Act,”;

(13) in section 624(d)(2)—

(A) by striking out “(A)”;

(B) by inserting “of” after “restrict the viewing”; and

(C) by striking subparagraph (B);

(14) by striking sections 702 and 703;

(15) in section 704—

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

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

(16) in section 705(g) (as redesignated by section 5211(15)), by striking “Within 6 months after
the date of enactment of the Satellite Home Viewer Act of 1988, the Federal Communications Commission’’ and inserting ‘‘The Commission’’;

(16) in section 710(f)—

(A) by striking the first and second sentences; and

(B) in the third sentence, by striking ‘‘Thereafter, the Commission’’ and inserting ‘‘The Commission’’;

(17) in section 712(a), by striking ‘‘, within 120 days after the effective date of the Satellite Home Viewer Act of 1988,’’; and

(18) by striking section 713.

(b) Amendments to the Communications Satellite Act of 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 201(a)(1), by striking ‘‘as expeditiously as possible,’’;

(2) by striking sections 301 and 302 and inserting the following:

‘‘SEC. 301. CREATION OF CORPORATION.
‘‘There is authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.’’
SEC. 302. APPLICABLE LAWS.

"The corporation shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved."

(3) in section 304(a), by striking "'at a price not in excess of $100 for each share and'"

(4) in section 404—
   (A) by striking subsections (a) and (c); and
   (B) by striking "'(b)'" at the beginning of subsection (b);

(5) in section 503—
   (A) by striking paragraph (2) of subsection (a); and
   (B) by redesignating paragraph (3) of subsection (a) as paragraph (2) of such subsection;
   (C) by striking subsection (b);
   (D) in subsection (g)—
      (i) by striking "subsection (c)(3)'" and inserting "subsection (b)(3)'"; and
      (ii) by striking the last sentence; and
   (E) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively;
(5) by striking sections 505, 506, and 507; and
(6) by redesignating section 508 as section 505.

SEC. 5244. STYLISTIC CONSISTENCY.

The Communications Act of 1934 and the Communications Satellite Act of 1962 are amended so that the section designation and section heading of each section of such Acts shall be in the form and typeface of the section designation and heading of this section.

Subtitle D—Energy Programs

SEC. 5301. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.


TITLE VI—COMMITTEE ON FOREIGN AFFAIRS

In order to implement its reconciliation instructions, the Committee on Foreign Affairs recommends changes in law that are also recommended by the Committee on Post Office and Civil Service. These changes in law, which are contained in title X of this Act, would reduce direct spending under the Foreign Service Retirement and Disability Fund and the Foreign Service Pension System by
requiring a 3-month delay in cost-of-living adjustments in each of the fiscal years 1994, 1995, and 1996.

**TITLE VII—COMMITTEE ON THE JUDICIARY**

**SEC. 7001. PATENT AND TRADEMARK FEES.**

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking “1995” and inserting “1998”; 

(2) in subsection (b)(2) by striking “1995” and inserting “1998”; and 

(3) in subsection (c)—

(A) by striking “through 1995” and inserting “through 1998”; and 

(B) by adding at the end the following:

“(6) $111,000,000 in fiscal year 1996. 

“(7) $115,000,000 in fiscal year 1997. 

“(8) $119,000,000 in fiscal year 1998.”.

**TITLE VIII—COMMITTEE ON MERCHANT MARINE AND FISHERIES**

**SEC. 8001. EXTENSION OF VESSEL TONNAGE DUTIES.**

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended by—
(2) striking “place,” and inserting “place;”;
and
(3) striking “port, not, however, to include vessels in distress or not engaged in trade” and inserting “port. However, neither duty shall be imposed on vessels in distress or not engaged in trade”.


(c) Technical Correction.—
(1) Correction.—Section 10402(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388–398) is amended by striking “in the second paragraph”.
(2) Effective Date.—The amendment made by paragraph (1) shall be effective on and after November 5, 1990.

SEC. 8002. SENSE OF THE CONGRESS ON THE INLAND WATERWAYS FUEL TAX.

(a) Findings.—The Congress finds the following:
(1) The Administration has proposed to increase the tax on inland barge fuels from $0.19 to
$1.19 per gallon by 1997, which represents an increase of 525 percent.

(2) The General Accounting Office has recently identified 117 forms of Federal fees, taxes, and assessments, not including customs duties, which raise some $2,000,000,000 in Federal revenues each year.

(3) Barge transportation is one of the most competitive, efficient, safe, and environmentally friendly modes of transportation.

(4) Barges transport 15 percent of our Nation’s commerce and provide jobs to some 180,000 Americans.

(5) The Administration’s proposed increase would add $420,000,000 in new taxes for operators on inland waterways, which is more than their pretax profits.

(6) This increase would cause barge rates to skyrocket, increasing costs to consumers and devastating industries dependent upon the commercial use of barges such as coal, agriculture, and petrochemicals, and would add to our unfavorable balance of trade payments by hurting the competitiveness of United States exports.

(7) Because the price of certain agricultural commodities, such as grain, are set in the world
marketplace, increased inland barge fuel taxes could not be passed on to consumers and would largely be borne by our Nation’s farmers.

(8) The Senate on March 18, 1993, voted 88 to 12 to reject any further increase in inland barge fuel taxes.

(9) This huge tax increase would cause many barge companies to go out of business, would result in thousands of lost American jobs, and would further burden the already beleaguered United States maritime industry.

(b) Sense of Congress.—It is the sense of the Congress that the inland waterways fuel tax should not be further increased beyond those increases already mandated by law.

TITLE IX—COMMITTEE ON NATURAL RESOURCES

SEC. 9001. ANNUAL DIRECT GRANT ASSISTANCE.

(a) Repeal.—Sections 3 and 4 of the Act of March 24, 1976 entitled “a Joint Resolution to approve the ‘Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America’, and for other purposes’’ (90 Stat. 263 and following; 48 U.S.C. 1681 note) are repealed, effective on October 1, 1993.
(b) **Definitions.**—As used in this section:

1. **Committees.**—The term "committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

2. **Recommendations.**—The term "Recommendations" means the document executed December 17, 1992, between the special representative of the President of the United States and the special representatives of the Governor of the Commonwealth of the Northern Mariana Islands relating to future federal assistance for the Northern Mariana Islands.

3. **Reporting Date.**—The term "reporting date" means the date on which the budget of the President for the fiscal year 1995 is required to be submitted to the Congress under section 1105 of title 31, United States Code.

(c) **Assistance.**—

1. **Amounts.**—Except as otherwise provided under this section, enactment of this section shall constitute a commitment and pledge of the full faith and credit of the United States for the payment of the following amounts:
(A) In fulfillment of the United States obligation under P.L. 94-241 and the authorization in P.L. 95-348, $3,000,000 for fiscal year 1994, which shall be available only for the American Memorial Park, located at Tanapag Harbor Reservation, Saipan, to be expended in accordance with section 5 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved August 18, 1978 (92 Stat. 492), for the primary purpose of constructing an appropriate monument honoring the dead in the World War II Mariana Islands campaign.

(B) $19,000,000 for fiscal year 1994, to be held in trust in a special account by the Secretary of the Interior for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands, and to be disbursed by the Secretary during fiscal year 1994 for essential capital improvement projects. Such disbursements shall be made by the Sec-
retary for projects described in plans submitted to the Secretary by the governments of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. No such disbursements shall be made pursuant to any such plan until after the expiration of a period of 60 days after such plan has been submitted to the committees. No such disbursements shall be made to the Commonwealth of the Northern Mariana Islands during fiscal year 1994 pursuant to any such plan until the committees have received the reports required under subsection (d)(3) and a Joint Resolution has been adopted expressing the sense of Congress that disbursements are appropriate. The Inspector General of the Department of the Interior shall (i) monitor the expenditure of such funds to determine whether such funds are expended in accordance with applicable law, and (ii) submit a report of the findings to the committees not later than January 1, 1995.
(C) Subject to paragraphs (2), (3), and (4) and subject to subsection (d), not more than $98,000,000 for the 6-year period beginning October 1, 1994, for the government of the Commonwealth of the Northern Mariana Islands, for capital improvement projects, at annual amounts that shall not exceed those specified for the Federal contribution within the general funding schedule contained in the Recommendations.

(2) Matching ratio and interest earnings.—Nothing in this section shall be construed to—

(A) modify the matching ratio requirement specified in the funding schedule contained in the Recommendations; or

(B) modify the terms of the Recommendations as to the availability of interest earnings on funds contributed under Public Law 99-396 upon meeting the terms of the grant pledge agreements entered into under Public Law 99-396.

(3) Rota, Tinian, and Saipan.—No less than 1⁄6th share of the funds made available
under subsection (c)(1)(C) shall be expended in the islands of Rota and Tinian and no less than \( \frac{3}{4} \) th share shall be expended in Saipan.

(4) **Applicability of Grant Regulations.**—The Federal assistance provided under this section shall be subject to the applicable Federal grant regulations set forth in the Common Rule (43 C.F.R. 12a, OMB Circular A-102, and OMB Circular A-128).

(d) **Condition on Multi-Year Assistance.**—

(1) **Joint Resolution.**—Amounts under subsection (c)(1)(C) for fiscal years 1995 through 2000 shall be as determined by the Congress by joint resolution. It is the intent of the Congress that the committees report such a joint resolution after considering the plan referred to in paragraph (2) and reports required by this subsection.

(2) **Capital Improvement Projects Plan.**—

The plan referred to in paragraph (1) is a plan developed and submitted by the Governor of the Commonwealth of the Northern Mariana Islands to the Secretary of the Interior as approved by the legislature of the Commonwealth for new and reconstructed capital infrastructure projects, indicating the order of priority, together with cost estimates for
each project and identification of sources of financing for each project. The Secretary of the Interior shall submit the plan, together with his recommendations, to the committees not later than the reporting date.

(3) Reports.—Each of the following reports shall be submitted to the committees not later than the reporting date as follows:

(A) Revenue burden.—The Comptroller General of the United States, after consultation with the government of the Northern Mariana Islands, shall submit a report describing the effective revenue burden (including all taxes and fees) imposed by the government of the Commonwealth of the Northern Mariana Islands. The report shall—

(i) address whether revenues raised are sufficient to meet the infrastructure needs of the Commonwealth; and

(ii) compare the revenue burden of the Commonwealth with that of Guam.

(B) Compliance with audit recommendations.—The Inspector General of the Department of the Interior shall submit a report on (i) compliance by the government of the
Commonwealth of the Northern Mariana Islands with recommendations made by the Inspector General pursuant to audits of the government of the Commonwealth, and (ii) on all unfulfilled commitments made by the government of the Commonwealth in response to those recommendations.

(C) **Assessment of Minimum Wage.**—The Secretary of Labor, after consultation with the government of the Commonwealth of the Northern Mariana Islands, shall submit a report which assesses whether—

(i) the minimum wage policies of the Commonwealth are sufficient for the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers in the Commonwealth;

(ii) the prevailing wages paid in the Commonwealth are effectively reduced by the immigration policy of the Commonwealth; and

(iii) the wage rate in the Commonwealth gives industries in the Commonwealth a competitive advantage over indus-
tries in the United States outside of the Commonwealth.

(D) IMMIGRATION POLICY AND BURDEN ON INFRASTRUCTURE.—(i) The Attorney General of the United States, after consultation with the government of the Commonwealth of the Northern Mariana Islands, shall submit a report which assesses—

(I) whether the immigration laws of the Commonwealth are appropriate in light of the social and economic situation in the Commonwealth;

(II) the extent to which the Commonwealth is relying on temporary alien workers to meet the Commonwealth’s permanent labor needs;

(III) whether the Commonwealth has taken steps to reduce its dependence on temporary alien workers; and

(IV) the political and civil rights of the alien population as compared to the resident population.

(ii) The Comptroller General of the United States shall submit a report to the Congress which analyzes the socioeconomic impact of the
immigration policy of the Commonwealth of the Northern Mariana Islands, including the financial burden imposed by the alien population on the infrastructure.

(E) ENVIRONMENTAL LAWS.—The Secretary of the Interior and the Administrator of the Environmental Protection Agency shall each submit a report to the Congress on the compliance by the Commonwealth of the Northern Mariana Islands with United States environmental laws, including (but not limited to) the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the Federal Water Pollution Control Act.

SEC. 9002. NET RECEIPTS SHARING.

Section 35 of the Mineral Leasing Act is amended as follows:

(1) Strike the last sentence.

(2) Insert ``(a) IN GENERAL.—'' after ``SEC. 35.''

(3) Insert ``and, subject to subsection (b),'' between ``United States;'' and ``50 percentum''.

(4) Add the following new subsection at the end thereof:

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‘‘(b) Administrative Costs.—(1) In calculating the amount to be paid to each State during any fiscal year under this section and under other provisions of law requiring payment to a State of any revenues derived from the leasing of any other onshore lands or interest in land owned by the United States for the production of the same types of minerals as are leasable under this Act or for the production of geothermal steam, prior to the division and distribution of such leasing receipts between the States and the United States, the Secretary shall deduct 50 percent of the portion of the enacted appropriations of the Department of the Interior and of other departments and agencies of the United States for the preceding fiscal year allocable to the administration and enforcement of this Act and such other provisions of law. Such deduction shall be in approximately equal amounts each month (subject to paragraph (3)).

‘‘(2) The proportion of the deduction required under paragraph (1) which is allocable to each State shall be a percentage of the total deduction allocable to all States. The percentage shall be determined by dividing—

‘‘(A) the monies disbursed to the State during the preceding fiscal year under the provisions of this section and the other provisions of law referred to in paragraph (1), by
“(B) the total money disbursed to all States during that fiscal year under such provisions.

“(3) If the amount otherwise deductible under this subsection in any month from the portion of revenues to be distributed to a State exceeds the amount payable to the State during that month, any amount exceeding the amount payable shall be carried forward and deducted from amounts payable to the State in subsequent months.

“(4) All amounts deducted under this subsection from monies otherwise payable to a State shall be credited to miscellaneous receipts in the Treasury.”

SEC. 9003. HARD ROCK MINING CLAIM MAINTENANCE AND LOCATION FEES.

(a) Claim Maintenance and Location Fees.—

(1) Claim Maintenance Fees.—The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States (whether located before or after enactment of this Act) shall pay to the Secretary of the Interior or his designee for each assessment year a flat claim maintenance fee of not less than $100 per claim. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314 (a) and
(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a) and (c)).

(2) Location Fee.—For each mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States after the date of enactment of this Act, the claimant shall pay the Secretary a location fee of $25.

(b) Time of Payment.—The claim maintenance fee payable under subsection (a)(1) for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under subsection (a)(2) shall be payable not later than 90 days after the date of location.

(c) Deposit in Treasury.—The Secretary shall deposit monies received under this Act as miscellaneous receipts in the Treasury.

(d) Co-ownership.—The co-ownership provisions of section 2324 of the Mining Law of 1872 (30 U.S.C. 28) shall remain in effect with respect to mining claims subject to such provisions except that the annual claim maintenance fee, where applicable, shall be paid in lieu of applicable assessment requirements and expenditures.
(e) **FORFEITURE.**—Failure to make the annual payment of any claim maintenance or location fee required with respect to any unpatented mining claim, mill, or tunnel site required by subsection (a) shall conclusively constitute a forfeiture by the holder of the unpatented mining claim, mill or tunnel site, effective at noon on the date the payment is due.

(f) **FLPMA FILING REQUIREMENTS.**—Nothing in this Act shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)) or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by such section 314(b). Such requirements shall remain in effect with respect to claims, and mill or tunnel sites for which fees are required to be paid under this section.

(g) **RULES AND REGULATIONS.**—The Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the date of enactment of this Act.

(h) **PURCHASING POWER ADJUSTMENT.**—Every 5 years following the date of enactment of this Act, or more frequently if the Secretary determines a more frequent adjustment to be reasonable, the Secretary of the Interior shall adjust the fees specified in subsection (a) to reflect
changes in the purchasing power of the dollar. The Secretary shall use the Consumer Price Index for all urban consumers published by the Department of Labor as the basis for adjustment, rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890). The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made. A fee adjustment under this paragraph shall begin to apply the first assessment which begins after the adjustment is made.


(j) Exception For Holders Of Fewer Than 50 Claims.—

(1) Eligibility.—In accordance with paragraph (3), a claimant may be eligible for a waiver or reduction of the claim maintenance fees imposed under this section if the claimant certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—
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(A) held not more than 50 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work sufficient to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due; except that such performance of assessment work shall not be required by reason of section 5 of Public Law 94-429, commonly known as the Mining in the Parks Act, or such other laws that before the date of the enactment of this Act removed the applicability of the assessment work requirement of the general mining laws for any claim subject to such laws.

(2) HOLDER.—For purposes of paragraph (1), with respect to any claimant, the term “related parties” means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; and

(B) a person affiliated with the claimant, including—
(i) a person controlled by, controlling, or under common control with the claimant; and

(ii) a subsidiary or parent company or corporation of the claimant.

(3) Waived or Reduced Maintenance Fees.—

(A) 10 or fewer claims.—The Secretary of the Interior may waive the claim maintenance fee imposed under this section in its entirety for 10 or fewer claims held by a claimant eligible under paragraph (1).

(B) 11 or more claims.—

(i) In general.—Subject to clause (ii), for a claimant eligible under paragraph (1), the Secretary may reduce the claim maintenance fee imposed under this section to $25 per claim for each claim in excess of 10.

(ii) Limitation.—The reduction provided for in this subparagraph shall be available for no more than 50 claims held by a claimant who is eligible under paragraph (1).
(4) **Payment in Lieu of Annual Labor Requirements.**—The third sentence of section 2324 of the Revised Statutes (30 U.S.C. 28) is amended by inserting after "On each claim located after the tenth day of May, eighteen hundred and seventy-two," the following: "for which a waiver of the maintenance fee, or a reduced maintenance fee, under section 9003 of the Omnibus Budget Reconciliation Act of 1993 has been granted under subsection (j) of that section,"

(5) **Filing Requirements.**—The holder of any unpatented mining claim for which a waiver of the maintenance fee, or a reduced maintenance fee, has been granted pursuant to this subsection shall continue to be subject to the filing requirements contained in sections 314(a) and (c) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(k) **Effective Date.**—This section shall take effect with respect to assessment years beginning after August 31, 1994.

**Sec. 9004. Federal Irrigation Water Surcharge.**

(a) **Findings and Purposes.**—

(1) **Findings.**—The Congress finds that—
(A) the construction and operation of Federal reclamation projects have contributed to the depletion of streams, the alteration of riparian habitat, and the degradation of water quality;

(B) such impacts have had adverse impacts on fish and wildlife resources; and

(C) the restoration of fish and wildlife and related habitat affected by the construction or operation of Federal reclamation projects is a continuing responsibility of the beneficiaries of such projects.

(2) PURPOSES.—The purposes of this section are to—

(A) incorporate the restoration of fish and wildlife resources and related habitat affected by the construction or operation of Federal reclamation projects into the annual operation and maintenance requirements of such projects;

(B) establish a fair and equitable mechanism for securing timely payments from the beneficiaries of such projects for the implementation, operation, and maintenance of fish and wildlife restoration measures;
(C) accelerate the rate of restoration and recovery of depleted populations of indigenous fish and wildlife; and

(D) encourage more efficient use of water resources by the beneficiaries of Federal reclamation projects.

(b) Operational Charges.—

(1) In general.—Individuals or non-Federal entities that receive delivery of water (including by exchange) which is stored in or transported through Federal reclamation projects or project facilities or projects or project facilities constructed by the Secretary of the Army that meet the conditions specified in paragraph (1) or (2) of section 212(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 43 U.S.C. 390ll), except for facilities of the Central Valley Project, California (as that project is defined by title XXXIV of Public Law 102-575), shall, pursuant to such terms, conditions, and procedures as the Secretary of the Interior may prescribe, pay to the United States an operation and maintenance charge sufficient to yield at least $10,000,000 (January 1993 price levels) annually in the years 1994, 1995, and 1996 and at least $15,000,000
(January 1993 price levels) annually in 1997 and each year thereafter.

(2) Payments.—Payments required by paragraph (1) shall be made without reduction or deferral by the Secretary under any provision of reclamation law and without regard to whether an individual or entity has discharged its repayment obligation within the meaning of the first section of the Act of July 2, 1956 (70 Stat. 483; 43 U.S.C. 485h–1), section 213 of the Reclamation Reform Act of 1982 (Public Law 97–293, 43 U.S.C. 390mm), or any other provision of Federal Reclamation law. The payments shall be in addition to any other payments owed or made to the United States and shall not be applied or credited to an individual’s or entity’s repayment of project construction costs, payment of other annual project operation and maintenance costs, payment of interest, or reduction of any contractual obligation the individual or entity may have with the United States.

(c) Natural Resources Restoration Fund.—There is hereby established in the Treasury of the United States a fund to be known as the “Natural Resources Restoration Fund” (hereafter in this section referred to as the “Fund”). All payments of the operation and mainte-
nance charges authorized in subsection (b) shall be deposited in the Fund, and shall be available in the fiscal year following deposit and thereafter, to such extent or in such amounts as are provided in advance in appropriation Acts, for expenditures by the Secretary of the Interior for the benefit of fish and wildlife resources, including habitat, affected by construction or operation of the projects referred to in this section.

(d) INDIAN LAND OWNERS.—For the purposes of this section, Indian tribes or individual Indian beneficial owners of land held in trust by the United States or subject to a restriction against alienation by the United States shall be considered to be Federal entities.

(e) FEDERAL RECLAMATION LAW.—This section shall constitute an amendment of and a supplement to the Federal Reclamation laws (the Reclamation Act of 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto).

SEC. 9005. RECREATION USER FEES.

(a) LAND AND WATER CONSERVATION FUND ACT OF 1965.—

(1) IN GENERAL.—The first sentence of section 4(b) of the Land and Water Conservation Fund Act of 1965 (relating to recreation use fees) is amended by striking out "picnic tables, or boat ramps" and
all that follows down through the period at the end thereof and inserting the following: "or picnic tables, and in no event shall there be any charge for the use of any campground not having a majority of the following: tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, fee collection by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). For purposes of this subsection, the term 'specialized outdoor recreation site' includes but shall not be limited to campgrounds, swimming sites, boat launch facilities, and managed parking lots.". The second sentence of such section 4(b) is hereby repealed.

(2) Conforming Amendment.—Section 210 of Public Law 90-483 (82 Stat. 746; 16 U.S.C. 460d-3) is repealed.

(b) Costs of Collection.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (relating to special accounts for fees collected) is amended by inserting "(A)" after "(1)" and by adding the following at the end of paragraph (1):

"(B) Notwithstanding subparagraph (A), in any fiscal year, the Secretary of Agriculture and the Secretary
of the Interior may withhold from the special account established under subparagraph (A) such portion of all receipts the fees collected in that fiscal year under this section as such Secretary determines to be equal to the additional fee collection costs for that fiscal year. The amounts so withheld shall be retained by the Secretary of Agriculture or the Secretary of the Interior and shall be available, without further appropriation, for expenditure by the Secretary concerned in the fiscal year in which collected to cover such additional fee collection costs. The Secretary concerned shall deposit in the special account established pursuant to subparagraph (A) any amounts so retained which remain unexpended and unobligated at the end of such fiscal year. For the purposes of this subparagraph, for any fiscal year, the term ‘additional fee collection costs’ means those costs for personnel and infrastructure directly associated with the collection of fees imposed under this section which exceed the costs for personnel and infrastructure directly associated with the collection of such fees during fiscal year 1993.’’.

(c) G O L D E N A G E P A S S P O R T.—The second sentence of section 4(a)(4) of the Land and Water Conservation Fund Act of 1965 (relating to Golden Age Passports) is amended to read as follows: ‘‘Such permit shall be nontransferable, shall be issued for a charge of $10, and
shall entitle the permittee and the permittee's spouse ac-
companying the permittee to general admission into any
area designated pursuant to this section.''.

(d) User Fees for Rights-of-Way.—In each fis-
cal year after the enactment of this Act, the Secretary of
the Interior shall impose and collect an annual fee for the
use and occupancy of any right-of-way through any na-
tional park system unit for which a permit has been issued
by the Secretary pursuant to any general or specific statu-
tory right-of-way authority (whether issued before or after
the enactment of this Act) or for any other right-of-way
allowed as of the date of the enactment of this Act. The
amount of such annual fee shall be equal to the fair mar-
et rental value, as determined by the Secretary, of such
use and occupancy for the fiscal year concerned. The fair
market value shall be reviewed (and revised if necessary)
not less frequently than every 3 years. The Secretary shall
deposit all fees collected under this subsection in the spe-
cial account established under section 4(i) of the Land and

(e) Commercial Tour Use Fees.—(1) In the case
of each unit of the National Park System for which an
admission fee is charged under section 4 of the Land and
Water Conservation Fund Act of 1965 (16 U.S.C. 460l-
4), the Secretary of the Interior shall establish, by October
1. 1, 1993, a commercial tour use fee to be imposed on each vehicle or aircraft entering the unit (or the airspace of the unit) for the purpose of providing commercial tour services within (or within the airspace of) the unit. Fee revenue derived from such commercial tour use fees shall be deposited into the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(2) The Secretary shall establish the amount of fee to be imposed under this subsection per entry. The fee shall not be less than—

(A) $25 per vehicle or aircraft with a passenger capacity of 25 persons or less,

(B) $50 per vehicle or aircraft with a passenger capacity of 26 to 99 persons, and

(C) $100 per vehicle or aircraft with a passenger capacity of 100 to 299 persons.

The Secretary may periodically increase the fee imposed under this subsection as he deems necessary and justifiable.

(3) The commercial tour use fee imposed under this subsection shall not apply to either of the following:

(A) Any vehicle or aircraft transporting organized school groups or outings conducted for edu-
cational purposes by schools or other bona fide educational institutions.

(B) Any vehicle or aircraft entering a park system unit pursuant to a contract issued under the Act of October 9, 1965 (16 U.S.C. 20-20g) entitled “An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes”.

(f) **Fair Market Value for Communication Site Fees.**—No permit or other authorization for the use of any area of the public lands of the United States for purposes of commercial telephone transmission facilities shall remain in force and effect after January 1, 1994 unless, before that date, and before January 1 of each year thereafter, the holder of such permit or other authorization pays to Secretary of the Department having administrative jurisdiction over such lands an amount equal to the fair market value, as determined by such Secretary, of the right to use and occupy such area for such purposes. For purposes of this subsection, the term “public lands of the United States” means lands owned by the United States and administered by the Secretary of the Interior (other than lands held for the benefit of Indians, Aleuts, and Eskimos) and lands within the National Forest System.
SEC. 9006. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.


SEC. 9007. RECOVERING THE COST FOR GOVERNMENT SERVICES.

(a) Report.—Not later than January 1, 1994, the Secretary of the Interior and the Secretary of Energy shall each submit a report identifying fees, penalties, and other charges to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each report shall—

(1) identify all fees, penalties, and other charges imposed by the respective Secretary for the provision of services;

(2) include the procedures for adjusting such fees to recover the cost of providing those services; and

(3) identify those services for which no fee is currently charged and make recommendations for a fee appropriate to cover the cost of providing each service.

(b) Adjustment of Fees.—Except as provided in subsection (d), for fiscal year 1995 and each fiscal year
thereafter, the Secretary of the Interior and the Secretary of Energy shall adjust each fee, penalty, and other charge for the provision of services identified pursuant to subsection (a)(1). Each such fee, penalty, and charge shall be adjusted in accordance with the procedures identified pursuant to subsection (a)(2).

(c) **IMPLEMENTATION OF FEES FOR SERVICES NOT COVERED.**—Beginning with fiscal year 1995, the Secretary of the Interior and the Secretary of Energy shall charge fees for each of the services identified pursuant to subsection (a)(3) in an amount sufficient to recover the cost of providing the service. For each fiscal year thereafter, the fee shall be adjusted in the same manner as adjustments are made pursuant to subsection (b), using fiscal year 1995 as the base year.

(d) **CERTAIN FEES, PENALTIES AND CHARGES NOT COVERED.**—Subsection (b) shall not apply to any fee, penalty, or charge the amount of which is expressly specified in any statute or contract.

**SEC. 9008. UNFUNDED LIABILITIES OF THE FEDERAL GOVERNMENT.**

Section 1105 of title 31, United States Code, is amended by adding the following subsection at the end thereof:
“(g) The President shall transmit with materials related to each budget an estimate of unfunded future liabilities of the Federal Government that are not accounted for in the budget itself. Such estimate shall include (but not be limited to) liabilities for future remediation of environmental and natural resources damage, and cleaning up waste sites, on Federal lands. Sources of liabilities shall include (but not be limited to) active, inactive, or abandoned mines or oil or gas wells, irrigation waste water impacts, decommissioning of nuclear power plants, and uranium mining and processing activities (without regard to the location of such mining or processing activities) affecting the health of Native Americans and carried out pursuant to a program administered by the United States.”

TITLE X—COMMITTEE ON POST OFFICE AND CIVIL SERVICE
Subtitle A—Civil Service


(a) APPLICABILITY.—This section shall apply with respect to any cost-of-living increase scheduled to take effect, during fiscal year 1994, 1995, or 1996, under—

(1) section 8340(b) or 8462(b) of title 5, United States Code;
(2) section 826 or 858 of the Foreign Service Act of 1980; or


(b) Delay in Effective Date of Adjustments.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would otherwise take effect.

(c) Rule of Construction.—Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340(b) or (c) or section 8462(b) or (c) of title 5, United States Code, or comparable provisions of law.

SEC. 10002. PERMANENT ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) Civil Service Retirement System; Federal Employees' Retirement System.—Sections 8343a and 8420a of title 5, United States Code, are each amended—
(1) in subsection (a) by striking “an employee or Member may,” and inserting “any employee or Member who has a life-threatening affliction or other critical medical condition may,”; and

(2) by striking subsection (f).

(b) Foreign Service Retirement and Disability System.—Section 807(e)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by striking “a participant may,” and inserting “any participant who has a life-threatening affliction or other critical medical condition may,”.

(c) Central Intelligence Agency Retirement and Disability System.—Section 294(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2143(a)), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102–496; 106 Stat. 3196), is amended by striking “a participant may,” and inserting “any participant who has a life-threatening affliction or other critical medical condition may,”.

(d) Effective Date.—The amendments made by this section shall become effective on January 1, 1994, and shall apply with respect to any annuity commencing on or after that date.
SEC. 10003. PAY LIMITATIONS.

(a) Elimination of the 1994 Annual Pay Adjustment.—

(1) Statutory pay systems.—Notwithstanding section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (5 U.S.C. 5303 note) or any other provision of law, the adjustment in rates of basic pay that is scheduled to take effect in 1994 under section 5303 of title 5, United States Code, shall not take effect.

(2) Other pay systems.—

(A) In general.—Notwithstanding any other provision of law, any general pay adjustment, similar to the adjustment referred to in paragraph (1), which is scheduled to take effect in 1994 with respect to any civilian officers or employees in the executive branch (other than those affected by paragraph (1)) shall not take effect.

(B) Exceptions.—Subparagraph (A) shall not apply with respect to—

(i) any pay adjustment required under the terms of a contract, as in effect before the date of the enactment of this Act; or
(ii) any alien or noncitizen of the United States who occupies a position outside the United States.

(C) Regulations.—The Office of Personnel Management may prescribe any regulations it considers necessary for the administration of this paragraph.

(b) Modification in Formula for Computing Annual Pay Adjustments for 1995, 1996, and 1997.—

(1) Statutory Pay Systems.—Section 5303(a) of title 5, United States Code, is amended—

(A) by striking ``(a)'' and inserting ``(a)(1)''; and

(B) by adding at the end the following:

``(2) Notwithstanding section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1991 or any other provision of law, for purposes of any adjustment scheduled to take effect under this section in 1995, 1996, or 1997, paragraph (1) shall be deemed to be amended by striking ‘equal to’ through ‘less than’ and inserting ‘equal to one and one-half percentage points less than’.”.
(2) **OTHER PAY SYSTEMS.**—Section 704(a)(1) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note) is amended by adding at the end the following:

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(C) SPECIAL RULE.—For purposes of any pay adjustment scheduled to take effect in 1995, 1996, or 1997, subparagraph (B) shall be deemed to be amended by striking ‘one-half of 1 percent’ and inserting ‘one and one-half percent’.
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**SEC. 10004. PROVISIONS RELATING TO LOCALITY-BASED COMPARABILITY PAYMENTS.**

(a) **LOCALITY-BASED COMPARABILITY PAYMENTS.**—

(1) **CHANGE IN EFFECTIVE DATE OF PAYMENTS.**—Section 5304(d)(2) of title 5, United States Code, is amended by striking “January 1” and inserting “July 1”.

(2) **LIMITATION RELATING TO AGGREGATE AMOUNT PAYABLE DURING CERTAIN PERIODS.**—Section 5304 of title 5, United States Code, is amended—

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

(B) by inserting after subsection (h) the following:
“(i)(1) Notwithstanding any other provision of this section, comparability payments may not be established or adjusted under this section in a manner that would cause the resulting estimated total amount payable under this section during the period which—

“(A) begins on July 1, 1994, and ends on June 30, 1995, to exceed $1,800,000,000;

“(B) begins on July 1, 1995, and ends on June 30, 1996, to exceed $2,500,000,000;

“(C) begins on July 1, 1996, and ends on June 30, 1997, to exceed $3,300,000,000;

“(D) begins on July 1, 1997, and ends on June 30, 1998, to exceed $4,200,000,000; or

“(E) begins on July 1, 1998, and ends on September 30, 1998, to exceed $1,747,000,000.

“(2) If necessary in order to achieve compliance with any of the respective limitations under paragraph (1), the President may, in carrying out subsection (d)(2), specify levels of comparability payments less than the minimum which would otherwise be required under subsection (a)(3).

“(3) The pay agent shall develop and include in the appropriate reports under subsection (d)(1) the methodology for making any estimates under this subsection, and
any such estimate shall be made in accordance with the
methodology so included in the then most recent report.

“(4) Whenever any authority under this subsection
is exercised, the President shall so indicate in his next re-
port under subsection (d)(3), including specific informa-
tion as to how such authority was exercised and the rea-
sons why it was so exercised.”.

(b) Temporary Change in Effective Date of
Annual Pay Adjustments Under Section 5303 of
Title 5, United States Code.—Section 5303(a) of
title 5, United States Code (as amended by section
10003(b)(1)), is further amended by adding after para-
graph (2) of such section 5303(a) (as so amended) the
following:

“(3) Effective for the period beginning on January
1, 1995, and ending on December 31, 2003, paragraph
(1) shall be deemed to be amended by striking ‘J anuary
1’ and inserting ‘J uly 1’.”.

(c) Repeal of the Provision Excluding Senior
Executives From the Limitation Generally Appli-
cable on the Accumulation of Annual Leave.—

(1) In general.—Section 6304(f) of title 5,
United States Code, is repealed, effective as of Jan-
uary 1, 1994.

(2) Savings provision.—
(A) **APPLICABILITY.**—This paragraph shall apply with respect to an individual—

(i) who, as of December 31, 1993, has more than 30 days of annual leave to such individual’s credit (or more than 45 days, if the individual would be subject to section 6304(b) of such title) which were accrued in any position described in section 6304(f) of title 5, United States Code (as in effect on the date of the enactment of this Act); and

(ii) only for so long as such individual remains continuously employed in any such position (disregarding any break in service of 3 days or less).

(B) **STATEMENT OF THE RULE.**—For purposes of administering section 6304 of title 5, United States Code, with respect to any individual to whom this paragraph applies—

(i) subsection (a) of such section shall be deemed amended by striking “30” and inserting the number corresponding to the number of days determined for such individual under subparagraph (A)(i); and
(ii) subsection (b) of such section shall be deemed amended by striking “45” and inserting the number corresponding to the number of days determined for such individual under subparagraph (A)(i).

(3) Conforming Amendment.—Section 6304(a) of title 5, United States Code, is amended by striking “(d), (e), (f), and (g)” and inserting “(d) and (e)”.

(d) No Cash Awards Between Fiscal Years 1994 Through 1998.—

(1) Definition.—For the purpose of this subsection, the term “cash award” means any cash award, performance award, rank, or other form of recognition entitling the recipient to any monetary payment under subchapter I of chapter 45 of title 5, United States Code, or section 5384, 5406, or 5407 of such title.

(2) Restriction.—Notwithstanding any other provision of law, no cash award may be awarded during the period beginning on October 1, 1993, and ending on September 30, 1998.

(e) Reduction of Federal Workforce by 150,000.—
(1) **Definition.**—For the purpose of this subsection, the term “civilian employees in the executive branch” means all civilian employees within the executive branch of the Government (other than in the United States Postal Service or the Postal Rate Commission).

(2) **Limitations.**—The average total number of civilian employees in the executive branch may not exceed—

(A) 2,095,200 in fiscal year 1994;

(B) 2,044,100 in fiscal year 1995;

(C) 2,010,100 in fiscal year 1996;

(D) 1,998,500 in fiscal year 1997; or

(E) 1,996,700 in fiscal year 1998.

(3) **Averaging.**—The average total number of civilian employees in the executive branch in a fiscal year shall, for purposes of this subsection, be the average number in such fiscal year, as determined under regulations prescribed under paragraph (5). Any such average shall be determined on a “full-time equivalent” basis.

(4) **Voluntary Measures.**—To the extent practicable, any reductions necessary to achieve compliance with any limitation under paragraph (2)
shall be effected through attrition or other voluntary measures.

(5) REGULATIONS.—The President shall prescribe regulations to carry out this subsection.

(f) PAY-LIMITATION PROVISIONS MADE APPLICABLE TO CERTAIN EMPLOYEES IN THE JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts shall take such measures as may be necessary to ensure that the purposes of subsections (a) and (b) of section 10003 and subsections (a)(1) (if applicable) and (b) of this section are carried out with respect to employees who are subject to the personnel management system established by the Director under section 3 of Public Law 101–474 (28 U.S.C. 602 note).

SEC. 10005. APPLICATION OF MEDICARE PART B LIMITS TO PHYSICIANS’ SERVICES FURNISHED TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.

(a) IN GENERAL.—Section 8904(b) of title 5, United States Code, is amended—

(1) in paragraph (1) by inserting “(A)” after “(b)(1)” and by adding at the end the following: “(B)(i) A plan, other than a prepayment plan described in section 8903(4), may not provide benefits, in the case of any retired enrolled individual who is age 65
or older and is not entitled to Medicare supplementary
medical insurance benefits under part B of title XVIII of
the Social Security Act (42 U.S.C. 1395j et seq.), to pay
a charge imposed for physicians’ services (as defined in
section 1848(j) of such Act, 42 U.S.C. 1395w-4(j)) which
are covered for purposes of benefit payments under this
chapter and under such part, to the extent that such
charge exceeds the fee schedule amount under section
1848(a) of such Act (42 U.S.C. 1395w-4(a)).

“(ii) Physicians and suppliers who have in force par-
ticipation agreements with the Secretary of Health and
Human Services consistent with section 1842(h)(1) of
such Act (42 U.S.C. 1395u(h)(1)), whereby the participat-
ing provider accepts Medicare benefits (including allowable
deductible and coinsurance amounts) as full payment for
covered items and services shall accept equivalent benefit
and enrollee cost-sharing under this chapter as full pay-
ment for services described in clause (i). Physicians and
suppliers who are nonparticipating physicians and suppli-
ers for purposes of part B of title XVIII of such Act shall
not impose charges that exceed the limiting charge under
section 1848(g) of such Act (42 U.S.C. 1395w-4(g)) with
respect to services described in clause (i) provided to en-
rollees described in such clause. The Office of Personnel
Management shall notify a physician or supplier who is
found to have violated this clause and inform them of the requirements of this clause and sanctions for such a violation. The Office of Personnel Management shall notify the Secretary of Health and Human Services if a physician or supplier is found to knowingly and willfully violate this clause on a repeated basis and the Secretary of Health and Human Services may invoke appropriate sanctions in accordance with sections 1128A(a) and section 1848(g)(1) of such Act (42 U.S.C. 1320a-7a(a), 1395w-4(g)(1)) and applicable regulations.

“(C) If the Secretary of Health and Human Services determines that a violation of this subsection warrants excluding a provider from participation for a specified period under title XVIII of the Social Security Act, the Office shall enforce a corresponding exclusion of such provider for purposes of this chapter.”;

(2) in paragraph (3)(B)—

(A) by inserting “(i)” after “includes”; and

(B) by inserting before the period at the end the following: “, and (ii) the fee schedule amounts and limiting charges for physicians’ services established under section 1848 of such Act (42 U.S.C. 1395w-4) and the identity of participating physicians and suppliers who have in force agreements with such Secretary under
section 1842(h) of such Act (42 U.S.C. 1395u(h))’’; and

(3) by adding at the end the following:

‘‘(4) The Director of the Office of Personnel Management shall certify, before the first day of the fifth month that begins before each contract year, that there is in effect an arrangement with the Secretary of Health and Human Services under which, before the beginning of the contract year—

‘‘(A) physicians and suppliers (whether or not participating) under the Medicare program will be notified of the requirements of paragraph (1)(B);

‘‘(B) enforcement procedures will be in place to carry out such paragraph (including enforcement of protections against overcharging of beneficiaries);

and

‘‘(C) Medicare program information described in paragraph (3)(B)(ii) will be supplied to carriers under paragraph (3)(A).’’.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contract years beginning on or after January 1, 1995.
SEC. 10006. TEMPORARY EXTENSION OF METHOD FOR DETERMINING GOVERNMENT CONTRIBUTIONS UNDER FEHBP IN THE ABSENCE OF A GOVERNMENT-WIDE INDEMNITY BENEFIT PLAN.

(a) In General.—Public Law 101–76 (5 U.S.C. 8906 note) is amended in subsection (a)(1) by striking “1993” and inserting “1998”.

(b) Sense of Congress.—It is the sense of the Congress that nothing in this section should be considered to reflect any view on the appropriateness, merits, or timing, or any other aspect of any comprehensive health care reform legislation.

Subtitle B—Postal Service

SEC. 10101. PAYMENTS TO BE MADE BY THE UNITED STATES POSTAL SERVICE.

(a) Relating to Corrected Calculations for Past Retirement COLAs.—In addition to any other payments required under section 8348(m) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund a total of $693,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1995;

(2) at least two-thirds shall be paid not later than September 30, 1996; and
(3) any remaining balance shall be paid not later than September 30, 1997.

(b) RELATING TO CORRECTED CALCULATIONS FOR PAST HEALTH BENEFITS.—In addition to any other payments required under section 8906(g)(2) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Employees Health Benefits Fund a total of $348,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1995;

(2) at least two-thirds shall be paid not later than September 30, 1996; and

(3) any remaining balance shall be paid not later than September 30, 1997.

Subtitle C—Revenue Forgone Reform

SEC. 10201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the “Revenue Forgone Reform Act”.

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

Sec. 10201. Short title; table of contents.
Sec. 10202. References.
Sec. 10203. Repeal of authorization of appropriations for mail sent at reduced rates of postage.
Sec. 10204. Establishing reduced rates of postage.
Sec. 10205. Eligibility of certain mailings for reduced rates of postage.
Sec. 10206. Provisions relating to rates for books and certain other materials.
Sec. 10207. Sense of Congress.
Sec. 10208. Technical corrections.
SEC. 10202. REFERENCES.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 39, United States Code.

SEC. 10203. REPEAL OF AUTHORIZATION OF APPROPRIATIONS FOR MAIL SENT AT REDUCED RATES OF POSTAGE.

(a) IN GENERAL.—Section 2401(c) is amended—

(1) in the first sentence—

(A) by striking “if sections” through “had not been enacted” and inserting “if sections 3217 and 3403–3406 had not been enacted”; and

(B) by striking “such sections and Acts.” and inserting “such sections.”; and

(2) in the second sentence—

(A) by striking “(i)” and

(B) by striking “volume;” through “schedules.” and inserting “volume.”.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to appropriations for fiscal years beginning after September 30, 1993.
SEC. 10204. ESTABLISHING REDUCED RATES OF POSTAGE.

(a) Rates.—

(1) In general.—Section 3626(a) is amended to read as follows:

"(a)(1) For the purpose of this subsection—

"(A) the term 'costs attributable', as used with respect to a class of mail or kind of mailer, means the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service);

"(B) the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in paragraph (2)(A) or section 2401(c); and

"(C) the term 'institutional-costs contribution', as used with respect to a class of mail or kind of mailer, means that portion of the estimated revenues to the Postal Service from such class of mail or kind of mailer which remains after subtracting an amount equal to the estimated costs attributable to such class of mail or kind of mailer.

"(2)(A) Except as provided in paragraph (3) or (4), rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in a manner such that the estimated revenues to be received by the Postal
Service from such class of mail or kind of mailer shall be equal to the sum of—

“(i) the estimated costs attributable to such class of mail or kind of mailer; and

“(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).

“(B) The applicable percentage for any class of mail or kind of mailer referred to in subparagraph (A) shall be the product derived by multiplying—

“(i) the percentage which, for the most closely corresponding regular-rate category, the institutional-costs contribution for such category represents relative to the estimated costs attributable to such category of mail, times

“(ii)(I) one-twelfth, for fiscal year 1994;

“(II) one-sixth, for fiscal year 1995;

“(III) one-fourth, for fiscal year 1996;

“(IV) one-third, for fiscal year 1997;

“(V) five-twelfths, for fiscal year 1998; and

“(VI) one-half, for any fiscal year after fiscal year 1998.

“(C) For temporary special authority to permit the timely implementation of the preceding provisions of this paragraph, see section 3642.
(D) For purposes of establishing rates of postage under this subchapter for any of the classes of mail or kinds of mailers referred to in subparagraph (A), subclauses (I) through (V) of subparagraph (B)(ii) shall be deemed amended by striking the fraction specified in each such subclause and inserting ‘one-half’.

“(3) The rates for the advertising portion of any mail matter under former section 4358(d) or 4358(e) of this title shall be equal to the rates for the advertising portion of the most closely corresponding regular-rate category of mail, except that if the advertising portion does not exceed 10 percent of the issue of the publication involved, the advertising portion shall be subject to the same rates as apply to the nonadvertising portion.

“(4) The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail.”.

(2) Special authority.—Subchapter III of chapter 36 is amended by adding at the end the following:

§ 3642. Special authority relating to reduced-rate categories of mail

“(a) In order to permit the timely implementation of section 3626(a)(2), the Postal Service may establish tem-
porary rates of postage for any class of mail or kind of mailer referred to in section 3626(a)(2)(A).

“(b) Any exercise of authority under this section shall be in conformance with the requirements of section 3626(a), subject to the following:

“(1) All ‘attributable costs’ and ‘institutional-costs contributions’ assumed shall be the same as those which were assumed for purposes of the then most recent proceedings under subchapter II pursuant to which rates of postage for the class of mail or kind of mailer involved were last adjusted.

“(2) Any temporary rate established under this section shall take effect upon such date as the Postal Service may determine, except that—

“(A) such a rate may take effect only after 10 days’ notice in the Federal Register; and

“(B) no such rate may take effect after September 30, 1998.

“(3) A temporary rate under this section may remain in effect no longer than the last day of the fiscal year in which it first takes effect.

“(4) Authority under this section may not be exercised in a manner that would result in more than 1 change taking effect under this section, during the same fiscal year, in the rates of postage for
a particular class of mail or kind of mailer, except as provided in paragraph (5).

“(5) Nothing in paragraph (4) shall prevent an adjustment under this section in rates for a class of mail or kind of mailer with respect to which any rates took effect under this section earlier in the same fiscal year if—

“(A) the rates established for such class of mail or kind of mailer by the earlier adjustment are superseded by new rates established under subchapter II; and

“(B) authority under this paragraph has not previously been exercised with respect to such class of mail or kind of mailer based on the new rates referred to in subparagraph (A).

“(c) The Postal Service may prescribe any regulations which may be necessary to carry out this section, including provisions governing the coordination of adjustments under this section with any other adjustments under this title.”.

(3) Technical and Conforming Amendments.—

(A) Section 3626.—Section 3626(i) is repealed.

(B) Section 3627.—
(i) **In General.**—Section 3627 is amended—

(I) by striking “sent at a free or reduced rate under section 3217, 3403–3406, or 3626 of this title,” and inserting “sent free of postage under section 3217 or 3403–3406”;

and

(II) in the section heading by striking “and reduced”.

(ii) **Table of Contents.**—The table of contents for chapter 36 is amended—

(I) by striking the item relating to section 3627 and inserting the following:

“3627. Adjusting free rates.”;

and

(II) by inserting after the item relating to section 3641 the following:

“3642. Special authority relating to reduced-rate categories of mail.”.

(b) **Authorization.**—

(1) **In General.**—Section 2401 is amended—

(A) by striking subsections (d) through (f);

(B) by redesignating subsections (g) through (i) as subsections (e) through (g), respectively;
(C) in subsection (f) (as so redesignated by subparagraph (B)) by striking the second sentence;

(D) in subsection (g) (as so redesignated by subparagraph (B)) by striking “subsections (b) and (d) of this section” and inserting “subsection (b)”; and

(E) by inserting after subsection (c) the following:

“(d) As reimbursement to the Postal Service for losses which it incurred as a result of insufficient amounts appropriated under section 2401(c) for fiscal years 1991 through 1993, and to compensate for the additional revenues it is estimated the Postal Service would have received under the provisions of section 3626(a), for the period beginning on October 1, 1993, and ending on September 30, 1998, if the fraction specified in subclause (VI) of section 3626(a)(2)(B)(ii) were applied with respect to such period (instead of the respective fractions specified in subclauses (I) through (V) thereof), there are authorized to be appropriated to the Postal Service $29,000,000 for each of fiscal years 1994 through 2035.”.

(2) RATEMAKING LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), rates of postage may not be
established, under subchapter II of chapter 36 of title 39, United States Code, in a manner de-
signed to allow the United States Postal Service to receive through revenues any portion of the additional revenues (referred to in section 2401(d) of such title, as amended by paragraph (1)(E)) for which amounts are authorized to be appropriated under such section 2401(d).

(B) Exception.—If Congress fails to appropriate an amount authorized under section 2401(d) of title 39, United States Code (as amended by paragraph (1)(E)), rates for the various classes of mail may be adjusted in accordance with the provisions of subchapter II of chapter 36 of such title (excluding section 3627 thereof) such that the resulting increase in revenues will equal the amount that Congress so failed to appropriate.

(c) Applicability.—

(1) Rates.—The amendments made by sub-
section (a) shall apply with respect to rates for mail sent after September 30, 1993.

(2) Authorization.—The amendments made by subsection (b) shall apply with respect to appro-
priations for fiscal years beginning after September
30, 1993.

SEC. 10205. ELIGIBILITY OF CERTAIN MAILINGS FOR REDUCED RATES OF POSTAGE.

(a) ADVERTISING.—Section 3626(j)(1) is amended—
(1) in subparagraph (B) by striking “or” after
the semicolon;
(2) in subparagraph (C) by striking the period
and inserting “; or”; and
(3) by adding at the end the following:
“(D) any product or service (other than any to
which subparagraph (A), (B), or (C) relates), if—
“(i) the sale of such product or the provid-
ing of such service is not substantially related
(aside from the need, on the part of the organi-
zation promoting such product or service, for
income or funds or the use it makes of the prof-
its derived) to the exercise or performance by
the organization of one or more of the purposes
constituting the basis for the organization’s au-
thorization to mail at such rates; or
“(ii) the mail matter involved is part of a
cooperative mailing (as defined under regula-
tions of the Postal Service) with any person or
organization not authorized to mail at the rates
for mail under former section 4452(b) or 4452(c) of this title;
except that—

“(I) any determination under clause (i) that a product or service is not substantially related to a particular purpose shall be made under regulations which shall be prescribed by the Postal Service based on subsections (a) and (c) of section 513 of the Internal Revenue Code of 1986; and

“(II) clause (i) shall not apply if the product involved is a periodical publication described in subsection (m)(2) (including a subscription to receive any such publication).”.

(b) PRODUCTS.—Section 3626 is amended by adding at the end the following:

“(m)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail consisting of products, unless such products—

“(A) were received by the organization as gifts or contributions; or

“(B) are low cost articles (as defined by section 513(h)(2) of the Internal Revenue Code of 1986).
“(2) Paragraph (1) shall not apply with respect to a periodical publication of a qualified nonprofit organization.”.

(c) Certification; Verification.—Section 3626(j)(3) is amended—

(1) by striking “(3)” and inserting “(3)(A)”;

and

(2) by adding at the end the following:

“(B) The Postal Service shall establish procedures to carry out this paragraph, including procedures for mailer certification of compliance with the conditions specified in paragraph (1)(D) or subsection (m), as applicable, and verification of such compliance.”.

(d) Applicability.—The amendments made by this section shall apply with respect to mail sent, and the rates for mail sent, after September 30, 1993.

SEC. 10206. PROVISIONS RELATING TO RATES FOR BOOKS AND CERTAIN OTHER MATERIALS.

(a) In General.—Section 3683(b) is amended to read as follows:

“(b) The rates of postage under former section 4554(b)(1) of this title shall not be effective except with respect to mailings which—

“(1) constitute materials specified in former section 4554(b)(2) of this title; and
“(2) are sent between—

“(A) an institution, organization, or association listed in subparagraph (A) or (B) of such former section 4554(b)(1) and any other such institution, organization, or association;

“(B) an institution, organization, or association referred to in subparagraph (A) and any individual (other than an individual having a financial interest in the sale, promotion, or distribution of the materials involved); or

“(C) an institution, organization, or association referred to in subparagraph (A) and a qualified nonprofit organization (as defined in former section 4452(d) of this title) that is not such an institution, organization, or association.”.

(b) Applicability.—The amendment made by subsection (a) shall apply with respect to mail sent after September 30, 1993.

SEC. 10207. SENSE OF CONGRESS.

It is the sense of the Congress that any legislation, enacted after September 30, 1994, which would have the effect of expanding the classes of mail or kinds of mailers eligible for reduced rates of postage should provide for sufficient funding to ensure that neither any losses to the
United States Postal Service nor any increase in the rates of postage for any of the other classes of mail or kinds of mailers will result.

SEC. 10208. TECHNICAL CORRECTIONS.

(a) Section 410.—Section 410(b) is amended—

(1) in paragraph (8) by striking “and” after the semicolon;

(2) in the first paragraph (9) by striking “Chapter” and inserting “chapter”, and by striking the period and inserting “; and”; and

(3) by designating the second paragraph (9) as paragraph (10).

(b) Section 3202.—Section 3202(a) is amended—

(1) in paragraph (3) by adding “and” after the semicolon; and

(2) in paragraph (4) by striking “; and” and inserting a period.

(c) Section 3210.—The provisions of section 318(3) of Public Law 101-163 (103 Stat. 1068), which amended section 3210 of title 39, United States Code, shall be treated as if, as enacted, the reference in such provisions to “subparagraph (c)” had instead read “subparagraph (C)”.

(d) Section 3601.—Section 3601(a) is amended by striking “concent” and inserting “consent”.
(e) **SECTION 3625.**—Section 3625(d) is amended by striking "section 3268" and inserting "section 3628".

(f) **SECTION 3626.**—Section 3626 is amended by redesignating the second subsection (k) as subsection (l).

**TITLE XI—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION**

**SEC. 11001. AVIATION FEES FOR SERVICES.**

(a) **IN GENERAL.**—Section 313(f) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354(f)) is amended to read as follows:

"(f) **FEES FOR SERVICES.**—

"(1) **IMPOSITION AND COLLECTION.**—The following fees are imposed and shall be collected for services rendered:

"(A) **AIRCRAFT REGISTRATION FEES.**—

"(i) **GENERAL RULE.**—For registration of an aircraft, the fee to be collected from the owner of the aircraft in each fiscal year beginning after September 30, 1993, shall be determined under the following table:

<table>
<thead>
<tr>
<th>If the maximum certificated</th>
<th>Amount of fee is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>gross weight of the aircraft is:</td>
<td></td>
</tr>
<tr>
<td>Not over 3,500 pounds</td>
<td>$40.00</td>
</tr>
<tr>
<td>Over 3,500 lbs. but not over 6,500 lbs.</td>
<td>$175.00</td>
</tr>
</tbody>
</table>
If the ownership of the aircraft is also transferred in such fiscal year, the fee to be collected for registration of the aircraft in such fiscal year under this subparagraph, as determined from the table, shall be increased by such amount as the Administrator shall determine so that the average amount of the increase for all aircraft collected under this sentence in such fiscal year will be approximately $200.00.

"(ii) **Exemptions.**—No fee shall be collected under this subparagraph for registration of an aircraft in a fiscal year if the aircraft—

"(I) is owned or operated by an air carrier exclusively to provide air transportation;

"(II) is owned by, or operated exclusively by or for, the United States Government;

"(III) is registered under a dealer’s aircraft registration certificate issued under section 505 of this Act;

"(IV) is not originally certificated with an engine driven electrical system or has not subsequently been certified by the
Administrator with such a system installed; or

“(V) is a balloon or glider.

“(B) Designation as Aviation Medical Examiners.—For designation of a person as an aviation medical examiner, the fee to be collected from such person in each fiscal year beginning after September 30, 1993, shall be $500.

“(C) Issuance of Certificates to Pilots.—After September 30, 1993, the fee to be collected for issuance or renewal of an airman’s certificate to a pilot shall be $12. The fee shall be collected from each pilot at least once every 3 fiscal years.

“(2) Continuation of Fee for Processing of Forms for Major Fuel Tank Alterations.—

“(A) Establishment and Collection.—The Administrator may establish such fees as may be necessary to cover the costs associated with processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

“(B) Maximum Amount.—The amount of any fee under this subsection with respect to
processing of a form for a major repair or alteration of a fuel tank or fuel system of an aircraft may not exceed $7.50. Such maximum amount shall be adjusted annually by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

“(3) Collection and deposit in trust fund.—The amounts of all fees established by or under this subsection shall be collected by the Administrator, or the Secretary of the Treasury for the Administrator, and shall be deposited in the Airport and Airway Trust Fund.”.

(b) Conforming Amendment.—The portion of the table of contents contained in the first section of such Act relating to section 313 is amended by striking “(f) Processing fees.” and inserting

“(f) Fees for services.”.

Sec. 11002. Recreational User Fees.

(a) In General.—Section 210 of the Flood Control Act of 1968 (16 U.S.C. 460d-3) is amended—

(1) by striking “Sec. 210. No entrance” and inserting the following:
SEC. 210. RECREATIONAL USER FEES.

“(a) PROHIBITION ON ADMISSIONS FEES.—No entrance’’;
(2) by striking the second sentence; and
(3) by adding at the end the following new subsection:

“(b) FEES FOR USE OF DEVELOPED RECREATION SITES AND FACILITIES.—

“(1) ESTABLISHMENT AND COLLECTION.—Notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(b)), the Secretary of the Army is authorized, subject to paragraphs (2) and (3), to establish and collect fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps.

“(2) EXEMPTION OF CERTAIN FACILITIES.—The Secretary shall not establish or collect fees under this subsection for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, picnic tables, toilet facilities, surface water areas, undeveloped or lightly developed shoreland, or general visitor information.

“(3) PER VEHICLE LIMIT.—The fee under this subsection for use of a site or facility (other than an overnight camping site or facility or any other site
or facility at which a fee is charged for use of the site or facility as of the date of the enactment of this paragraph) for persons entering the site or facility by private, noncommercial vehicle shall not exceed $3 per day per vehicle. Such maximum amount may be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

“(4) Deposit into Treasury account.—All fees collected under this subsection shall be deposited into the Treasury account for the Corps of Engineers established by section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)).”.

(b) Conforming Amendment for Campsites.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(b)) is amended by striking the next to the last sentence.

TITLE XII—COMMITTEE ON VETERANS AFFAIRS

SEC. 12001. SHORT TITLE.

This title may be cited as the “Veterans Reconciliation Act of 1993”.
SEC. 12002. EXTENSION OF AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) Hospital and Medical Care.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 38 U.S.C. 1710 note) is amended—

(1) by striking out “September 30, 1992” in the first sentence and inserting in lieu thereof “September 30, 1998”; and

(2) by striking out the second sentence.

(b) Outpatient Medications.—Section 1722A(c) of title 38, United States Code, is amended—

(1) by striking out “September 30, 1992” in the first sentence and inserting in lieu thereof “September 30, 1998”; and

(2) by striking out the second sentence.

SEC. 12003. EXTENSION OF AUTHORITY FOR MEDICAL CARE COST RECOVERY.

(a) In General.—Section 1729(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out “non-service-connected”; and

(2) in paragraph (2)—
(A) by inserting "disability and, during the period before October 1, 1998, to a service-connected" after "non-service-connected" in the matter preceding subparagraph (A); and
(B) by striking out "before August 1, 1994," in subparagraph (E) and inserting in lieu thereof "before October 1, 1998,"

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to care and services furnished under chapter 17 of title 38, United States Code, after September 30, 1993.

SEC. 12004. EXTENSION OF AUTHORITY FOR CERTAIN INCOME VERIFICATION PROVISIONS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(b) AUTHORITY FOR SECRETARY OF TREASURY TO PROVIDE INFORMATION.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out "September 30, 1997" in the last
sentence and inserting in lieu thereof “September 30, 1998”.

SEC. 12005. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

SEC. 12006. DENIAL OF FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.

During fiscal year 1994, no increase may be provided in the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code.

SEC. 12007. EXTENSION OF PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) INCLUSION OF LOSSES.—Section 3732(c) of title 38, United States Code, is amended—

(1) in paragraph (1)(C), by striking out “resale,” and inserting in lieu thereof “resale (including losses sustained on the resale of the property),”; and
(2) in paragraph (11), by striking out “December 31, 1992” and inserting in lieu thereof “September 30, 1998”.

(b) **Effective Date.**—The amendment made by subsection (a)(1) shall apply to all liquidation sales occurring on or after October 1, 1993.

**SEC. 12008. INCREASE IN HOME LOAN FEES.**

Paragraph (6) of section 3729(a) of title 38, United States Code, is amended to read as follows:

“(6) With respect to a loan closed after September 30, 1993, and before October 1, 1998, for which a fee is collected under paragraph (1), the amount of such fee, as computed under paragraph (2), shall be increased by 0.75 percent of the total loan amount other than in the case of a loan described in subparagraph (A), (D)(ii), or (E) of paragraph (2).”.

**SEC. 12009. REDUCTION OF FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR MONTGOMERY GI BILL BENEFITS.**

(a) **Benefits Payable Under Chapter 30.**—Section 3015(g)(1) of title 38, United States Code, is amended by inserting “less one percentage point” after “June 30, 1993,”.

(b) **Benefits Payable Under Selected Reserve Program.**—Section 2131(b)(2)(A) of title 10,
United States Code, is amended by inserting "less one percentage point" after "June 30, 1993,"

(c) TECHNICAL AMENDMENTS.—(1) Section 301(c) of Public Law 102–568 (106 Stat. 4326) is amended by striking out "Section 3015(f)" and inserting in lieu thereof "Section 3015(g) (as redesignated by section 307(a)(1))."

(2) Section 307(a) of such Public Law (106 Stat. 4328) is amended by striking out "(as amended by section 301)."

(3) The amendments made by paragraphs (1) and (2) shall apply as if included in the enactment of Public Law 102–568.

SEC. 12010. LIMITATION ON CHILDREN ELIGIBLE FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) REVISION IN DEFINITION OF CHILDREN ELIGIBLE.—Section 3501(a)(2) of title 38, United States Code, is amended by inserting "but does not include an individual who is not the natural or legally adopted child of the parent from whom eligibility under this chapter is derived" before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) does not apply with respect to any individual who, before October 1, 1993, files an original applica-
tion for educational assistance under chapter 35 of title 38, United States Code.

**TITLE XIII—COMMITTEE ON WAYS AND MEANS—SAVINGS**

Subtitle A—Old-Age, Survivors, and Disability Insurance Program

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Sec. 13004. Authorization for all States to extend coverage to State and local policemen and firemen under existing coverage agreements.

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Sec. 13016. Extension of disability insurance program demonstration project authority.

Sec. 13017. Technical and clerical amendments.

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SEC. 13001. EXPLICIT REQUIREMENTS FOR MAINTENANCE OF TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) MAINTENANCE OF SERVICE TO LOCAL OFFICES.—

(1) IN GENERAL.—Section 5110(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388-272) is amended by adding at the end the following new sentence: "In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service at least the same number of telephone lines to each such local office as was in place as of such date, including telephone sets for connections to such lines."

(2) EFFECTIVE DATE.—The Secretary of Health and Human Services shall ensure that the requirements of the amendment made by paragraph (1) are carried out no later than 90 days after the date of the enactment of this Act.

(3) GAO REPORT.—The Comptroller General of the United States shall make an independent determination of the number of telephone lines to each local office of the Social Security Administration which are in place as of 90 days after the enactment of this Act and shall report his findings to the Committee on Ways and Means of the House of Rep-
resentatives and the Committee on Finance of the Senate no later than 150 days after the date of the enactment of this Act.

(b) Maintenance of Toll-Free Telephone Number Service.—The Secretary of Health and Human Services shall ensure that toll-free telephone service provided by the Social Security Administration is maintained at a level which is at least equal to that in effect on the date of the enactment of this Act.

SEC. 13002. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE.

(a) Limitation on Mandatory Coverage of State Election Officials and Election Workers Without State Retirement System.—

(1) Amendment to Social Security Act.—Section 210(a)(7)(F)(iv) of the Social Security Act (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section 11332(a) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking “$100” and inserting “$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) for any subsequent year with respect to service performed during such subsequent year”.
(2) Amendment to FICA.—Section 3121(b)(7)(F)(iv) of the Internal Revenue Code of 1986 (as amended by section 11332(b) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year".

(b) Conforming Amendments Relating to Medicare Qualified Government Employment.—

(1) Amendment to Social Security Act.—Section 210(p)(2)(E) of the Social Security Act (42 U.S.C. 410(p)(2)(E)) is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined under section 218(c)(8)(B) for any subsequent year with respect to service performed during such subsequent year".

(2) Amendment to FICA.—Section 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code of 1986 is amended by striking "$100" and inserting "$1,000 with respect to service performed during 1994, and the adjusted amount determined
under section 218(c)(8)(B) of the Social Security Act for any subsequent year with respect to service performed during such subsequent year”.

(c) Authority for States To Modify Coverage Agreements With Respect to Election Officials and Election Workers.—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended—

(1) by striking “on or after January 1, 1968,” and inserting “at any time”;

(2) by striking “$100” and inserting “$1,000 with respect to service performed during 1994, and the adjusted amount determined under subparagraph (B) for any subsequent year with respect to service performed during such subsequent year”;

and

(3) by striking the last sentence and inserting the following new sentence: “Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.”.

(d) Indexation of Exempt Amount.—Section 218(c)(8) of such Act (as amended by subsection (c)) is further amended—

(1) by inserting “(A)” after “(8)”; and
(2) by adding at the end the following new subparagraph:

“(B) For each year after 1994, the Secretary shall adjust the amount referred to in subparagraph (A) at the same time and in the same manner as is provided under section 215(a)(1)(B)(ii) with respect to the amounts referred to in section 215(a)(1)(B)(i), except that—

“(i) for purposes of this subparagraph, 1992 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II), and

“(ii) such amount as so adjusted, if not a multiple of $100, shall be rounded to the next higher multiple of $100 where such amount is a multiple of $50 and to the nearest multiple of $100 in any other case.

The Secretary shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not later than November 1 preceding the year for which the adjustment is made.”.

(e) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply with respect to service performed on or after January 1, 1994.
SEC. 13003. USE OF SOCIAL SECURITY NUMBERS BY STATES
AND LOCAL GOVERNMENTS AND FEDERAL
DISTRICT COURTS FOR JURY SELECTION

(a) In General.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking ““(E)” in the matter preceding subclause (I) and inserting ““(F)”;

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (D) the following:

“(E)(i) It is the policy of the United States that—

“(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

“(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.


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“(ii) The additional purposes described in this clause are the following:

“(I) identifying duplicate names of individuals on master lists used for jury selection purposes, and

“(II) identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

“(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

“(iv) For purposes of this subparagraph, the term ‘State’ has the meaning such term has in subparagraph (D).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13004. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICEMEN AND FIREMEN UNDER EXISTING COVERAGE AGREEMENTS.

(a) IN GENERAL.—Section 218(l) of the Social Security Act (42 U.S.C. 418(l)) is amended—
(1) in paragraph (1), by striking ``(1)'' after ``(l)'', and by striking ``the State of'' and all that follows through ``prior to the date of enactment of this subsection'' and inserting ``a State entered into pursuant to this section''; and

(2) by striking paragraph (2).

(b) Conforming Amendment.—Section 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is amended by striking ``agreements with the States named in'' and inserting ``State agreements modified as provided in''.

(c) Effective Date.—The amendments made by this section shall apply with respect to modifications filed by States after the date of the enactment of this Act.

SEC. 13005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.

(a) In General.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United
States and Canada pursuant to section 233 of the Social Security Act was in effect, and (3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada, then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax with respect to services described in paragraphs (1) and (2) and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) Period for Filing.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) Taxable Years Affected by Certificate.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) Restriction on Crediting of Exempt Self-Employment Income.—In any case in which an individ-
ual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act (42 U.S.C. 411(b)), and, if such individual’s primary insurance amount has been determined under section 215 of such Act (42 U.S.C. 415), notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection. The recomputation under this subsection shall be effective with respect to benefits for months following approval of the certificate of exemption.

SEC. 13006. EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION.

(a) In General.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking “but excluding” and all that follows through “1937” and inserting “but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between
the United States and such foreign country pursuant
to section 233”; and

(2) in subparagraph (E), by inserting after “in
the case of an individual” the following: “whose eli-
gibility for old-age or disability insurance benefits is
based on an agreement concluded pursuant to sec-
tion 233 or an individual”.

(b) Conforming Amendment Relating to Bene-
fits Under 1939 Act.—Section 215(d)(3) of such Act
(42 U.S.C. 415(d)(3)) is amended by striking “but exclud-
ing” and all that follows through “1937” and inserting
“but excluding (I) a payment under the Railroad Retire-
ment Act of 1974 or 1937, and (II) a payment by a social
security system of a foreign country based on an agree-
ment concluded between the United States and such for-
eign country pursuant to section 233”.

(c) Effective Date.—The amendments made by
this section shall apply (notwithstanding section 215(f)(1)
of the Social Security Act (42 U.S.C. 415(f)(1))) with re-
spect to benefits payable for months after October 1993.
SEC. 13007. EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISIONS.

(a) Exclusion from Government Pension Offset Provisions.—Subsections (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4)) are each amended—

(1) in subparagraph (A)(ii), by striking “unless subparagraph (B) applies.”;

(2) in subparagraph (A), by striking “The” in the matter following clause (ii) and inserting “unless subparagraph (B) applies. The”; and

(3) in subparagraph (B), by redesignating the existing matter as clause (ii), and by inserting before such clause (ii) (as so redesignated) the following:

“(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).”.

(b) Exclusion from Windfall Elimination Provisions.—Section 215(a)(7)(A) of such Act (as amended by section 13006(a) of this Act) and section 215(d)(3) of such Act (as amended by section 13006(b) of this Act) are each further amended—
(1) by striking “and” before “(II)”; and
(2) by striking “section 233” and inserting
“section 233, and (III) a payment based wholly on
service as a member of a uniformed service (as de-

dined in section 210(m))”.

(c) Effective Date.—The amendments made by
this section shall apply (notwithstanding section 215(f) of
the Social Security Act) with respect to benefits payable
for months after October 1993.

SEC. 13008. REPEAL OF THE FACILITY-OF-PAYMENT PROVI-
SION.

(a) Repeal of Rule Precluding Redistribution
Under Family Maximum.—Section 203(i) of the Social
Security Act (42 U.S.C. 403(i)) is repealed.

(b) Coordination Under Family Maximum of
Reduction in Beneficiary’s Auxiliary Benefits
With Suspension of Auxiliary Benefits of Other
Beneficiary Under Earnings Test.—Section
203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended
by striking “section 222(b). Whenever” and inserting the
following: “section 222(b). Notwithstanding the preceding
sentence, any reduction under this subsection in the case
of an individual who is entitled to a benefit under sub-
section (b), (c), (d), (e), (f), (g), or (h) of section 202 for
any month on the basis of the same wages and self-employment income as another person—

“(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

“(B) who does not live in the same household as such individual, and

“(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3). Whenever”.

(c) Conforming Amendment Applying Earnings Reporting Requirement Despite Suspension of Benefits.—The third sentence of section 203(h)(1)(A) of such Act (42 U.S.C. 403(h)(1)(A)) is amended by striking “Such report need not be made” and all that follows through “The Secretary may grant” and inserting the following: “Such report need not be made for any taxable year—

“(i) beginning with or after the month in which such individual attained age 70, or

“(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the
first sentence of paragraph (3) of this subsection, unless—

“(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

“(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

“(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant”.

(d) Conforming Amendment Deleting Special Income Tax Treatment of Benefits No Longer Required by Reason of Repeal.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) Effective Dates.—

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1994.
(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1994, in taxable years ending after such date.

SEC. 13009. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES.

(a) IN GENERAL.—Section 203(a) of the Social Security Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

“(10)(A) Subject to subparagraphs (B) and (C)—

“(i) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(B)(i) shall equal the total monthly benefits which were authorized by this section with respect to such individual’s primary insurance amount for the last month of his prior entitlement to disability insurance benefits, increased for this purpose by the general benefit increases and other increases under section 215(i) that would have applied to such total monthly benefits had the individual remained entitled to disability insurance benefits until the month in which he became entitled to old-age insur-
ance benefits or reentitled to disability insurance benefits or died, and

“(ii) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(C) shall equal the total monthly benefits which were authorized by this section with respect to such individual’s primary insurance amount for the last month of his prior entitlement to disability insurance benefits.

“(B) In any case in which—

“(i) the total monthly benefits with respect to such individual’s primary insurance amount for the last month of his prior entitlement to disability insurance benefits was computed under paragraph (6), and

“(ii) the individual’s primary insurance amount is computed under subparagraph (B)(i) or (C) of section 215(a)(2) by reason of the individual’s entitlement to old-age insurance benefits or death, the total monthly benefits shall equal the total monthly benefits that would have been authorized with respect to the primary insurance amount for the last month of his
prior entitlement to disability insurance benefits if such
total monthly benefits had been computed without regard
to paragraph (6).

“(C) This paragraph shall apply before the applica-
tion of paragraph (3)(A), and before the application of
section 203(a)(1) of this Act as in effect in December
1978.”.

(b) **Conforming Amendment.**—Section 203(a)(8)
of such Act (42 U.S.C. 403(a)(8)) is amended by striking
“Subject to paragraph (7),” and inserting “Subject to
paragraph (7) and except as otherwise provided in para-
graph (10)(C),”.

(c) **Effective Date.**—The amendments made by
this section shall apply for the purpose of determining the
total monthly benefits to which beneficiaries may be enti-
tled under sections 202 and 223 of the Social Security
Act based on the wages and self-employment income of
an individual who—

(1) becomes entitled to an old-age insurance
benefit under section 202(a) of such Act,

(2) becomes reentitled to a disability insurance
benefit under section 223 of such Act, or

(3) dies,

after October 1993.
SEC. 13010. AUTHORIZATION FOR DISCLOSURE BY THE SECRETARY OF HEALTH AND HUMAN SERVICES OF INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH.

(a) In General.—Section 1106 of the Social Security Act (42 U.S.C. 1306) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (f) (as so redesignated), by striking "subsection (d)" and inserting "subsection (e)"; and

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

"(d) Notwithstanding any other provision of this section, in any case in which—

"(1) information regarding whether an individual is shown on the records of the Secretary as being alive or deceased is requested from the Secretary for purposes of epidemiological or similar research which the Secretary finds may reasonably be expected to contribute to a national health interest, and

"(2) the requester agrees to reimburse the Secretary for providing such information and to comply with limitations on safeguarding and rerelease or
redisclosure of such information as may be specified by the Secretary, the Secretary shall comply with such request, except to the extent that compliance with such request would constitute a violation of the terms of any contract entered into under section 205(r).”.

(b) Availability of Information Returns Regarding Wages Paid Employees.—Section 6103(l)(5) of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information to the Department of Health and Human Services for purposes other than tax administration) is amended—

(1) by striking “for the purpose of” and inserting “for the purpose of—”;

(2) by striking “carrying out, in accordance with an agreement” and inserting the following:

“(A) carrying out, in accordance with an agreement”;

(3) by striking “program.” and inserting “program; or”; and

(4) by adding at the end the following new sub-paragraph:

“(B) providing information regarding the mortality status of individuals for epidemiolog-
atical and similar research in accordance with section 1106(d) of the Social Security Act.’’.

(c) Effective Date.—The amendments made by this section shall apply with respect to requests for information made after the date of the enactment of this Act.

SEC. 13011. IMPROVEMENT AND CLARIFICATION OF PROVISIONS PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY PROGRAMS AND AGENCIES.

(a) Prohibition of Unauthorized Reproduction, Reprinting, or Distribution for Fee of Certain Official Publications.—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b-10(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting ‘‘(1)’’ after ‘‘(a)’’; and

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

‘‘(2) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.’’.
(b) Addition to Prohibited Words, Letters, Symbols, and Emblems.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended—


(2) in subparagraph (B) (as redesignated), by striking ‘‘Social Security Administration’’ each place it appears and inserting ‘‘Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services’’, and by striking ‘‘or of the Health Care Financing Administration’’.

(c) Exemption for Use of Words, Letters, Symbols, and Emblems of State and Local Government Agencies by Such Agencies.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended by adding at the end the following new sentence: ‘‘The preceding provisions of this subsection shall not apply with respect to the use by any
agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.’’.

(d) Inclusion of Reasonableness Standard.—
Section 1140(a)(1) of such Act (as amended by the preceding provisions of this section) is further amended, in the matter following subparagraph (B) (as redesignated), by striking ‘‘convey’’ and inserting ‘‘convey, or in a manner which reasonably could be interpreted or construed as conveying,’’.

(e) Ineffectiveness of Disclaimers.—Subsection (a) of section 1140 of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new paragraph:

‘‘(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, re-
printed, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof."

(f) Violations With Respect to Individual Items.— Section 1140(b)(1) of such Act (42 U.S.C. 1320b-10(b)(1)) is amended by adding at the end the following new sentence: "In the case of any items referred to in subsection (a)(1) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation. In the case of any item referred to in subsection (a)(2), the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed."

(g) Elimination of Cap on Aggregate Liability Amount.—

(1) Repeal.— Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b-10(b)(2)) is repealed.

(2) Conforming Amendments.— Section 1140(b) of such Act is further amended—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";
(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking “subparagraph (B)” and inserting “paragraph (2)”.

(h) Removal of Formal Declination Requirement.—Section 1140(c)(1) of such Act (42 U.S.C. 1320b–10(c)(1)) is amended by inserting “and the first sentence of subsection (c)” after “and (i)”.

(i) Penalties Relating to Social Security Administration Deposited in OASI Trust Fund.—Section 1140(c)(2) of such Act (42 U.S.C. 1320b–10(c)(2)) is amended in the second sentence by striking “United States.” and inserting “United States, except that, to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivor’s Insurance Trust Fund.”.

(j) Enforcement.—Section 1140 of such Act (42 U.S.C. 1320b–10) is amended by adding at the end the following new subsection:
“(d) The preceding provisions of this section shall be enforced through the Office of Inspector General of the Department of Health and Human Services.”.

(k) **Annual Reports.**—Section 1140 of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new subsection:

“‘(e) The Secretary shall include in the annual report submitted pursuant to section 704 a report on the operation of this section during the year covered by such annual report. Such report shall specify—

‘‘(1) the number of complaints of violations of this section received by the Social Security Administration during the year,

‘‘(2) the number of cases in which a notice of violation of this section was sent by the Social Security Administration during the year requesting that an individual cease activities in violation of this section,

‘‘(3) the number of complaints of violations of this section referred by the Social Security Administration to the Inspector General in the Department of Health and Human Services during the year,”
“(4) the number of investigations of violations of this section undertaken by the Inspector General during the year,

“(5) the number of cases in which a demand letter was sent during the year assessing a civil money penalty under this section,

“(6) the total amount of civil money penalties assessed under this section during the year,

“(7) the number of requests for hearings filed during the year pursuant to subsection (c)(1) of this section and section 1128A(c)(2),

“(8) the disposition during such year of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2), and

“(9) the total amount of civil money penalties under this section deposited into the Federal Old-Age and Survivors Insurance Trust Fund during the year.”.

(I) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.
SEC. 13012. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) Unauthorized Disclosure.—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(1) by striking “misdemeanor” and inserting “felony’’;
(2) by striking “$1,000” and inserting “$10,000 for each occurrence of a violation”; and
(3) by striking “one year” and inserting “5 years”.

(b) Unauthorized Disclosure by Fraud.—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(1) by inserting “social security account number,” after “information as to the”;
(2) by striking “misdemeanor” and inserting “felony’’;
(3) by striking “$1,000” and inserting “$10,000 for each occurrence of a violation”; and
(4) by striking “one year” and inserting “5 years”.

(c) Effective Date.—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.
SEC. 13013. SIMPLIFICATION OF EMPLOYMENT TAXES ON
DOMESTIC SERVICES.

(a) COORDINATION OF COLLECTION OF DOMESTIC
SERVICE EMPLOYMENT WITH COLLECTION OF INCOME
TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal
Revenue Code of 1986 (relating to general provi-
sions relating to employment taxes) is amended by
adding at the end thereof the following new section:

“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC
SERVICE EMPLOYMENT TAXES WITH COLLECTION
OF INCOME TAXES.

“(a) GENERAL RULE.—Except as otherwise provided
in this section—

“(1) returns with respect to domestic service
employment taxes shall be made on a calendar year
basis,

“(2) any such return for any calendar year
shall be filed on or before the 15th day of the fourth
month following the close of the employer’s taxable
year which begins in such calendar year, and

“(3) no requirement to make deposits (or to
pay installments under section 6157) shall apply
with respect to such taxes.

“(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUB-
JECT TO ESTIMATED TAX PROVISIONS.—
“(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

“(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

“(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1993, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

“(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term ‘domestic service employment taxes’ means—

“(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and
•(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term ‘domestic service in a private home of the employer’ does not include service described in section 3121(g)(5).

‘‘(d) Exception Where Employer Liable for Other Employment Taxes.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

‘‘(e) General Regulatory Authority.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers’ income taxes.

‘‘(f) Authority To Enter Into Agreements To Collect State Unemployment Taxes.—

‘‘(1) In general.—The Secretary is hereby authorized to enter into an agreement with any
State to collect, as the agent of such State, such State's unemployment taxes imposed on remunera-
tion paid for domestic service in a private home of the employer. Any taxes to be collected by the Sec-
retary pursuant to such an agreement shall be treat-
ed as domestic service employment taxes for pur-
poses of this section.

"(2) Transfers to state account.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) Subtitle F made applicable.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) State.—For purposes of this subsection, the term ‘State’ has the meaning given such term by section 3306(j)(1)."

(2) Clerical amendment.—The table of sec-
tions for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employ-
ment taxes with collection of income taxes."

(3) Effective date.—The amendments made by this subsection shall apply to remuneration paid
in calendar years beginning after December 31, 1993.

(4) **Expanded Information to Employers.**—The Secretary of the Treasury or his delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

(b) **Threshold Requirement for Social Security Taxes.**—

(1) **Amendments of Internal Revenue Code.**—

(A) Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

“(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (within the meaning of subsection (y)), if the cash remuneration paid in such year by the
employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (y)) for such year;”.

(B) Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

“(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For purposes of subsection (a)(7)(B)—

“(1) EXCLUSION FOR CERTAIN FARM SERVICE.—The term ‘domestic service in a private home of the employer’ does not include service described in subsection (g)(5).

“(2) APPLICABLE DOLLAR THRESHOLD.—The term ‘applicable dollar threshold’ means $1,800. In the case of calendar years after 1994, the Secretary of Health and Human Services shall adjust such $1,800 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this subparagraph, 1992 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If the amount determined under the preceding sentence is
not a multiple of $50, such amount shall be rounded
to the nearest multiple of $50.”

(C) The second sentence of section 3102(a)
of such Code is amended—

(i) by striking “calendar quarter”
each place it appears and inserting “cal-
endar year”, and

(ii) by striking “$50” and inserting
“the applicable dollar threshold (as defined
in section 3121(y)(2)) for such year”.

(2) Amendment of Social Security Act.—

Subparagraph (B) of section 209(a)(6) of the Social
Security Act (42 U.S.C. 409(a)(6)(B)) is amended
to read as follows:

“(B) Cash remuneration paid by an employer in
any calendar year to an employee for domestic serv-
ice in a private home of the employer, if the cash re-
muneration paid in such year by the employer to the
employee for such service is less than the applicable
dollar threshold (as defined in section 3121(y)(2) of
the Internal Revenue Code of 1986) for such year.
As used in this subparagraph, the term ‘domestic
service in a private home of the employer’ does not
include service described in section 210(f)(5).”
(3) Effective Date.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1993.

(4) Relief from Liability for Certain Underpayment Amounts.—

(A) In General.—On and after the date of the enactment of this Act, an underpayment to which this paragraph applies (and any penalty, addition to tax, and interest with respect to such underpayment) shall not be assessed (or, if assessed, shall not be collected).

(B) Underpayments to which Paragraph Applies.—This paragraph shall apply to an underpayment to the extent of the amount thereof which would not be an underpayment if—

(i) the amendments made by paragraph (1) had applied to all calendar years after 1950 and before 1994, and

(ii) the applicable dollar threshold for any such calendar year were the amount determined under the following table:

<table>
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<th>In the case of calendar year:</th>
<th>The applicable dollar threshold is:</th>
</tr>
</thead>
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<td>1951, 1952, or 1953</td>
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<tr>
<td>1954, 1955, 1956, or 1957</td>
<td>$250</td>
</tr>
<tr>
<td>1958, 1959, 1960, 1961, or 1962</td>
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</table>
SEC. 13014. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

(a) IN GENERAL.—Section 203(h)(1)(A) of the Social Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking “three months” and inserting “four months”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1993.
SEC. 13015. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) Allocation With Respect to Wages.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended to read as follows:

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(1) 1.75 percent of the wages (as defined in section 3121 of the Internal Revenue Code of 1986) paid after December 31, 1992, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1986, which wages shall be certified by the Secretary of Health and Human Services on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and''.
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(b) Allocation With Respect to Self-Employment Income.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended to read as follows:

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(2) 1.75 percent of the self-employment income (as defined in section 1402 of the Internal Revenue Code of 1986) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 1992, which self-employment income shall be certified by the Secretary of Health and Human Services on the basis of the records of self-employment
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income established and maintained by the Secretary of Health and Human Services in accordance with such returns.”.

(c) **Effective Date.**—The amendments made by this section shall apply with respect to wages paid after December 31, 1992, and self-employment income for taxable years beginning after such date.

(d) **Study on Rising Costs of Disability Benefits.**—

(1) **In General.**—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) **Matters to be Included in Study.**—In conducting the study under this subsection, the Secretary shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances;

and
(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) REPORT.—Not later than December 31, 1995, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Secretary determines appropriate.

SEC. 13016. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) IN GENERAL.—Section 505 of the Social Security Disability Amendments of 1980 (Public Law 96-265), as amended by section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and section 5120 of the
Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is further amended—

(1) in paragraph (3) of subsection (a), by striking “June 10, 1993” and inserting “June 10, 1996”;

(2) in paragraph (4) of subsection (a), by striking “1992” and inserting “1995”; and

(3) in subsection (c), by striking “October 1, 1993” and inserting “June 9, 1996”.

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13017. TECHNICAL AND CLERICAL AMENDMENTS.

(a) Amendments to Title II of the Social Security Act.—

(1) Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended, in the matter following clause (4), by striking “and and” and inserting “and”.

(2) Section 202(d)(8)(D)(ii) of such Act (42 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a period at the end and by adjusting the left hand margination thereof so as to align with section 202(d)(8)(D)(i) of such Act.
(3) Section 202(q)(1)(A) of such Act (42 U.S.C. 402(q)(1)(A)) is amended by striking the dash at the end.

(4) Section 202(q)(9) of such Act (42 U.S.C. 402(q)(9)) is amended, in the matter preceding sub-paragraph (A), by striking “parargaph” and inserting “paragraph”.

(5) Section 202(t)(4)(D) of such Act (42 U.S.C. 402(t)(4)(D)) is amended by inserting “if the” before “Secretary” the second and third places it appears.

(6) Clauses (i) and (ii) of section 203(f)(5)(C) of such Act (42 U.S.C. 403(f)(5)(C)) are amended by adjusting the left-hand margination thereof so as to align with clauses (i) and (ii) of section 203(f)(5)(B) of such Act.

(7) Paragraph (3)(A) and paragraph (3)(B) of section 205(b) of such Act (42 U.S.C. 405(b)) are amended by adjusting the left-hand margination thereof so as to align with the matter following section 205(b)(2)(C) of such Act.

(8) Section 205(c)(2)(B)(iii) of such Act (42 U.S.C. 405(c)(2)(B)(iii)) is amended by striking “non-public” and inserting “nonpublic”.
(9) Section 205(c)(2)(C) of such Act (42 U.S.C. 405(c)(2)(C)) is amended—

(A) by striking the clause (vii) added by section 2201(c) of Public Law 101–624; and

(B) by redesignating the clause (iii) added by section 2201(b)(3) of Public Law 101–624, clause (iv), clause (v), clause (vi), and the clause (vii) added by section 1735(b) of Public Law 101–624 as clause (iv), clause (v), clause (vi), clause (vii), and clause (viii), respectively;

(C) in clause (v) (as redesignated), by striking “subclause (I) of”, and by striking “subclause (II) of clause (i)” and inserting “clause (ii)”;

(D) in clause (viii)(IV) (as redesignated), by inserting “a social security account number or” before “a request for”.

(10) The heading for section 205(j) of such Act (42 U.S.C. 405(j)) is amended to read as follows:

“Representative Payees”.

(11) The heading for section 205(s) of such Act (42 U.S.C. 405(s)) is amended to read as follows:
“Notice Requirements”.

(12) Section 208(c) of such Act (42 U.S.C. 408(c)) is amended by striking “subsection (g)” and inserting “subsection (a)(7)”.

(13) Section 210(a)(5)(B)(i)(V) of such Act (42 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking “section 105(e)(2)” and inserting “section 104(e)(2)”.

(14) Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(A) in paragraph (13), by striking “and” at the end; and

(B) in paragraph (14), by striking the period and inserting “; and”.

(15) Section 213(c) of such Act (42 U.S.C. 413(c)) is amended by striking “section” the first place it appears and inserting “sections”.

(16) Section 215(a)(5)(B)(i) of such Act (42 U.S.C. 415(a)(5)(B)(i)) is amended by striking “subsection” the second place it appears and inserting “subsections”.

(17) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting a period after “1990”.
(18) Subparagraph (F) of section 218(c)(6) of such Act (42 U.S.C. 418(c)(6)) is amended by adjusting the left-hand margination thereof so as to align with section 218(c)(6)(E) of such Act.

(19) Section 223(i) of such Act (42 U.S.C. 423(i)) is amended by adding at the beginning the following heading:

“Limitation on Payments to Prisoners”.

(b) RELATED AMENDMENTS.—

(1) Section 603(b)(5)(A) of Public Law 101-649 (amending section 202(n)(1) of the Social Security Act) (104 Stat. 5085) is amended by inserting “under” before “paragraph (1),” and by striking “(17), or (18)” and inserting “(17), (18), or (19)”, effective as if this paragraph were included in such section 603(b)(5)(A).

(2) Section 10208(b)(1) of Public Law 101-239 (amending section 230(b)(2)(A) of the Social Security Act) (103 Stat. 2477) is amended by striking “230(b)(2)(A)” and “430(b)(2)(A)” and inserting “230(b)(2)” and “430(b)(2)”, respectively, effective as if this paragraph were included in such section 10208(b)(1).

(c) CONFORMING, CLERICAL AMENDMENTS UPDATING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN
Title II of the Social Security Act to the Internal Revenue Code.—

(1)(A) Section 201(a) of such Act (42 U.S.C. 401(a)) is amended—

(i) by striking clauses (1) and (2);

(ii) in clause (3), by striking ``(3) the taxes imposed'' and all that follows through ``December 31, 1954,'' and inserting ``(1) the taxes imposed by chapter 21 (other than sections 3101(b) and 3111(b)) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,'', and by striking ``subchapter or'';

(iii) in clause (4), by striking ``(4) the taxes imposed'' and all that follows through ``such Code,'' and inserting ``(2) the taxes imposed by chapter 2 (other than section 1401(b)) of the Internal Revenue Code of 1986 with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code,'', and by
striking “subchapter or chapter” and inserting “chapter”; and

(iv) in the matter following the clauses amended by this subparagraph, by striking “clauses (3) and (4)” each place it appears and inserting “clauses (1) and (2)”.

(B) The amendments made by subparagraph (A) shall apply only with respect to taxes imposed with respect to wages paid on or after January 1, 1993, or with respect to self-employment income for taxable years beginning on or after such date.

(2)(A)(i) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is amended—

(I) in subparagraph (A)(i), by striking “and subchapter E” and all that follows through “1954” and inserting “and chapters 2 and 21 of the Internal Revenue Code of 1986”;

(II) in subparagraph (A)(ii), by striking “1954” and inserting “1986”;

(III) in the matter in subparagraph (A) following clause (ii), by striking “subchapter E” and all that follows through “1954.” and inserting “chapters 2 and 21 of the Internal Revenue Code of 1986.”, and by striking “1954 other” and inserting “1986 other”; and
(IV) in subparagraph (B), by striking “1954” each place it appears and inserting “1986”.

(ii) The amendments made by clause (i) shall apply only with respect to periods beginning on or after the date of the enactment of this Act.

(B)(i) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended by striking “section 3101(a)” and all that follows through “1950.” and inserting “section 3101(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 3121 of such Code).”, and by striking “wages reported” and all that follows through “1954,” and inserting “wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code.”.

(ii) The amendments made by clause (i) shall apply only with respect to wages paid on or after January 1, 1993.

(C) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended—

(i) by striking “The Board of Trustees shall prescribe before January 1, 1981, the method” and inserting “If at any time or times
the Boards of Trustees of such Trust Funds
debt such action advisable, they may modify
the method prescribed by such Boards’’;
(ii) by striking “1954” and inserting
“1986”; and
(iii) by striking the last sentence.
(3) Section 202(v) of such Act (42 U.S.C. 402(v)) is amended—
(A) in paragraph (1), by striking “1954”
and inserting “1986”; and
(B) in paragraph (3)(A), by inserting “of
the Internal Revenue Code of 1986” after
“3127”.
(4) Section 205(c)(5)(F)(i) of such Act (42 U.S.C. 405(c)(5)(F)(i)) is amended by inserting “or
the Internal Revenue Code of 1986” after “1954”.
(5)(A) Section 208(a)(1) of such Act (42 U.S.C. 408(a)(1)) is amended—
(i) in the matter preceding subparagraph
(A), by striking “subchapter E” and all that
follows through “1954” and inserting “chapter
2 or 21 or subtitle F of the Internal Revenue
Code of 1986”;
(ii) in subparagraph (A), by inserting “of
1986” after “Internal Revenue Code”; and
(iii) in subparagraph (B), by inserting "of 1986" after "Internal Revenue Code".

(B) The amendments made by subparagraph (A) shall apply only with respect to violations occurring on or after the date of the enactment of this Act.

(6)(A) Section 209(a)(4)(A) of such Act (42 U.S.C. 409(a)(4)(A)) is amended by inserting "or the Internal Revenue Code of 1986" after "Internal Revenue Code of 1954".

(B) Section 209(a) of such Act (42 U.S.C. 409(a)) is amended—

(i) in subparagraphs (C) and (E) of paragraph (4),

(ii) in paragraph (5)(A),

(iii) in subparagraphs (A) and (B) of paragraph (14),

(iv) in paragraph (15),

(v) in paragraph (16), and

(vi) in paragraph (17),

by striking "1954" each place it appears and inserting "1986".

(C) Subsections (b), (f), (g), (i)(1), and (j) of section 209 of such Act (42 U.S.C. 409) are amend-
ed by striking “1954” each place it appears and
inserting “1986”.

(7) Section 211(a)(15) of such Act (42 U.S.C.
411(a)(15)) is amended by inserting “of the Internal
Revenue Code of 1986” after “section 162(m)”.

(8) Title II of such Act is further amended—
(A) in subsections (f)(5)(B)(ii) and (k) of
section 203 (42 U.S.C. 403),
(B) in section 205(c)(1)(D)(i) (42 U.S.C.
405(c)(1)(D)(i)),
(C) in the matter in section 210(a) (42
U.S.C. 410(a)) preceding paragraph (1) and in
paragraphs (8), (9), and (10) of section 210(a),
(D) in subsections (p)(4) and (q) of section
210 (42 U.S.C. 410),
(E) in the matter in section 211(a) (42
U.S.C. 411(a)) preceding paragraph (1) and in
paragraphs (3), (4), (6), (10), (11), and (12)
and clauses (iii) and (iv) of section 211(a),
(F) in the matter in section 211(c) (42
U.S.C. 411(c)) preceding paragraph (1), in
paragraphs (3) and (6) of section 211(c), and
in the matter following paragraph (6) of section
211(c),
(G) in subsections (d), (e), and (h)(1)(B) of section 211 (42 U.S.C. 411),
(H) in section 216(j) (42 U.S.C. 416(j)),
(I) in section 218(e)(3) (42 U.S.C. 418(e)(3)),
(J) in section 229(b) (42 U.S.C. 429(b)),
(K) in section 230(c) (42 U.S.C. 430(c)), and
(L) in section 232 (42 U.S.C. 432),
by striking “1954” each place it appears and inserting “1986”.
(d) RULES OF CONSTRUCTION.—
(1) The preceding provisions of this section shall be construed only as technical and clerical corrections and as reflecting the original intent of the provisions amended thereby.
(2) Any reference in title II of the Social Security Act to the Internal Revenue Code of 1986 shall be construed to include a reference to the Internal Revenue Code of 1954 to the extent necessary to carry out the provisions of paragraph (1).
(e) UTILIZATION OF NATIONAL AVERAGE WAGE INDEX FOR WAGE-BASED ADJUSTMENTS.—
(1) Definition of national average wage index.—Section 209(k) of the Social Security Act (42 U.S.C. 409(k)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) in paragraph (3) (as redesignated), by striking “paragraph (1)” and inserting “this subsection”; and

(C) by striking paragraph (1) and inserting the following new paragraphs:


“(2) The Secretary shall prescribe regulations under which the national average wage index for any calendar year shall be computed—
“(A) on the basis of amounts reported to the Secretary of the Treasury or his delegate for such year,

“(B) by disregarding the limitation on wages specified in subsection (a)(1),

“(C) with respect to calendar years after 1990, by incorporating deferred compensation amounts and factoring in for such years the rate of change from year to year in such amounts, in a manner consistent with the requirements of section 10208 of the Omnibus Budget Reconciliation Act of 1989, and

“(D) with respect to calendar years before 1978, in a manner consistent with the manner in which the average of the total wages for each of such calendar years was determined as provided by applicable law as in effect for such years.”.

(2) Conforming amendments.—

(A) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended by striking “deemed average total wages” each place it appears and inserting “national average wage index”.

(B) Section 213(d)(2)(B) of such Act (42 U.S.C. 413(d)(2)(B)) is amended by striking
“deemed average total wages” and inserting “national average wage index”, and by striking “the average of the total wages” and all that follows and inserting “the national average wage index (as so defined) for 1976.”.

(C) Section 215(a)(1)(B)(ii) of such Act (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

(i) in subclause (I), by striking “deemed average total wages” and inserting “national average wage index”; and

(ii) in subclause (II), by striking “the average of the total wages” and all that follows and inserting “the national average wage index (as so defined) for 1977.”.

(D) Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking “deemed average total wages” and inserting “national average wage index”.

(E) Section 215(a)(1)(D) of such Act (42 U.S.C. 415(a)(1)(D)) is amended—

(i) by striking “after 1978”; 

(ii) by striking “and the average of the total wages (as described in subparagraph (B)(ii)(I))” and inserting “and the
national average wage index (as defined in section 209(k)(1))’’; and

(iii) by striking the last sentence.

(F) Section 215(b)(3)(A)(ii) of such Act (42 U.S.C. 415(b)(3)(A)(ii)) is amended by striking “deemed average total wages” each place it appears and inserting “national average wage index”.

(G) Section 215(i)(1) of such Act (42 U.S.C. 415(i)(1)) is amended—

(i) in subparagraph (E), by striking “SSA average wage index” and inserting “national average wage index (as defined in section 209(k)(1))’’; and

(ii) by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(H) Section 215(i)(2)(C)(ii) of such Act (42 U.S.C. 415(i)(2)(C)(ii)) is amended to read as follows:

“(ii) The Secretary shall determine and promulgate the OASDI fund ratio for the current calendar year on or before November 1 of the current calendar year, based upon the most recent data then available. The Secretary shall include a statement of the fund ratio and the na-
tional average wage index (as defined in section 209(k)(1))
and a statement of the effect such ratio and the level of
such index may have upon benefit increases under this
subsection in any notification made under clause (i) and
any determination published under subparagraph (D).”.

(I) Section 224(f)(2) of such Act (42
U.S.C. 424a(f)(2)) is amended—

(i) in subparagraph (A), by adding
“and” at the end;

(ii) by striking subparagraph (C); and

(iii) by striking subparagraph (B) and
inserting the following:

“(B) the ratio of (i) the national average wage
index (as defined in section 209(k)(1)) for the cal-
endar year before the year in which such redeter-
mination is made to (ii) the national average wage
index (as so defined) for the calendar year before
the year in which the reduction was first computed
(but not counting any reduction made in benefits for
a previous period of disability).”.

(J) Section 230(b)(2) of such Act (42
U.S.C. 430(b)(2)) is amended by striking
“deemed average total wages” each place it ap-
ppears and inserting “national average wage
index”.

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(K) Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking "deemed average total wage" and inserting "national average wage index".

SEC. 13018. CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE.

(a) Social Security Account Number Information.—Clause (iii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as added by section 1735(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3791)) is amended—

(1) by inserting ""(I)"" after ""(iii)""; and

(2) by striking ""The Secretary of Agriculture shall restrict"" and all that follows and inserting the following:

""(II) The Secretary of Agriculture may share any information contained in any list referred to in subclause (I) with any other agency or instrumentality of the United States which otherwise has access to social security account numbers in accordance with this subsection or other applicable Federal law, except that the Secretary of Agri-
culture may share such information only to the extent that
such Secretary determines such sharing would assist in
verifying and matching such information against informa-
tion maintained by such other agency or instrumentality.
Any such information shared pursuant to this subclause
may be used by such other agency or instrumentality only
for the purpose of effective administration and enforce-
ment of the Food Stamp Act of 1977 or for the purpose
of investigation of violations of other Federal laws or en-
forcement of such laws.

“(III) The Secretary of Agriculture, and the head of
any other agency or instrumentality referred to in this
subclause, shall restrict, to the satisfaction of the Sec-
retary of Health and Human Services, access to social se-
curity account numbers obtained pursuant to this clause
only to officers and employees of the United States whose
duties or responsibilities require access for the purposes
described in subclause (II).

“(IV) The Secretary of Agriculture, and the head of
any agency or instrumentality with which information is
shared pursuant to clause (II), shall provide such other
safeguards as the Secretary of Health and Human Serv-
ices determines to be necessary or appropriate to protect
the confidentiality of the social security account num-
bers.”.
(b) Employer Identification Number Information.— Subsection (f) of section 6109 of the Internal Revenue Code of 1986 (as added by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3792)) (relating to access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) Sharing of Information and Safeguards.—

“(A) Sharing of Information.—The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality.
Any such information shared pursuant to this subparagraph may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

“(B) Safeguards.—The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.”;
(2) in paragraph (3), by striking “by the Secretary of Agriculture pursuant to this subsection” and inserting “pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)”, and by striking “social security account numbers” and inserting “employer identification numbers”; and

(3) in paragraph (4), by striking “by the Secretary of Agriculture pursuant to this subsection” and inserting “pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)”.

SEC. 13019. PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.

(a) General Rule.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

§ 333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

“(a) General Rule.—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—
“(1) the words ‘Department of the Treasury’, or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

“(2) the titles ‘Secretary of the Treasury’ or ‘Treasurer of the United States’ or the title of any other officer or employee of the Department of the Treasury,

“(3) the abbreviations or initials of any entity referred to in paragraph (1),

“(4) the words ‘United States Savings Bond’ or the name of any other obligation issued by the Department of the Treasury,

“(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

“(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems, in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.
“(b) Treatment of Disclaimers.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

“(c) Civil Penalty.—

“(1) In general.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

“(2) Amount of penalty.—The amount of the civil penalty imposed by paragraph (1) shall not exceed $5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting ‘$25,000’ for ‘$5,000’.

“(3) Time limitations.—

“(A) Assessments.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

“(B) Civil action.—The Secretary of the Treasury may commence a civil action to re-
cover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed.

"(4) Coordination with subsection (d).—No penalty may be assessed under this subsection with respect to any violation after a criminal proceeding with respect to such violation has been commenced under subsection (d).

"(d) Criminal Penalty.—

"(1) In general.—If any person knowingly violates subsection (a), such person shall, upon conviction thereof, be fined not more than $10,000 for each such use or imprisoned not more than 1 year, or both. If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting ‘$50,000’ for ‘$10,000’.

"(2) Time limitations.—No person may be prosecuted, tried, or punished under paragraph (1) for any violation of subsection (a) unless the indictment is found or the information instituted during the 3-year period beginning on the date of the violation.

"(3) Coordination with subsection (c).—No criminal proceeding may be commenced under
this subsection with respect to any violation if a civil penalty has previously been assessed under subsection (c) with respect to such violation.’’

(b) Clerical Amendment.—The analysis for chapter 3 of title 31, United States Code, is amended by adding after the item relating to section 332 the following new item:

“333. Prohibition of misuse of Department of the Treasury names, symbols, etc.”.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) Report.—Not later than May 1, 1995, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)), the number of prosecutions commenced under such section, and the total amount of the penalties collected in such prosecutions.
SEC. 13020. AVAILABILITY AND USE OF DEATH INFORMATION UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

(a) Improvements in Program for Use of Death Certificates to Correct Program Information.—

(1) Elimination of State Restrictions on Use of Information.— Section 205(r)(1) of the Social Security Act (42 U.S.C. 405(r)(1)) is amended by adding at the end, after and below subparagraph (B), the following new sentence: “Any contract entered into pursuant to subparagraph (A) shall not include any restriction on the use of information obtained by the Secretary pursuant to such contract, except to the extent that such use may be restricted under paragraph (6).”.

(2) Information Provided to State Agencies Free of Charge.—

(A) In General.— Section 205(r)(4) of such Act (42 U.S.C. 405(r)(4)) is amended to read as follows: “(4)(A) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a State agency other than under this Act, the Secretary shall to the extent feasible provide such information free of charge through a cooperative arrangement
with such agency, for ensuring proper payment of those
benefits with respect to such individuals, if such arrange-
ment does not conflict with the duties of the Secretary
under paragraph (1).

“(B) The Secretary may enter into similar agree-
ments with States to provide information free of charge
for their use in programs wholly funded by the States if
such arrangement does not conflict with the duties of the
Secretary under paragraph (1).”.

(B) CONFORMING AMENDMENT.—Section
205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is
amended by striking “or State”.

(3) USE BY STATES OF SOCIAL SECURITY AC-
COUNT NUMBERS CONTINGENT UPON PARTICIPATION
IN PROGRAM.—Section 205(r)(2) of such Act (42
U.S.C. 405(r)(2)) is amended—

(A) by inserting “(A)” after “(2)”;

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

“(B) Notwithstanding section 7(a)(2)(B) of the Pri-
vacy Act of 1974 and clauses (i) and (v) of subsection
(c)(2)(C) of this section, any State which is not a party
to a contract with the Secretary meeting the requirements
of paragraph (1) (and any political subdivision thereof)
may not utilize an individual’s social security account
number in the administration of any driver’s license or motor vehicle registration law.”.

(b) Study Regarding Improvements in Gathering and Reporting of Death Information.

(1) In General.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of possible improvements in the current methods of gathering and reporting death information by the Federal, State, and local governments which would result in more efficient and expeditious handling of such information.

(2) Specific Matters to be Studied.—In carrying out the study required under this subsection, the Secretary shall—

(A) ascertain the delays in the receipt of death information which are currently encountered by the Social Security Administration and other agencies in need of such information on a regular basis,

(B) analyze the causes of such delays,

(C) develop alternative options for improving Federal, State, and local agency cooperation in reducing such delays, and
(D) evaluate the costs and benefits associated with the options referred to in subparagraph (C).

(3) **Report.**—Not later than June 1, 1994, the Secretary shall submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted pursuant to this subsection, together with such administrative and legislative recommendations as the Secretary may consider appropriate.

(c) **Effective Date.**—

(1) **In general.**—The amendments made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) **Promotion of entry into new contracts.**—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall take such actions as are necessary and appropriate to promote entry into contracts under section 205(r) of the Social Security Act which are in compliance with the requirements of the amendments made by subsection (a).
Subtitle B—Human Resources Amendments

Sec. 13201. Table of contents.

The table of contents of this subtitle is as follows:

Subtitle B—Human Resources Amendments

Sec. 13201. Table of contents.
Sec. 13202. References.

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. 13283. Elimination of obsolete provisions relating to treatment of the earned income tax credit.

Sec. 13284. Redesignation of certain provisions.
SEC. 13202. REFERENCES.

Except as otherwise expressly provided, wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

CHAPTER 1—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

SEC. 13211. ENTITLEMENT FUNDING FOR SERVICES DESIGNED TO STRENGTHEN AND PRESERVE FAMILIES.

(a) In General.—Part B of title IV (42 U.S.C. 620–628) is amended—

(1) by striking the heading and inserting the following:

“PART B—CHILD AND FAMILY SERVICES

“Subpart 1—Child Welfare Services”; and

(2) by adding at the end the following:

“Subpart 2—Family Preservation and Support Services

“SEC. 430. PURPOSES; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.

“(a) PURPOSES; LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the purpose of encouraging

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and enabling each State to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services, there are authorized to be appropriated to the Secretary—

“(1) $60,000,000 for fiscal year 1994;
“(2) $135,000,000 for fiscal year 1995;
“(3) $240,000,000 for fiscal year 1996;
“(4) $360,000,000 for fiscal year 1997; and
“(5) $600,000,000 for fiscal year 1998.

“(b) RESERVATION OF CERTAIN AMOUNTS.—

“(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve 1 percent of the amount appropriated pursuant to subsection (a) for each fiscal year, for expenditure by the Secretary for evaluation, research, training, and technical assistance related to the program under this subpart.

“(2) STATE COURT ASSESSMENTS.—The Secretary shall reserve $5,000,000 of the amount appropriated pursuant to subsection (a) for fiscal year 1995, and $10,000,000 of the amount so appropriated for each of fiscal years 1996, 1997, and 1998, for grants under section 13212 of the Omnibus Budget Reconciliation Act of 1993.
“(3) INDIAN TRIBES.—The Secretary shall reserve 1 percent of the amount appropriated pursuant to subsection (a) for each fiscal year, for allotment to Indian tribes in accordance with section 433(a).

“SEC. 431. DEFINITIONS.

“(a) IN GENERAL.—As used in this subpart:

“(1) FAMILY PRESERVATION SERVICES.—The term ‘family preservation services’ means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including—

“(A) service programs designed to help children—

“(i) where appropriate, return to families from which they have been removed; or

“(ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

“(B) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of
foster care placement remain with their families;

“(C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;

“(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents); and

“(E) services designed to improve parenting skills (by reinforcing parents’ confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition.

“(2) FAMILY SUPPORT SERVICES.—The term ‘family support services’ means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents’ confidence and competence in their parenting abilities, to afford children a stable and supportive family environment,
and otherwise to enhance child development, including—

“(A) services described in paragraph (1)(E);

“(B) respite care of children to provide temporary relief for parents and other caregivers;

“(C) structured activities involving parents and children to strengthen the parent-child relationship;

“(D) drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

“(E) information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education and literacy programs, and counseling and mentoring services; and

“(F) early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.
(3) STATE AGENCY.—The term ‘State agency’ means the State agency responsible for administering the program under subpart 1.

(4) STATE.—The term ‘State’ includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

(5) TRIBAL ORGANIZATION.—The term ‘tribal organization’ means the recognized governing body of any Indian tribe.

(6) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe (as defined in section 482(i)(5)) and any Alaska Native organization (as defined in section 482(i)(7)(A)).

(b) OTHER TERMS.—For other definitions of other terms used in this subpart, see section 475.

SEC. 432. STATE PLANS.

(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth
the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

"(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

"(C) contains a commitment that the State—

"(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

"(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final review (I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward accomplishment of the goals, and (II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;
“(3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;

“(4) contains assurances that not less than 90 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 433 for the fiscal year shall be for services for children and families, and that significant portions of such 90 percent shall be expended—

“(A) for family preservation services; and

“(B) for community-based family support services;

“(5) provides that, by the beginning of the 6th fiscal year during which the plan is in effect, programs under the plan shall be available on a statewide basis, to the extent feasible and appropriate;

“(6) contains assurances that the State will—

“(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services and community-based family support services) of—
“(i) the service programs to be made available under the plan in the immediately succeeding fiscal year;

“(ii) the populations which the programs will serve; and

“(iii) the geographic areas in the State in which the services will be available; and

“(B) perform the activities described in subparagraph (A)—

“(i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and

“(ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

“(7) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

“(8)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and
“(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State’s compliance with the prohibition contained in subparagraph (A); and

“(9) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

“(b) Approval of Plans.—

“(1) In general.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and nonprofit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and family support services).

“(2) Plans of Indian tribes exempted from inappropriate requirements.—The Secretary may exempt a plan submitted by an Indian tribe from any requirement of this section that the Secretary determines would be inappropriate to
apply to the Indian tribe, taking into account the re-
sources, needs, and other circumstances of the
Indian tribe.

"SEC. 433. ALLOTMENTS TO STATES.

"(a) INDIAN TRIBES.—

"(1) IN GENERAL.—From the amount reserved
pursuant to section 430(b)(3), the Secretary shall
allot to each Indian tribe with a plan approved
under this subpart (except as provided in paragraph
(2) of this subsection) an amount that bears the
same ratio to such reserved amount as the number
of children in the Indian tribe bears to the total
number of children in all Indian tribes with State
plans so approved, as determined by the Secretary
on the basis of the most current and reliable infor-
mation available to the Secretary.

"(2) SPECIAL RULE.—The Secretary may not
allot funds to an Indian tribe with a plan approved
under this subpart whose allotment (but for this
paragraph) would be less than $10,000 if allotments
were made under paragraph (1) to all Indian tribes
with plans approved under this subpart with the
same or larger numbers of children.

"(b) TERRITORIES.—From the amount appropriated
pursuant to section 430 that remains after applying sec-
tion 430(b) for each fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 421.

“(c) Other States.—

“(1) In general.—From the amount appropriated pursuant to section 430 that remains after applying section 430(b) and subsection (b) of this section for each fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in subsection (b) of this section an amount equal to such remaining amount multiplied by the food stamp percentage of the State for the fiscal year.

“(2) Food stamp percentage defined.—

“(A) In general.—As used in paragraph (1) of this subsection, the term ‘food stamp percentage’ means, with respect to a State and a fiscal year, the average monthly number of children receiving food stamp benefits in the State for months in the 3 fiscal years referred to in subparagraph (B) of this paragraph, as determined from sample surveys made under
section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average monthly number of children receiving food stamp benefits in the States described in such paragraph (1) for months in such 3 fiscal years, as so determined.

“(B) Fiscal years used in calculation.—For purposes of the calculation pursuant to subparagraph (A), the Secretary shall use data for the 3 most recent fiscal years, preceding the fiscal year for which the State’s allotment is calculated under this subsection, for which such data are available to the Secretary.

“SEC. 434. PAYMENTS TO STATES.

“(a) Entitlement.—

“(1) General rule.—Except as provided in paragraph (2) of this subsection, each State which has a plan approved under this subpart shall be entitled to payment of the lesser of—

“(A) 75 percent of the total cost of activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

“(B) the allotment of the State under section 433 for the fiscal year.
“(2) **Special Rule.**—Upon submission by a State to the Secretary during fiscal year 1994 of an application in such form and containing such information as the Secretary may require (including, if the State is seeking payment of an amount pursuant to subparagraph (B) of this paragraph, a description of the services to be provided with the amount), the State shall be entitled to payment of an amount equal to the sum of—

““(A) such amount not exceeding $1,000,000 as the State may require to develop and submit a plan for approval under section 432; and

““(B) an amount equal to the lesser of—

““(i) 75 percent of the cost of State services to children and families provided in accordance with section 432(a)(4); or

““(ii) the allotment of the State under section 433 for fiscal year 1994, reduced by any amount paid to the State pursuant to subparagraph (A) of this paragraph.

“(b) **Prohibitions.**—

““(1) **No Use of Other Federal Funds for State Match.**—Each State receiving an amount paid under paragraph (1) or (2)(B) of subsection (a)
may not expend any Federal funds to meet the costs of services described in this subpart not covered by the amount so paid.

“(2) A VAILABILITY OF FUNDS.—

“(A) I N GENERAL.— A State may not expend any amount paid under subsection (a)(1) for any fiscal year after the end of the immediately succeeding fiscal year.


“(c) D I R E C T P A Y M E N T S T O T R I B A L O R G A N I Z A T I O N S O F I N D I A N T R I B E S.— The Secretary shall pay any amount to which an Indian tribe is entitled under this section directly to the tribal organization of the Indian tribe.

“S E C. 435. EVALUATIONS; R E P O R T.

“(a) E V A L U A T I O N S.—

“(1) I N GENERAL.— The Secretary shall evaluate the effectiveness of the programs carried out pursuant to this subpart in accomplishing the purposes of this subpart, in accordance with criteria established in accordance with paragraph (2).

“(2) C R I T E R I A T O B E U S E D.— In developing the criteria to be used in evaluations under paragraph
(1), the Secretary shall consult with appropriate parties, such as—

“(A) State agencies administering programs under this part and part E;

“(B) persons administering child and family services programs (including family preservation and family support programs) for private, nonprofit organizations with an interest in child welfare; and

“(C) other persons with recognized expertise in the evaluation of child and family services programs (including family preservation and family support programs) or other related programs.

“(b) Report to the Congress.—Not later than December 31, 1997, the Secretary shall submit to the Congress a report containing findings with respect to the evaluations required by subsection (a).

“(c) Coordination of Evaluations.—The Secretary shall develop procedures to coordinate evaluations under this section, to the extent feasible, with evaluations by the States of the effectiveness of programs under this subpart.”.

(b) Conforming Amendments.—

(1) Section 422 (42 U.S.C. 622) is amended—
(A) in subsection (a), by striking “this part” and inserting “this subpart”; 

(B) in subsection (b), by striking “this part” each place such term appears and inserting “this subpart”; and 

(C) in subsection (b)(2), by inserting “under the State plan approved under subpart 2 of this part,” after “part A of this title,”. 

(2) Section 423(a) (42 U.S.C. 623(a)) is amended by striking “this part” and inserting “this subpart”. 

(3) Section 428(a) (42 U.S.C. 628(a)) is amended by striking “this part” each place such term appears and inserting “this subpart”. 

(4) Section 471(a)(2) (42 U.S.C. 671(a)(2)) is amended by inserting “subpart 1 of” before “part B”. 

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1993. 

SEC. 13212. GRANTS FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER Care AND ADOPTION. 

(a) IN GENERAL.—The Secretary shall make grants, in accordance with this section, to the highest State courts
in States participating in the program under part E of
title IV of the Social Security Act, for the purpose of ena-
bling such courts—

(1) to conduct assessments, in accordance with
subsection (b), of the role, responsibilities, and effec-
tiveness of State courts in carrying out State laws
requiring proceedings (conducted by or under the su-
pervision of the courts)—

(A) to determine the advisability or appro-
priateness of foster care placement;

(B) to determine whether to terminate pa-
rental rights; and

(C) to legally recognize the adoption of a
child; and

(2) to implement changes deemed necessary as
a result of the assessments.

(b) ASSESSMENTS.—Each assessment conducted with
funds provided under this section shall—

(1) identify the requirements imposed on State
courts with respect to proceedings described in sub-
section (a), addressing separately—

(A) rules, standards, and criteria imposed
pursuant to State laws (including laws imple-
menting parts B and E of title IV of the Social
Security Act, laws relating to child abuse and
neglect, or any other laws on related matters) to be applied in determinations with respect to placement of a child, or with respect to related matters concerning the parent-child relationship and the welfare of the child, including determinations—

(i) whether to remove a child from or return a child to the home of the child;

(ii) whether to place a child in foster care or to continue a foster care placement;

(iii) whether to terminate parental rights;

(iv) whether to place a child for adoption or in another permanent arrangement; and

(v) whether to set aside or to finalize an adoption; and

(B) rules and procedures, established by or under State law or adopted by the State court system on its own initiative, with respect to the conduct of such proceedings, that address matters such as—

(i) whether a proceeding should be judicial or administrative;
(ii) timetables for such proceedings, and determinations of the priority of such proceedings relative to other matters under the jurisdiction of the State courts;

(iii) procedural safeguards of the rights of parents (including foster and adoptive parents), guardians, and children, such as provisions for legal representation and for guardians ad litem; and

(iv) rules for conduct of the proceeding with respect to matters such as admissible evidence, opportunity to present witnesses, and time limits on the presentation of evidence and the making of arguments;

(2) evaluate the performance of the State courts in implementing the requirements identified under paragraph (1), by assessing—

(A) the extent to which particular practices or procedures have been successful in facilitating compliance with such requirements;

(B) the frequency of failures to comply with any such requirements, and patterns with respect to the circumstances of and factors contributing to the failures; and
(C) the extent to which caseload size and
resource limitations contribute to the failures
identified pursuant to subparagraph (B);
(3) determine the extent to which the rules and
practices identified under paragraph (1) or (2) are
in accord with recommended standards of national
organizations concerned with permanent placement
for foster children;
(4) determine, from the standpoint of the State
courts, the extent to which particular requirements
under paragraph (1)—
(A) are facilitating or impeding achieve-
ment of the purposes of such parts B and E,
including the goal of appropriate permanent
placement for each child; and
(B) are imposing significant administrative
burdens on the State court system; and
(5) make specific recommendations for improve-
ment, based on the conclusions reached as a result
of activities described in paragraphs (1) through (4),
including recommendations for—
(A) changes in Federal or State laws, reg-
ulations, or policies;
(B) changes in procedures and practices of
the State courts and of the State agencies ad-
ministering foster care, adoption, child welfare, and child protective services programs;

(C) additional education or training of State court judges, or of personnel of the judicial system or of the State agencies described in subparagraph (B);

(D) collection or dissemination of additional data or information for purposes of increasing the understanding of personnel of State courts and State agencies of matters relating to case review proceedings in general, or to specific case review proceedings; and

(E) increases in manpower, reductions in the number of case reviews, or other changes needed to enable the State courts to better manage their caseloads with respect to such proceedings.

(c) Applications.—In order to be eligible for a grant under this section, a highest State court shall submit to the Secretary, at such time and in such form as the Secretary may require, an application containing—

(1) a timetable for conducting and completing the assessment;

(2) a budget for the assessment;
(3) a description of the methods to be used to select State courts for inclusion in, and to conduct, the assessment;

(4) certifications by the head of the State agency administering the State program under such part E, and by the State foster care citizen review board or State organization of such review boards (if any), that such entities have had an opportunity to review and comment on a draft of the application before its submission, and a copy of such comments;

(5) a description of the process to be used by the court to consult with the entities referred to in paragraph (4) of this subsection in conducting the assessment under subsection (b);

(6) an assurance that, to the extent funds provided under this section are not necessary to complete the assessment under subsection (b), the court will use such funds to implement, to the extent feasible, recommendations made pursuant to subsection (b)(5);

(7) an assurance that funds provided under this section will not be used to supplant State or local funds which would otherwise be used for similar purposes;

(8) a commitment to furnish to the Secretary—
(A) an interim report following the end of
the 2nd year of assessment activities under this
section; and

(B) a final report following the completion
of the assessment; and

(9) any other information the Secretary may
require.

(d) ALLOTMENTS.—

(1) IN GENERAL.—Each highest State court
which has an application approved under subsection
(c), and is conducting assessment activities in ac-
cordance with this section, shall be entitled to pay-
ment, for each of fiscal years 1995 through 1998,
from amounts reserved pursuant to section
430(b)(2) of the Social Security Act, of an amount
equal to the sum of—

(A) for fiscal year 1995, $75,000 plus the
amount described in paragraph (2) for fiscal
year 1995; and

(B) for each of fiscal years 1996 through
1998, $85,000 plus the amount described in
paragraph (2) for each of such fiscal years.

(2) FORMULA.—The amount described in this
paragraph for any fiscal year is the amount that
bears the same ratio to the amount reserved pursu-
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ant to section 430(b)(2) of the Social Security Act
for the fiscal year (reduced by the dollar amount
specified in paragraph (1) of this subsection for the
fiscal year) as the number of individuals in the State
who have not attained 21 years of age bears to the
total number of such individuals in all States the
highest State courts of which have approved applica-
tions under subsection (c).

(e) USE OF GRANT FUNDS.—Each highest State
court which receives funds paid under this section may
use such funds to pay—

(1) any or all costs of activities under this sec-
tion in fiscal year 1995; and

(2) not more than 75 percent of the cost of ac-
tivities under this section in each of fiscal years

SEC. 13213. REQUIRED PROTECTIONS FOR FOSTER CHIL-

DREN.

(a) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(1) by striking “and” at the end of paragraph
(7);

(2) by striking the period at the end of para-
graph (8) and inserting “; and”; and

(3) by adding at the end the following:
“(9) provide assurances that the State—

“(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

“(i) the appropriateness of, and necessity for, the foster care placement;

“(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

“(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

“(B) is operating, to the satisfaction of the Secretary—

“(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;
“(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

“(iii) a service program designed to help children—

“(I) where appropriate, return to families from which they have been removed; or

“(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

“(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

“(C)(i) has reviewed (or within 12 months after the date of the enactment of this paragraph will review) State laws and administrative and judicial procedures in effect for children abandoned at or shortly after birth (in-
cluding laws and procedures providing for legal representation of such children); and

“(ii) has enacted and is implementing (or within 24 months after the date of the enactment of this paragraph will enact and implement) such laws and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.”.

(b) Restriction on Reallocation.—Section 424 (42 U.S.C. 624) is amended—

(1) in the 1st sentence, by striking “The amount” and inserting the following:

“(a) In General.—Subject to subsection (b), the amount”; and

(2) by adding at the end the following:

“(b) Exception Relating to Foster Child Protections.—The Secretary shall not reallocate under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to comply with section 422(b)(9).”.

(c) Repeal.—Section 427 (42 U.S.C. 627) is hereby repealed.

(d) Conforming Amendments.—
(1) Section 423(a) (42 U.S.C. 623(a)) is amended by striking “and in section 427”.

(2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is amended by striking “the statistical report required by section” and inserting “with section 422(b)(9) or”.

(3) Section 472(d) (42 U.S.C. 672(d)) is amended by striking “427(b)” and inserting “422(b)(9)”.

(e) EFFECTIVE DATE.—The amendments and repeal made by this section shall be effective for fiscal years beginning on or after October 1, 1994.

(f) CONSTRUCTION OF SECTION.—This section and the amendments and repeal made by this section shall not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 of the Social Security Act, as in effect on the effective date of such amendments and repeal.

SEC. 13214. STATES REQUIRED TO REPORT ON MEASURES TAKEN TO COMPLY WITH THE INDIAN CHILD WELFARE ACT.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by section 13213(a) of this Act, is amended—
(1) by striking “and” at the end of paragraph (8);
(2) by striking the period at the end of paragraph (9) and inserting “; and”; and
(3) by adding at the end the following:
“(10) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.”.

(b) Effective Date.—The amendments made by subsection (a) shall be effective with respect to calendar quarters beginning on or after October 1, 1994.

SEC. 13215. CHILD WELFARE TRAINEESHIPS.
(a) In General.—Part B of title IV (42 U.S.C. 620–628) is amended by inserting after section 428 the following:

“SEC. 429. CHILD WELFARE TRAINEESHIPS.
“'The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application—
“(1) provides assurances that each individual who receives a stipend with such traineeship (in this
section referred to as a ‘recipient’) will enter into an agreement with the institution under which the recipient agrees—

“(A) to participate in training at a public or private nonprofit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

“(B) to be employed for a period of years equivalent to the period of the traineeship, in a public or private nonprofit child welfare agency in any State, within a period of time (determined by the Secretary in accordance with regulations) after completing the postsecondary education for which the traineeship was awarded;

“(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs (A) and (B); and

“(D) if the recipient fails to comply with subparagraph (A) or (B) and does not qualify for any exception to this subparagraph which the Secretary may prescribe in regulations, to repay to the Secretary all (or an appropriately prorated part) of the amount of the stipend, plus interest, and, if applicable, reasonable col-
lection fees (in accordance with regulations promulgated by the Secretary);

“(2) provides assurances that the institution will—

“(A) enter into agreements with child welfare agencies for onsite training of recipients;

“(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

“(C) develop and implement a system that, for the 3-year period that begins on the date any student completes a child welfare services program of study, tracks the employment record of the student, for the purpose of determining the percentage of students who secure employment in the field of child welfare services and remain employed in the field.”.

(b) Conforming Amendment.—Section 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by inserting “described in section 429” after “including traineeships”.
(c) **Applicability.**—The amendments made by this section shall apply to grants awarded on or after April 1, 1994.

**Sec. 13216. Dissolved Adoptions.**

(a) **Eligibility for Foster Care Maintenance Payments.**—Section 472 (42 U.S.C. 672) is amended—

(1) in subsection (b), by inserting “or (i)” after “subsection (a)”); and

(2) by adding at the end the following:

“(i) Any State with a plan approved under this part may make foster care maintenance payments under this part on behalf of a child—

“(1) with respect to whom such payments were previously made;

“(2) whose adoption has been set aside by a court;

“(3) who meets the requirements of paragraphs (1), (2), and (3) of subsection (a); and

“(4) who fails to meet the requirements of subsection (a)(4) but would meet such requirements if—

“(A) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the
child was determined eligible for such pay-
ments; and

“(B) the adoption were treated as having
never occurred.”.

(b) E F F E C T I V E D A T E.— The amendments made by
this section shall apply to payments under part E of title
IV of the Social Security Act in fiscal years beginning on
or after October 1, 1995.

SEC. 13217. TIME FRAME FOR JUDICIAL DETERMINATIONS
ON VOLUNTARY PLACEMENTS.

(a) I N G E N E R A L.— Section 472(e) (42 U.S.C. 672(e))
is amended—

(1) by striking “No” and inserting “(1) Except
as provided in paragraph (2), no”; and

(2) by adding at the end the following:

“(2) If the judicial determination referred to in
paragraph (1) is made after the 180-day period de-
scribed therein, the payments referred to therein
may not be made for the period that begins at the
end of the 180-day period and ends 180 days after
the date of the judicial determination, but shall (un-
less otherwise prohibited) be made for periods there-
after.”.

(b) E F F E C T I V E D A T E.— The amendments made by
subsection (a) shall be effective with respect to foster care
maintenance payments made, under State plans in fiscal year 1996 and succeeding fiscal years, on behalf of children placed in foster care on or after October 1, 1995.

SEC. 13218. STUDY OF REASONABLE EFFORTS.

(a) In General.—The Secretary of Health and Human Services shall conduct a study of the implementation by the States of section 471(a)(15) of the Social Security Act, giving particular attention to—

(1) standards used by States in determining what action to take, and whether and for how long to continue efforts—

(A) before the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the home of the child; and

(B) to return a child home rather than to seek some other planned, permanent placement; and

(2) the responses of the courts to the State actions described in paragraph (1) of this subsection, including whether such responses facilitate or impede the achievement by State agencies of the objectives of such section 471(a)(15).

(b) Report and Recommendations.—Within 18 months after the date of the enactment of this Act, the
Secretary of Health and Human Services shall submit to
the Congress a report, with such recommendations as the
Secretary finds appropriate, based on the results of the
study required by subsection (a) of this section, which de-
scribes State practices that the Secretary has found effec-
tive in achieving the objectives of section 471(a)(15) of
the Social Security Act, and, if appropriate, shall set forth
model practices for consideration by the States.

SEC. 13219. ENHANCED MATCH FOR AUTOMATED DATA
SYSTEMS.

(a) Payments to States.—

(1) In general.—Section 474(a)(3) (42
U.S.C. 674(a)(3)) is amended—

(A) by striking “and” at the end of sub-
paragraph (B);

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

(C) by inserting after subparagraph (B)
the following:

“(C) 90 percent of so much of such ex-
penditures as are for the planning, design, de-
velopment, or installation of statewide mecha-
nized data collection and information retrieval
systems (including 90 percent of the full
amount of expenditures for hardware compo-
ments for such systems) but only to the extent that such systems—

“(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

“(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

“(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

“(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

“(D) 50 percent of so much of such expenditures as are for the operation of the state-
wide mechanized data collection and information retrieval systems referred to in subparagraph (C); and”.

(2) TREATMENT OF STATE EXPENDITURES FOR DATA COLLECTION AND INFORMATION RETRIEVAL SYSTEMS.—Section 474 (42 U.S.C. 674), as amended by section 13224 of this Act, is amended by adding at the end the following:

“(c) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures during fiscal years 1994, 1995, and 1996.

(b) TERMINATION OF ENHANCED MATCH.—

(1) IN GENERAL.—Section 474(a)(3)(C) (42 U.S.C. 674(a)(3)(C)), as amended by subsection (a)
of this section, is amended by striking "90 percent" each place such term appears and inserting "50 per-
cent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to expenditures during fiscal years beginning on or after October 1, 1996.

SEC. 13220. PERIODIC REEVALUATION OF FOSTER CARE MAINTENANCE PAYMENTS.

(a) IN GENERAL.—Section 471(a)(11) (42 U.S.C. 671(a)(11)) is amended—

(1) by inserting "(A)" after "(11)";

(2) by striking "and amounts paid as foster care maintenance payments and adoption assist-
ance"; and

(3) by adding at the end the following:

"(B) provides that, at least once every 3 years, the State agency will review the amount paid as fos-
ter care maintenance payments and adoption assist-
ance payments to ensure their continuing appro-
piateness, and will submit to the Secretary (and make available to the public) a report on the results of the review, in such form and manner as the Sec-
retary may by regulation require, which contains, at a minimum—
“(i) a statement of the manner in which the foster care maintenance payment level is determined, including information on the cost of foster care with respect to which such payments are made;

“(ii) information on the amount of the basic foster care maintenance payment level, and as to whether such payment level includes an amount to cover the cost of clothing, and whether such payment level varies by the type of care or the special needs or age of the child, and, if so, the payment levels for each special needs, care, or age category;

“(iii) if such payments are not made at a different rate for children who test positive for human immunodeficiency virus, have acquired immune deficiency syndrome, are addicted to drugs, suffer from complications due to exposure to drugs or alcohol, or have other severe special needs, the reasons therefor; and

“(iv) information on any limitations imposed by the State on adoption assistance payment levels;”.
(b) **Effective Date.**—The amendment made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1994.

**SEC. 13221. DISPOSITIONAL HEARING.**

Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking “periodically” and inserting “not less frequently than every 12 months”.

**SEC. 13222. HEALTH CARE PLANS FOR FOSTER CHILDREN.**

(a) **In General.**—Section 475(1)(C) (42 U.S.C. 675(1)(C)) is amended—

1. in clause (vii), by striking “and”; and
2. by redesignating clause (viii) as clause (ix) and inserting after clause (vii) the following:

   “(viii) a record indicating that the child’s foster care provider was advised (where appropriate) of the child’s eligibility for early and periodic screening, diagnostic, and treatment services under title XIX; and”.

(b) **Effective Date.**—The amendments made by this section shall apply to case plans established or reviewed on or after January 1, 1994.

**SEC. 13223. INDEPENDENT LIVING.**

(a) **Treatment of Assets of Participating Youths.**—Section 477 (42 U.S.C. 677) is amended—
(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

“(i) Notwithstanding any other provision of this title, with respect to a child who is included in a program established by a State agency under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for purposes of determining eligibility for benefits under this title may be disregarded for the purpose of allowing the child to establish a household, pursue education, or otherwise complete the transition to independent living. The amount disregarded may not exceed an amount determined by the State agency to be reasonable for such purposes.”.

(b) Permanent Extension of Program.—Section 477 (42 U.S.C. 677) is amended—

(1) in subsection (a)(1), by striking the 3rd sentence;

(2) in subsection (c), by striking “of the fiscal years 1988 through 1992” and inserting “succeeding fiscal year”;

(3) in subsection (e)(1)(A), by striking “each of the fiscal years 1987 through 1992” and inserting “fiscal year 1987 and any succeeding fiscal year”;
(4) in subsection (e)(1)(B), by striking “fiscal years 1991 and 1992” and inserting “fiscal year 1991 and any succeeding fiscal year”; and

(5) in subsection (e)(1)(C)(ii), by striking “fiscal year 1992” and inserting “any succeeding fiscal year”.

(c) EFFECTIVE DATES.—

(1) TREATMENT OF ASSETS OF PARTICIPATING YOUTHS.—The amendments made by subsection (a) shall apply to activities in fiscal years beginning on or after October 1, 1995.

(2) PERMANENT EXTENSION OF PROGRAM.—The amendments made by subsection (b) shall apply to activities engaged in on or after October 1, 1992.

SEC. 13224. ELIMINATION OF FOSTER CARE CEILINGS AND OF AUTHORITY TO TRANSFER UNUSED FOSTER CARE FUNDS TO CHILD WELFARE SERVICES PROGRAMS.

(a) REPEAL.—Subsections (b) and (c) of section 474 (42 U.S.C. 674(b) and (c)) are hereby repealed.

(b) CONFORMING AMENDMENTS.—Section 474 (42 U.S.C. 674) is amended—

(1) in subsection (d)(1)—

(A) by striking “subsections (a), (b), and (c)” and inserting “subsection (a)”; and
(B) by striking “the provisions of such subsections” and inserting “subsection (a)”;
and
(2) by redesignating subsection (d) as subsection (b).

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1993.

SEC. 13225. TRAINING OF AGENCY STAFF AND FOSTER AND ADOPTIVE PARENTS.

(a) IN GENERAL.—Section 8006(b) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 674 note) is amended by striking “, and before October 1, 1992”.

(b) RETROACTIVE APPLICABILITY.—The Social Security Act shall be applied and administered as if the amendment made by subsection (a) had been made on October 1, 1992.

SEC. 13226. ON-SITE REVIEWS AND AUDITS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

(a) ON-SITE REVIEWS AND AUDITS OF STATE CLAIMS.—Section 474 (42 U.S.C. 674), as amended by sections 13224 and 13219(a)(2) of this Act, is amended—

(1) by redesignating subsection (c) as subsection (d); and
(2) by inserting after subsection (b) the following:

“(c) On-Site Reviews and Audits of State Claims for Payment.—

“(1) Regulations specifying review standards.—The Secretary shall promulgate regulations applicable to on-site reviews and audits of State expenditures for foster care maintenance payments and adoption assistance payments under this part, which specify—

“(A) the criteria to be used to determine the appropriateness of expenditures identified in sampled case files;

“(B) the criteria to be used to determine the appropriateness of expenditures for child placement services and plan administration; and

“(C) the types of erroneous expenditures which will be disregarded for purposes of determining the appropriateness of payments under this part (including erroneous payments resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary).
"(2) Development and publication of written standards and procedures.—The Secretary, after consultation with organizations representing State and local governmental agencies with responsibility for foster care and adoption services and other relevant agencies and organizations, shall develop and furnish to State agencies a written description of the methods and procedures to be used in the on-site audits and reviews referred to in paragraph (1), which specify—

"(A) the methods and procedures to be used to select a sample of case files for review or audit;

"(B) the procedures to be used in reviewing or auditing sampled case files to determine erroneous expenditures;

"(C) the procedures to be used to review or audit State expenditures for child placement services and plan administration; and

"(D) the methodology to be used to extrapolate from review or audit findings to all expenditures under the State plan.

"(3) Advance notice to states.—The Secretary shall not, in a review or audit of State expenditures during a fiscal year, use any criterion
specified pursuant to paragraph (1), or any procedure or methodology specified pursuant to paragraph (2), which was not published in final regulations or furnished in writing to the State (as applicable) at least 3 months before the beginning of the fiscal year.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures in fiscal years beginning on or after October 1, 1994.

SEC. 13227. CONFORMITY REVIEWS.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301-1320b-13) is amended by inserting after section 1122 the following:

``SEC. 1123. REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS, AND OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS, FOR COMPLIANCE WITH STATE PLAN REQUIREMENTS.

“(a) In General.—The Secretary shall not impose a financial penalty on any State for any failure of the State programs under parts B and E of title IV to comply with any requirement of any State plan approved under such part B or E, except pursuant to final regulations, developed after consultation with State agencies admin-
(b) ELEMENTS OF REVIEW SYSTEM.—The regulations referred to in subsection (a) shall—

(1) specify the timetable for compliance reviews of State programs, which—

(A) shall provide for annual reviews of each State program during the 1st 2 years of operation;

(B) shall provide for review of a State program not later than 1 year following a review in which the State program was found not to be in substantial compliance with plan requirements; and

(C) may provide for less frequent reviews of State programs which have been found to be in substantial compliance with plan requirements, but shall permit the Secretary to reinstate more frequent reviews based on information which indicates that the State program may not be in compliance with plan requirements;

(2) specify the plan requirements subject to review, and the criteria to be used to measure compliance with such requirements and to determine
whether there is a substantial failure to comply with a plan requirement;

“(3) specify the method to be used to determine the financial penalty to be imposed (subject to paragraph (4)) for a failure to comply with plan requirements, which ensures that—

“(A) a financial penalty will not be imposed with respect to a program, unless it is determined that the program fails substantially to so comply;

“(B) a financial penalty will not be imposed for a failure to so comply resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary; and

“(C) the amount of financial penalty is related to the extent of the noncompliance; and

“(4) require the Secretary, with respect to any State found to have failed substantially to comply with plan requirements—

“(A) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the noncompliance;
“(B) to make technical assistance available to the State to the extent necessary to enable the State to develop and implement such a corrective action plan;

“(C) to suspend the imposition of any penalty under this section while such a corrective action plan is in effect; and

“(D) to rescind any such penalty if the noncompliance is ended by successful completion of such a corrective action plan.

“(c) PROVISIONS FOR ADMINISTRATIVE AND JUDICIAL REVIEW.—The regulations referred to in subsection (a) shall—

“(1) require the Secretary, not later than 10 days after a determination that a program of the State is not in compliance with applicable plan requirements, to notify the State of—

“(A) the basis for the determination; and

“(B) the amount of the financial penalty (if any) imposed on the State;

“(2) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days after receipt of the notice described in paragraph (1) (or, if later, after failure to
continue or to complete a corrective action plan); and

“(3) afford the State an opportunity to obtain judicial review of an adverse decision of the Board, within 60 days after the State receives notice of the decision of the Board, by appeal to the district court of the United States for the judicial district in which the principal or headquarters office of the agency responsible for administering the program is located.”.

(b) Conforming Amendment.—Section 471(b) (42 U.S.C. 671(b)) is amended by striking all that follows the 1st sentence.

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(d) Construction.—This section shall not be construed to prevent the Secretary, before the effective date of final regulations meeting the requirements of section 1123 of the Social Security Act, from conducting compliance reviews of State programs under parts B and E of such Act for the purpose of providing information and technical assistance to States concerning corrective actions needed in order to comply with plan requirements applicable to such programs.
SEC. 13228. REPEAL OF ANNUAL REPORT ON VOLUNTARY PLACEMENT.

Section 102(e) of the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C. 672 note) is hereby repealed.

SEC. 13229. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301-1320b-13) is amended by inserting after section 1128B the following:

"SEC. 1129. DEMONSTRATION PROJECTS.

"(a) IN GENERAL.—The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

"(b) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

"(1) any provision of section 427 (as in effect before October 1, 1994), section 422(b)(9) (as in effect after such date), or section 479; or

"(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any
qualified child or family to benefits under a State plan approved under such part E.

“(c) Treatment as Program Expenditures.—For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

“(d) Duration of Demonstration.—A demonstration project under this section may be conducted for not more than 5 years.

“(e) Application.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

“(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

“(2) a statement of the period during which the proposed project would be conducted;
“(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

“(4) an estimate of the costs or savings of the proposed project;

“(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

“(6) a description of the proposed evaluation design; and

“(7) such additional information as the Secretary may require.

“(f) Evaluations; Report.—Each State authorized to conduct a demonstration project under this section shall—

“(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

“(A) comparison of methods of service delivery under the project, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management;
“(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

“(C) any other information that the Secretary may require; and

“(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

“(g) COST NEUTRALITY.—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.”.

SEC. 13230. PLACEMENT ACCOUNTABILITY.

(a) CASE PLAN REQUIREMENTS.—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by adding at the end the following: “which—
“(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which the home is located, sets forth the reasons why such placement is in the best interests of the child, and

“(ii) if the child has been placed in foster care outside the State, requires that, at least every 6 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,”.

(b) DISPOSITIONAL HEARING.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by inserting “and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child,” after “long-term basis)”.

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(c) Data Collection.—Section 479(c)(3)(C) (42 U.S.C. 679(c)(3)(C)) is amended—

(1) by striking “and” at the end of clause (i); and

(2) by adding at the end the following:

“(iii) children placed in foster care outside the State, and”.

(d) Effective Dates.—The amendments made by subsections (a), (b), and (c) shall be effective with respect to fiscal years beginning on and after October 1, 1994.

SEC. 13231. PAYMENTS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

Section 474(b) (42 U.S.C. 674(b)), as so redesignated by section 13239(b)(2) of this Act, is amended by adding at the end the following:

“(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

“(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

“(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—
“(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or
“(ii) in any other case, allow the claim, subject to disallowance (as necessary)—
“(I) upon completion of the review, if it is determined that the claim is not allowable; or
“(II) on the basis of findings of an audit or financial management review.”.

SEC. 13232. MORATORIUM ON COLLECTION OF DISALLOWANCES.

The Secretary of Health and Human Services shall not—

(1) before October 1, 1994, reduce any payment to, withhold any payment from, or seek any repayment from any State under part B or E of title IV of the Social Security Act by reason of a determination made in connection with a review of State compliance with section 427 of such Act for any Federal fiscal year before fiscal year 1995; or

(2) reduce any payment to, withhold any payment from, or seek any repayment from any State under such part E by reason of a determination made in connection with any on-site Federal finan-
cial review, or any audit conducted by the Inspector General using similar methodologies.

SEC. 13233. BORDER REGION CHILD WELFARE WORKER TRAINING DEMONSTRATION.

(a) IN GENERAL.—The Secretary shall make grants to not more than 5 eligible institutions to train individuals to deliver culturally sensitive and bilingual child welfare services in areas of the United States that border on Mexico, 1 of which grants shall be for training to deliver child welfare services to historically unserved or underserved populations in an urban center with a high concentration of such populations.

(b) APPLICATIONS.—The Secretary shall approve an application of an institution for a grant under this section only if the application—

(1) demonstrates to the satisfaction of the Secretary that the institution has a history of, or a plan for, training students to deliver culturally sensitive and bilingual child welfare services in a border county;

(2) provides assurances that the institution will develop and implement, in consultation with the child welfare agency of the State in which the institution is located, a curriculum in the field of child welfare services which—
(A) is sensitive to the culture of—

(i) the areas of the United States that border on Mexico; or

(ii) in the case of the institution which receives the urban center grant described in subsection (a), the historically unserved or underserved populations in the urban center; and

(B) includes training for identification of health problems of children and their families and of child abuse and neglect;

(3) provides assurances that each individual who receives a stipend with such training will enter into an agreement with the institution under which the individual agrees—

(A) to be employed for a period of years equivalent to the period of such training, in a public or private nonprofit family assistance agency that provides services directly to residents of—

(i) the border county in which the agency is located; or

(ii) in the case of the institution which receives the urban center grant described
in subsection (a), the urban center in which the agency is located; and

(B) if the individual fails to be so employed for such period, to repay to the Secretary, in accordance with such conditions as the Secretary may prescribe, all or part of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees; and

(4) provides that each agreement entered into with an individual pursuant to paragraph (3) will fully disclose the terms and conditions under which the stipend is to be provided.

(c) Evaluations.—Each institution that receives a grant under this section shall develop and carry out a plan for evaluating the effects of the training provided under the grant, and shall submit to the Secretary a report on the evaluation.

(d) Definitions.—As used in this section:

(1) Family assistance agency.—The term “family assistance agency” means a child welfare agency, family planning agency, hospital, clinic, community mental health facility, or drug and alcohol treatment program.

(2) Eligible institution.—The term “eligible institution” means a public or private nonprofit
institution of higher learning that is located in a State that contains a border county.

(3) Border county.—The term “border county” means—

(A) a United States county that borders on Mexico; and

(B) a United States county that borders on a county described in subparagraph (A).

(4) Urban center.—The term “urban center” means an area in a metropolitan statistical area, as designated by the Office of Management and Budget, which has a high incidence of individuals in historically unserved or underserved populations who are in need of social services, as determined by the Secretary using the most recent and best available information.

(5) Historically unserved or underserved populations.—The term “historically unserved or underserved populations” includes—

(A) socially and economically disadvantaged populations;

(B) persons with limited English proficiency;

(C) populations residing in urban areas and exhibiting a high incidence of child abuse,
neglect, or abandonment, as determined by the Secretary;

(D) homeless persons (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act);

(E) persons who are, or are in danger of becoming, infected with the human immunodeficiency virus; and

(F) persons who abuse alcohol or drugs.

(6) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 13234. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) In General.—Part A of title XI (42 U.S.C. 1301-1320b-13), as amended by section 13229 of this Act, is amended by inserting after section 1129 the following:

"SEC. 1130. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the
Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: Provided, however, That this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action.”.

(b) Applicability.—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

CHAPTER 2—CHILD SUPPORT ENFORCEMENT

SEC. 13241. STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) Performance Standards.—Section 452(g) (42 U.S.C. 652(g)) is amended—

(1) in paragraph (1)—

(A) by striking “1991” and inserting “1994”;
(B) by inserting “is based on reliable data and” before “equals or exceeds”; and

(C) by striking subparagraphs (A), (B),

and (C) and inserting the following:

“(A) 75 percent;

“(B) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for the fiscal year, the paternity establishment percentage of the State for the immediately preceding year plus 3 percentage points; or

“(C) for a State with a paternity establishment percentage of less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding year plus 6 percentage points.”; and

(2) in paragraph (2)—

(A) by striking “(or under all such plans)” each place such term appears;

(B) by inserting “or part E” after “under part A’” each place such term appears;

(C) by amending subparagraph (B) to read as follows:

“(B) the term ‘reliable data’ means the most recent data available which are found by
the Secretary to be reliable for purposes of this section.'’;

(D) by inserting “unless paternity is established for such child” after “the death of a parent”;

(E) by striking “parent or” and inserting “parent,”; and

(F) by inserting “, or any child with respect to whom the State agency administering the plan under part E determines (as provided in section 454(4)(B)) that it is against the best interest of such child to do so” after “cooperate under section 402(a)(26)”.

(b) State Plan Requirements.—

(1) Required Procedures.—Section 466(a) (42 U.S.C. 666(a)) is amended—

(A) in paragraph (2)—

(i) by striking “at the option of the State,”; and

(ii) by inserting “and paternity establishment” after “support order issuance and enforcement”; 

(B) in paragraph (5), by adding at the end the following:

...
“(C) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must explain the rights and responsibilities of acknowledging paternity, and afford due process safeguards. Such procedures must include (i) a hospital-based program for the voluntary acknowledgment of paternity during the period immediately before or after the birth of a child, and (ii) the inclusion of signature lines on applications for official birth certificates which, once signed by the father and the mother, are considered a voluntary acknowledgment of paternity.

“(D) Procedures under which the voluntary acknowledgment of paternity of a child by an individual in the manner described in subparagraph (C)(ii) creates a rebuttable or, at the option of the State, conclusive presumption that the individual is the father of the child, and under which such a voluntary acknowledgment is admissible as evidence of paternity.

“(E) Procedures under which a voluntary acknowledgment of paternity in the manner described in subparagraph (C)(ii) must be recognized as a basis for seeking a support order
without first requiring any further proceedings to establish paternity.

“(F) Procedures requiring that (i) any objection to genetic testing results be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence, and (ii) if no objection is made, the test results be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

“(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity of a child, upon genetic testing results indicating a threshold probability of the alleged father being the father of the child.

“(H) Procedures requiring a default order to be entered in a paternity case upon a showing that process has been served on the defendant and any additional showing required by State law.”; and

(C) by inserting after paragraph (10) the following:
“(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.”

(2) Furnishing of Social Security Numbers.—

(A) In General.—Section 466(a) (42 U.S.C. 666(a)), as amended by paragraph (1)(C) of this subsection, is amended by inserting after paragraph (11) the following:

““(12)(A) Procedures under which, in the administration of any law involving the issuance, reissuance, or amendment of a birth certificate, the State shall require each parent to furnish to the State, or any agency or political subdivision thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than 1 such number) issued to the parent, unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of the number.

“(B) Procedures under which any number furnished under subparagraph (A) shall be made avail-
able to the agency administering the State plan under this part, in accordance with Federal or State law or regulation.

"(C) Procedures under which—

"(i) any number furnished under subparagraph (A) shall not be recorded on the birth certificate; and

"(ii) any social security account number, obtained with respect to the issuance by the State of any birth certificate, shall not be used for other than child support purposes, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of the number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure.”.

(B) CONFORMING AMENDMENTS.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended—

(i) by striking “(ii) In the administration of any law involving the issuance” and inserting “(ii) In the administration of any law involving the issuance, reissuance, or amendment”; and
(ii) by striking "any purpose other than for the enforcement of child support orders in effect in the State" and inserting "other than child support purposes".

(c) Conforming Repeal.—Section 468 (42 U.S.C. 668) is hereby repealed.

(d) Effective Date.—The amendments and repeal made by this section shall become effective with respect to a State—

(1) on October 1, 1993, or, if later

(2) upon enactment by the legislature of the State of all laws required by such amendments, but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 13242. ENFORCEMENT OF HEALTH INSURANCE SUPPORT.

(a) State Plan Requirements.—Section 454(a) (42 U.S.C. 654(a)) is amended—

(1) by striking "and" at the end of paragraph (23);
(2) by striking the period at the end of paragraph (24) and inserting ‘‘; and’’; and

(3) by inserting after paragraph (24) the following:

‘‘(25) provide assurances satisfactory to the Secretary that the State has in effect laws applicable to health insurers and insurance policies or programs subject to the laws of the State that—

‘‘(A) prohibit insurers’ consideration, in determining an individual’s eligibility for or coverage under any such policy or program, of such individual’s eligibility for or coverage under the plan of any State under title XIX;

‘‘(B) provide that, where an individual assigns rights to any State in accordance with section 1912, that State is subrogated, to the extent of medical assistance furnished, to the individual’s rights under any health insurance policy or program;

‘‘(C) prohibit insurers from applying, to State agencies administering programs under title XIX and acting as agents or subrogees (for purposes of insurance policies or programs of such insurers) of individuals receiving medical assistance under such State programs, require-
ments (with respect to deadlines for filing claims or any other matters) different from requirements applicable to any other applicant, beneficiary, agent, or subrogee;

“(D) prohibit insurers from denying enrollment of a child under the health insurance coverage of the child’s parent on grounds that—

“(i) the child does not reside with the parent, or

“(ii) the child was born out of wedlock;

“(E) in any case where a parent is required by court or administrative order to provide health insurance coverage for a child, require insurers, without regard to otherwise applicable enrollment season restrictions—

“(i) to permit such parent, upon application, to enroll in family coverage (if otherwise eligible and not already so enrolled), and to enroll such child under such family coverage, and

“(ii) where such a parent who is enrolled in family coverage fails to make application, to enroll such child under such family coverage upon application by the
child’s other parent or by the State agency administering the program under this part or title XIX; and

“(F) in any case where a child is covered under the health insurance of a noncustodial parent, require insurers—

“(i) to permit the custodial parent (or service provider, with the custodial parent’s approval), or any State agency administering a program under title XIX, to submit claims for covered services without the approval of the noncustodial parent, and

“(ii) to make payment on claims submitted in accordance with clause (i) directly to the custodial parent, service provider, or State agency submitting such claim;

“(26) provide assurances satisfactory to the Secretary that the State has in effect laws requiring employers doing business in the State—

“(A) upon notice of a court or administrative order requiring an employee to provide health insurance coverage for the employee’s child, and upon application by such employee
(or, where such employee fails to make application, by the child’s other parent or the State agency administering the program under this part or title XIX), to permit enrollment of such child at any time as a dependent of the employee under the employer’s group health insurance;

“(B) to permit disenrollment from such group health insurance by such employee, or elimination of coverage of such child, only upon receipt of satisfactory evidence, in writing, that—

“(i) such court or administrative order is no longer in effect, or

“(ii) the employee has enrolled or will enroll in alternative health insurance covering such child which will take effect immediately upon the effective date of such disenrollment; and

“(C) to withhold from such employee’s compensation the employee’s share (if any) of premiums for such health insurance, and to pay such share of premiums to the insurer;

“(27) provide assurances satisfactory to the Secretary that the State has in effect laws requiring
the State agency to garnish the wages, salary, or
other employment income of, and to withhold
amounts from State tax refunds to, any person
who—

“(A) is required by court or administrative
order to provide coverage of the costs of medi-
cal services to an individual eligible for medical
assistance under title XIX,

“(B) has received payment from a third
party for the costs of medical services to such
individual, and

“(C) has not used such payments to reim-
burse, as appropriate, either such individual or
the provider of such services,
to the extent necessary to reimburse the State agen-
cy for expenditures for such costs under its plan
under title XIX, but any claims for current or past-
due child support shall take priority over any such
claims for the costs of medical services.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by
subsection (a) apply to calendar quarters beginning
on or after April 1, 1994, except as provided in
paragraph (2).
(2) Extension for state law amendment.—In the case of a State plan under part D of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 13243. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.

(a) In general.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking “upon the request of such agency” and inserting “, and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support
and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information”; and

(2) by striking “(C) a fee” and all that follows through “by the State” and inserting “, and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1994.

(2) EXCEPTION.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social
Security Act, or October 1, 1995, whichever occurs earlier.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

SEC. 13251. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) In General.—

(1) Optional state supplementary payments.—Section 1616(d) (42 U.S.C. 1382e(d)) is amended—

(A) by inserting ``(1)'' after ``(d)'';

(B) by inserting `, plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3)'' before the period; and

(C) by adding after and below the end the following:

``(2)(A) The Secretary shall assess each State an administration fee in an amount equal to—

``(i) the number of supplementary payments made by the Secretary on behalf of the State under this section for any month in a fiscal year; multiplied by

``(ii) the applicable rate for the fiscal year.
“(B) As used in subparagraph (A), the term ‘applicable rate’ means—

“(i) for fiscal year 1994, $1.67;
“(ii) for fiscal year 1995, $3.33;
“(iii) for fiscal year 1996, $5.00; and
“(iv) for fiscal year 1997 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines pursuant to criteria established in regulations is appropriate for the State, taking into account the complexity of the State’s supplementary payment program.

“(C) All fees collected pursuant to this paragraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

“(3)(A) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this section.

“(B) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in subparagraph (A).
“(C) The additional services fee shall be payable in advance or by way of reimbursement.

“(4) All administration fees and additional services fees collected pursuant to this subsection shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.”.

(2) Mandatory State Supplementary Payments.—Section 212(b)(3) of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(A) by inserting “(A)” after “(3)”;

(B) by inserting “, plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C)” before the period; and

(C) by adding after and below the end the following:

“(B)(i) The Secretary shall assess each State an administration fee in an amount equal to—

“(I) the number of supplementary payments made by the Secretary on behalf of the State under this subsection for any month in a fiscal year; multiplied by

“(II) the applicable rate for the fiscal year.
“(ii) As used in clause (i), the term ‘applicable rate’ means—

“(I) for fiscal year 1994, $1.67;
“(II) for fiscal year 1995, $3.33;
“(III) for fiscal year 1996, $5.00; and
“(IV) for fiscal year 1997 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines pursuant to regulations established in regulations is appropriate for the State, taking into account the complexity of the State’s supplementary payment program.

“(iii) All fees collected pursuant to this subparagraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

“(C)(i) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this subsection.

“(ii) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in clause (i).
“(iii) The additional services fee shall be payable in advance or by way of reimbursement.

“(D) All administration fees and additional services fees collected pursuant to this paragraph shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to supplementary payments made pursuant to section 1616(a) of the Social Security Act or section 212(a) of Public Law 93–66 for any calendar month beginning after September 30, 1993, and to services furnished after such date, regardless of whether regulations to implement such amendments have been promulgated by such date, or whether any agreement entered into under such section 1616(a) or such section 212(a) has been modified.

SEC. 13252. EXCLUSION FROM INCOME OF STATE RELOCATION ASSISTANCE.

Section 5035(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1382a note; 104 Stat. 1388–225) is amended—

(1) by striking “‘The amendments made by this section’” and inserting “‘(1) The amendments made by subsection (b)’”; and

(2) by adding at the end the following:
“(2) The amendments made by subsection (a) shall apply with respect to benefits for calendar months beginning on or after May 1, 1991.”.

SEC. 13253. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY FOR, AND AMOUNT OF, BENEFITS WHEN SPOUSE OR PARENT OF BENEFICIARY IS ABSENT FROM THE HOUSEHOLD DUE TO ACTIVE MILITARY SERVICE.

(a) Absent Person Generally Deemed To Be Living In The Household.—Section 1614(f) (42 U.S.C. 1382c(f)) is amended by adding at the end the following:

“(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.”.

(b) Exclusion From Income of Hazardous Duty Pay Received While in Active Military Service.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (18), by striking “and” the 2nd place such term appears;
(2) in paragraph (19), by striking the period and inserting “; and”; and
(3) by adding at the end the following:
“(20) special pay received pursuant to section 310 of title 37, United States Code.’’.
(c) **Effective Date.**—The amendments made by this section shall take effect on the 1st day of the 2nd month that begins after the date of the enactment of this Act.

**Sec. 13254. Eligibility for children of armed forces personnel residing outside the United States other than in foreign countries.**

(a) In General.—Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking “the District of Columbia” and all that follows to the period and inserting “and who, for the month before the parent reported for such assignment, received a benefit under this title’’.
(b) **Effective Date.**—The amendment made by subsection (a) shall take effect on October 1, 1993.
SEC. 13255. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended by striking “a child” and inserting “an individual”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made on or after the date of the enactment of this Act.

SEC. 13256. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE WHEN THERE IS A COST OF LIVING ADJUSTMENT IN BENEFITS.

(a) IN GENERAL.—Section 1611(c) (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by striking “and (5)” and inserting “(5), and (6)”;

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

“(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this title by reason of section 1617 shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this title to an individual (and the eligible spouse,
if any, of the individual) for the 1st 2 months for which
the increase in benefits applies.’’.

(b) Effective Date.—The amendments made by
subsection (a) shall apply to benefits paid for months after
the calendar year 1993.

SEC. 13257. EXCLUSION FROM INCOME OF CERTAIN
AMOUNTS RECEIVED BY INDIANS FROM INTERESTS HELD IN TRUST.

(a) In General.—Section 8 of the Act of October
19, 1973, (25 U.S.C. 1408) is amended by inserting ‘‘,
and the first $2,000 per year of income received by indi-
vidual Indians that is derived from such interests shall not
be considered income,’’ after ‘‘resource’’.

(b) Effective Date.—The amendment made by
this section shall take effect on January 1, 1993.

CHAPTER 4—AID TO FAMILIES WITH
DEPENDENT CHILDREN

SEC. 13261. 50 PERCENT FEDERAL MATCH OF STATE AD-
MINISTRATIVE COSTS.

(a) In General.—Section 403(a)(3) (42 U.S.C.
603(a)(3)) is amended by striking ‘‘the sum of’’ and all
that follows through the end of subparagraph (D) and in-
serting ‘‘50 percent of the total amounts expended during
such quarter as the Secretary has found necessary for the
proper and efficient administration of the State plan (in-
including 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 re-
quired)” after “verified”.

(c) Effective Date.—

(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 re-
quired)” after “verified”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in para-

(2) DELAYED APPLICABILITY TO CERTAIN

(A) IN GENERAL.—The Secretary of
Health and Human Services may delay the ap-

ments made by subsection (a) until the 1st cal-

endary 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 PARTICIPATION RATE FOR UNEMPLOYED PARENTS IN THE JOBS PROGRAM.

Section 403(l)(4)(B) (42 U.S.C. 603(l)(4)(B)) is amended—

(1) in clause (i), by striking “1994” and inserting “1995”;

(2) in clause (ii), by striking “1995” and inserting “1996”;

(3) in clause (iii), by striking “1996” and inserting “1997”; and

(4) in clause (iv), by striking “1997 and 1998” and inserting “1998 and 1999”.

SEC. 13263. REPORT TO THE CONGRESS WITH RESPECT TO PERFORMANCE STANDARDS IN THE JOBS PROGRAM.

Section 487(a) (42 U.S.C. 687(a)) is amended—
(1) by striking “3” and inserting “4’’;
(2) in paragraph (1), by inserting “criteria for’’ after “develop’’;
(3) in paragraph (2), by striking “for’’ and inserting “with respect to’’; and
(4) in the 2nd sentence, by striking “under this subsection’’ and inserting “with respect to the program under this part’’.

SEC. 13264. MEASUREMENT AND REPORTING OF WELFARE PARTICIPATION.

(a) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce the rate at which, and the degree to which, families depend on income from welfare programs, and the duration of welfare participation, to assist families toward self-sufficiency, and to increase the living standards of low-income families, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families and improve the life prospects of their children, to ensure that children grow up in families that are economically self-sufficient, and to
underscore the responsibility of parents to support
their children;

(3) the Federal Government should help welfare
recipients as well as individuals at risk of welfare
participation to improve their education and job
skills, to obtain access to high quality child care and
other necessary support services, and to take such
other steps as may assist them to meet their respon-
sibilities to become financially independent; and

(4) it is the purpose of this section to provide
the public with generally accepted measures of wel-
fare participation so that the public can track such
participation over time and determine whether
progress is being made in reducing the rate at
which, and the degree to which, families depend on
income from welfare programs, and the duration of
welfare participation.

(b) Development of Welfare Participation
Measures and Predictors.—

(1) In general.—The Secretary of Health and
Human Services (in this section referred to as the
"Secretary") in consultation with the Secretary of
Agriculture shall develop—

(A) measures of—
(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation; and

(B) predictors of welfare participation.

(2) INTERIM REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall provide an interim report containing conclusions resulting from such development, to—

(A) the Committee on Ways and Means of the House of Representatives;

(B) the Committee on Education and Labor of the House of Representatives;

(C) the Committee on Agriculture of the House of Representatives;

(D) the Committee on Energy and Commerce of the House of Representatives;

(E) the Committee on Finance of the Senate;

(F) the Committee on Labor and Human Resources of the Senate; and

(G) the Committee on Agriculture, Nutrition, and Forestry of the Senate.
(c) ADVISORY BOARD ON WELFARE PARTICIPATION.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Participation (in this section referred to as the "Board").

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of measures of the rate at which, and the degree to which, families depend on income from welfare
programs, and the duration of welfare participation; and

(B) providing advice on the development and presentation of the report required by subsection (d).

(5) **Travel Expenses.**—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) **Detail of Federal Employees.**—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) **Voluntary Service.**—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.
(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in subsection (c)(4) have been completed, but in any case prior to the submission of the 1st report required by subsection (d).

(d) ANNUAL WELFARE PARTICIPATION REPORTS.—

(1) PREPARATION.—The Secretary shall prepare annual reports on welfare participation in the United States.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each such report shall set forth, for each means-tested benefit program described in paragraph (2)—

(A) measures of—
(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation;

(B) trends in the measures;

(C) predictors of welfare participation;

(D) the causes of welfare participation;

(E) patterns of multiple program participation;

(F) such other information as the Secretary deems relevant; and

(G) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce—

(i) the rate at which, and the degree to which, families depend on income from welfare programs; and

(ii) the duration of welfare participation.

(4) Submission.—The Secretary shall submit such reports not later than 3 years after the date of the enactment of this section, and annually there-
after, to the committees specified in subsection (b)(2). Each such report shall be transmitted during the 1st 60 days of each regular session of the Congress.

SEC. 13265. NEW HOPE DEMONSTRATION PROJECT.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) Payments.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act and for administrative expenses related to such assistance. In calculating the amount of such payment, the expenses of the program incurred in evaluating the effects of the program may be treated as amounts necessary for the proper and efficient administration of the program, for purposes of part A of title IV of such Act.
(c) Demonstration Project Described.—For purposes of this section, the term “qualified program” means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (in this section referred to as the “operator”), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary’s determination that the application satisfies the requirements of subsection (d).

(d) Contents of Application.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the program. The evaluation plan will include adequately
sized groups of project participants and control
groups assigned at random.

(2) The operator will develop and implement a
plan addressing the services and assistance to be
provided by the program, the timing and determina-
tion of payments from the Secretary to the operator
of the program, and the roles and responsibilities of
the Secretary and the operator with respect to meet-
ing the requirements of this paragraph.

(3) The operator will specify a methodology for
determining expenditures to be paid to the operator
by the Secretary, with assistance from the Secretary
in calculating the amount that would otherwise have
been payable to the State in the absence of the pro-
gram, pursuant to subsection (b).

(4) The operator will issue an interim and final
report on the results of the evaluation described in
paragraph (1) to the Secretary at such times as
required by the Secretary.

(e) Effective Date.—This section shall take effect
on the 1st day of the 1st calendar quarter that begins
after the date of enactment of this Act.
SEC. 13266. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC-UP PROGRAM.

Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking “October 1, 1992” and inserting “the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act”.

SEC. 13267. ADULT IN FAMILY OR HOUSEHOLD ALLOWED TO ATTEST TO CITIZENSHIP STATUS OF FAMILY OR HOUSEHOLD MEMBERS.

(a) IN GENERAL.—Section 1137(d)(1)(A) (42 U.S.C. 1320b±7(d)(1)(A)) is amended—

(1) by inserting “(i)” after “(1)(A)”;

(2) by inserting “(other than the aid to families with dependent children program under part A of title IV of this Act)” after “any program listed in subsection (b)”;

and

(3) by adding at the end the following:

“(ii) The State shall require, as a condition of an individual’s eligibility for benefits under the aid to families with dependent children program under part A of title IV of this Act, a declaration in writing, under penalty of perjury—
“(I) in the case of an individual who is an adult member of a family or household applying for or receiving such benefits, by such individual or another adult member of such family or household on such individual’s behalf;

“(II) in the case of an individual who is a child, by an adult on the individual’s behalf; or

“(III) in the case of an individual born into a family or household receiving such benefits, by an adult member of such individual’s family or household on the individual’s behalf no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to benefits provided on or after October 1, 1993.
SEC. 13268. INCREASE IN STEPPARENT INCOME DISREGARD.
(a) IN GENERAL.—Section 402(a)(31) (42 U.S.C. 602(a)(31)) is amended by striking “$75” and inserting “$90”.
(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1994 and such payments for succeeding fiscal years.

SEC. 13269. EXTENSION OF NEW YORK STATE CHILD SUPPORT DEMONSTRATION PROGRAM.
Section 9122(g)(1) of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note; 101 Stat. 1330-312) is amended by striking “five” and inserting “10”.

SEC. 13270. EARLY CHILDHOOD DEVELOPMENT PROJECTS.
Section 501(a) of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by adding at the end the following:
“(4) For grants to States to conduct demonstration projects under this subsection, there are authorized to be appropriated not to exceed $3,000,000 for each of the fiscal years 1994 through 1998.”.
CHAPTER 5—UNEMPLOYMENT INSURANCE

SEC. 13271. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) GENERAL RULE.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

``(t) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term ‘short-time compensation program’ means a program under which—

(1) individuals whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

(2) the amount of unemployment compensation payable to any such individual is a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

(3) eligible employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

(4) eligible employees may participate in an employer-sponsored training program to enhance
jobs skills if such program has been approved by the State agency;

“(5) there is a reduction in the number of hours worked by employees in lieu of temporary layoffs;

“(6) there is a plan of an employer (or an employers association which is party to a collective bargaining agreement) approved by the State agency consisting of factors in this subsection or other factors as the Secretary of Labor may find relevant; and

“(7) the employer continues to provide health benefits and pension benefits under a pension plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974) to any employee whose workweek is reduced under such plan.

A short-time compensation program may also contain such other factors as the Secretary of Labor finds relevant.’’.

(b) Conforming Amendments.—

(1) Subparagraph (E) of section 3304(a)(4) of such Code is amended to read as follows:

“(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program approved by the Secretary of Labor:’’.
(2) Paragraph (4) of section 3306(f) of such Code is amended to read as follows:

"(4) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program approved by the Secretary of Labor."

(3) Section 303(a)(5) of the Social Security Act is amended by striking "the payment of short-time compensation under a plan approved by the Secretary of Labor" and inserting "the payment of short-time compensation under a short-time compensation program (as defined in section 3306(t) of the Internal Revenue Code of 1986) approved by the Secretary of Labor".

SEC. 13272. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND.

Paragraph (1) of section 905(b) of the Social Security Act is amended to read as follows:

"(b)(1) Except as provided in paragraph (3), the Secretary of the Treasury shall transfer (as of the close of each month), from the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount equal to 20 percent of the amount by which—"
“(A) the transfers to such account pursuant to section 901(b)(2) during such month, exceed
“(B) the payments during such month from the employment security administration account pursuant to section 901(b)(3) and (d).

If for any month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred.”.

SEC. 13273. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL.

In the case of the first Advisory Council on Unemployment Compensation established under section 908 of the Social Security Act, subsection (f) of such section 908 shall be applied—

(1) by substituting “3rd year” for “2d year” in paragraph (1), and
(2) by substituting “February 1, 1995” for “February 1, 1994” in paragraph (2).

SEC. 13274. CLARIFICATION OF EMERGENCY UNEMPLOYMENT BENEFITS PROVISIONS.

(a) IN GENERAL.—Subclauses (II) and (III) of section 102(b)(2)(A)(v) of the Emergency Unemployment Compensation Act of 1991 are amended to read as follows:
“(II) The requirements of this subclause are met for any week if the national rate of total unemployment (seasonally adjusted) for each of the 2 most recent calendar months (not averaged) for which data are published before the close of such week is less than 7 percent, and if the requirements of subclause (III) are not met for such week.

“(III) The requirements of this subclause are met for any week if the national rate of total unemployment (seasonally adjusted) for each of the 2 most recent calendar months (not averaged) for which data are published before the close of such week is less than 6.8 percent.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the amendments made by section 101(b) of the Unemployment Compensation Amendments of 1992.
SEC. 13275. MODIFICATIONS TO EXTENDED UNEMPLOYMENT PROGRAM.

(a) Increase in Reimbursement Rate.—Subsection (a) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking “one-half” and inserting “75 percent”.

(b) Repeal of Special Eligibility Requirements.—Subsection (a) of section 202 of such Act is amended—

(1) by striking paragraphs (3), (4), and (7),

(2) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively, and

(3) by striking “paragraphs (3), (4), and (5)” in paragraph (4) (as redesignated by paragraph (1) of this subsection) and inserting “paragraph (3)’’.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to weeks beginning after October 2, 1993.

(2) Special rule.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and October 1, 1993, the amendment made by subsection (b) shall not be a requirement of the State law of such State before the date 30 calendar days
after the 1st day on which such legislature is in ses-

sion on or after October 1, 1993.

SEC. 13276. EXTENSION OF CURRENT FEDERAL UNEMPLOYMENT RATE.

Section 3301 of the Internal Revenue Code of 1986

is amended—

(1) by striking “1996” in paragraph (1) and in-
serting “1998”, and

(2) by striking “1997” in paragraph (2) and in-
serting “1999”.

SEC. 13277. DISCLOSURE OF INFORMATION TO RAILROAD

RETIREMENT BOARD.

Section 6103(l)(1)(C) of the Internal Revenue Code

of 1986 is amended to read as follows:

“(C) taxes imposed by chapters 22 and

23A, to the Railroad Retirement Board for pur-

poses of its administration of the Railroad Re-

tirement and Railroad Unemployment Insur-

ance Acts.”.
CHAPTER 6—TECHNICAL PROVISIONS

SEC. 13281. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) Amendment Related to Section 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking “a semicolon” and inserting “‘; and’”.

(b) Repeal of Provision Inadvertently Included.—Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

(c) Amendment Related to Section 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–266) is amended to read as follows:

“(B) TITLE XVI.—Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)), as so redesignated by subsection (c)(2) of this section, is amended to read as follows:
‘‘(F) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

‘‘(i) the number of cases in which the representative payee was changed;

‘‘(ii) the number of cases discovered where there has been a misuse of funds;

‘‘(iii) how any such cases were dealt with by the Secretary;

‘‘(iv) the final disposition of such cases (including any criminal penalties imposed); and

‘‘(v) such other information as the Secretary determines to be appropriate.’’.

(d) Amendment Related to Section 5105(a)(1)(B).—The 2nd paragraph of section 1631(a) (42 U.S.C. 1383(a)) is amended by striking ‘‘(A)(i) Payments’’ and inserting ‘‘(2)(A)(i) Payments’’.

(e) Amendments Related to Section 5105(b).—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and
(3) in clause (iv) (as so redesignated), by striking ``(iii), and (iv)'' and inserting ``(and (iii))''.

(f) Amendments Related to Section 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C. 1383(c)(1)(B)) is amended by striking ``paragraph (1)'' each place such term appears and inserting ``subparagraph (A)''.

(g) Amendment Related to Section 5109(a)(2).—Section 1631 (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(h) Amendments Related to Section 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking ``paragraph (8)'' and inserting ``paragraph (9)'';

(2) in subparagraph (B), by striking ``paragraph (9)'' and inserting ``paragraph (10)''; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(i) Amendment Related to Section 13101(d)(2).—Section 256(k)(2)(A) of the Balanced
Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking “—” the 2nd place it appears and all that follows through “(I)”; and

(2) by striking “; or” and all that follows through “(II)” and inserting “, except that a State may not be allotted an amount under this subparagraph that exceeds”.

(j) Effective Date.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.


(a) Amendment Relating to Section 8004(a).—Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is amended by striking “a fiscal” and inserting “the fiscal”.


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(c) Amendment Relating to Section 8007(b)(3).—Subparagraph (D) of section 475(5) (42 U.S.C. 675(5)(D)) is amended by moving such subparagraph 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C) of such section.

(d) Effective Date.—Each amendment made by this section shall take effect as if the amendment had been included in the provision of the Omnibus Budget Reconciliation Act of 1989 to which the amendment relates, at the time the provision became law.

SEC. 13283. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) Treatment of EITC as Earned Income.—Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) Adjustment of Benefits Due to Treatment of EITC as Earned Income.—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.
SEC. 13284. REDESIGNATION OF CERTAIN PROVISIONS.

Section 1631(e)(6) (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

Subtitle C—Medicare Program

SEC. 13400. REFERENCES IN SUBTITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) References to OBRA.—In this subtitle, the terms “OBRA-1986”, “OBRA-1987”, “OBRA-1989”, and “OBRA-1990” refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), respectively.

(c) Table of Contents of Subtitle.—The table of contents of this subtitle is as follows:

Sec. 13400. References in subtitle; table of contents of subtitle.

Chapter 1—Provisions Relating to Part A
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

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SUBCHAPTER D—OTHER PROVISIONS

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Sec. 13559. Health maintenance organizations.
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CHAPTER 4—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 13571. Standards for medicare supplemental insurance policies.

CHAPTER 5—TREATMENT OF CERTAIN STATE HEALTH CARE PROGRAMS

Sec. 13581. Treatment of certain State health care programs.

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.


(1) by striking “(iii) For purposes of this sub-
paragraph” and inserting “(iii)(I) Except as pro-
vided in subclause (II), for purposes of this subpara-
graph”, and
(2) by adding at the end the following new subclause:

“(II) For purposes of this subparagraph and section 1814(i)(1)(C)(ii), the ‘market basket percentage increase’, with respect to cost reporting periods and discharges occurring in fiscal year 1994 or 1995, is 0 percent.”.

SEC. 13402. LIMITS ON PER DIEM ROUTINE SERVICE COSTS FOR EXTENDED CARE SERVICES.

The Secretary of Health and Human Services shall not provide for any increase, on the basis of inflation or changes in the cost of goods and services, in the limits on per diem routine service costs for extended care services under section 1888 of the Social Security Act for cost reporting periods beginning during fiscal year 1994 or fiscal year 1995.

Subchapter B—Other Provisions Relating to Part A

SEC. 13411. WAGE INDEX PROVISIONS.

(a) Wage Index Hold Harmless Protection.—

(1) In general.—Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)) is amended by adding at the end the following new clause:

“(iv) The application of subparagraph (B) or a decision of the Medicare Geographic Classification Review
Board or the Secretary under paragraph (1) may not result in a reduction in an urban area’s wage index if—

“(I) the urban area has a wage index below the wage index for rural areas in the State in which it is located; or

“(II) the urban area is located in a State that is composed of a single urban area.”

(2) No standardized amount adjustment.—The Secretary of Health and Human Services shall not revise the fiscal year 1992 or fiscal year 1993 standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for the amendment made by paragraph (1).

(3) Effective date.—The amendment made by paragraph (1) shall apply to discharges occurring—

(A) on or after October 1, 1991, in the case of hospitals located in an urban area described in section 1886(d)(8)(C)(iv)(I) of the Social Security Act (as added by paragraph (1)); and

(B) on or after the date of the enactment of this Act, in the case of hospitals located in an urban area described in section...
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1886(d)(8)(C)(iv)(II) of the Social Security Act
(as added by paragraph (1)).

(b) UPDATING STANDARDS FOR TREATING RURAL
COUNTIES AS URBAN COUNTIES BASED ON RATES OF
COMMUTATION.—

(1) IN GENERAL.—Section 1886(d)(8)(B) (42
U.S.C. 1395ww(d)(8)(B)) is amended—
(A) by striking “standards” each place it
appears and inserting “standards most recently
used”, and
(B) by striking “published in the Federal
Register on January 3, 1980”.

(2) HOLD HARMLESS FOR COUNTIES CURRENTLY TREATED AS URBAN.—Any hospital that is
treated as being located in an urban metropolitan
statistical area pursuant to section 1886(d)(8)(B) of
the Social Security Act as of September 30, 1992,
shall continue to be so treated notwithstanding the
amendments made by paragraph (1).

(3) EFFECTIVE DATE.—The amendments made
by paragraph (1) shall be effective on October 1,
1993.

(c) USE OF OCCUPATIONAL MIX IN GUIDELINES.—
(1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I)
(42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by
inserting "(to the extent the Secretary determines appropriate)" after "taking into account".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA-1989.

SEC. 13412. TRANSITION FOR HOSPITAL OUTLIER THRESHOLDS.

Section 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(1) in clause (i), by striking "The Secretary" and inserting "For discharges occurring during fiscal years ending on or before September 30, 1997, the Secretary"; and

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

"(v) The Secretary shall provide that—

"(I) the day outlier percentage for fiscal year 1995 shall be 75 percent of the day outlier percentage for fiscal year 1994;

"(II) the day outlier percentage for fiscal year 1996 shall be 50 percent of the day outlier percentage for fiscal year 1994; and

"(III) the day outlier percentage for fiscal year 1997 shall be 25 percent of the day outlier percentage for fiscal year 1994."
“(vi) For purposes of this subparagraph, the term ‘day outlier percentage’ means, for a fiscal year, the percentage of the total additional payments made by the Secretary under this subparagraph for discharges in that fiscal year which are additional payments under clause (i).”.

SEC. 13413. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) AMENDMENTS.

(a) Increasing Number of Participating States.—Section 1820(a)(1) (42 U.S.C. 1395i–4(a)(1)) is amended by striking “7” and inserting “9”.

(b) Treatment of Inpatient Hospital Services Provided in Rural Primary Care Hospitals.—

(1) In general.—Section 1820(f)(1)(F) (42 U.S.C. 1395i–4(f)(1)(F)) is amended to read as follows:

“(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

“(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be dis-
charged or transferred to a hospital within
72 hours of admission to the facility; or

“(ii) consisting of surgery or any
other service requiring the use of general
anesthesia (other than surgical procedures
specified by the Secretary under section
1833(i)(1)(A)), unless the attending physi-
cian certifies that the risk associated with
transferring the patient to a hospital for
such services outweighs the benefits of
transferring the patient to a hospital for
such services.”.

(2) Limitation on average length of
stay.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is
amended by adding at the end the following new
paragraph:

“(4) Limitation on average length of in-
patient stays.—The Secretary may terminate a
designation of a rural primary care hospital under
paragraph (1) if the Secretary finds that the average
length of stay for inpatients at the facility during
the previous year in which the designation was in ef-
fekt exceeded 72 hours. In determining the compli-
ance of a facility with the requirement of the pre-
vious sentence, there shall not be taken into account
periods of stay of inpatients in excess of 72 hours
to the extent such periods exceed 72 hours because
transfer to a hospital is precluded because of inclement
weather or other emergency conditions.”.

(3) Conforming amendment.—Section
1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by
striking “such services” and all that follows and in-
serting “the individual may reasonably be expected
to be discharged or transferred to a hospital within
72 hours after admission to the rural primary care
hospital.”.

(4) GAO reports.—Not later than 2 years
after the date of the enactment of this Act, the
Comptroller General shall submit reports to Con-
gress on—

(A) the application of the requirements
under section 1820(f) of the Social Security Act
(as amended by this subsection) that rural pri-
mary care hospitals provide inpatient care only
to those individuals whose attending physicians
certify may reasonably be expected to be dis-
charged within 72 hours after admission and
maintain an average length of inpatient stay
during a year that does not exceed 72 hours; and
(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) Designation of Hospitals.—

(1) Permitting designation of hospitals located in urban areas.—

(A) In general.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking “is located” and inserting “except in the case of a hospital located in an urban area, is located”,

(II) by striking “, (ii)” and inserting “or (ii)”,

(III) by striking “or (iii)” and all that follows through “section,”, and
(IV) in subsection (i)(1)(B), by
striking “paragraph (3)” and insert-
ing “paragraph (2)’’.

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42
U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting “lo-
cated in a rural area and’’ after “that is’’, and

(ii) in clause (v), by inserting “located
in a rural area and’’ after “in the case of
a hospital’’.

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PRO-
GRAM.—

(A) IN GENERAL.—Section 1820 (42
U.S.C. 1395i±4) is amended—

(i) by redesignating subsection (k) as
subsection (l); and

(ii) by inserting after subsection (j)
the following new subsection:

“(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN
PARTICIPATING STATES.—Notwithstanding any other
provision of this section—
“(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

“(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

“(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).”.

(B) Conforming Amendments.—(i) Section 1820(c)(1) (42 U.S.C. 1395i–4(c)(1)) is amended by striking “paragraph (3)” and inserting “paragraph (3) or subsection (k)”.

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i–4(i)) are each amended—
(I) in clause (i), by striking “(a)(1)” and inserting “(a)(1) (except as provided in subsection (k))”, and

(II) in clause (ii), by striking “subparagraph (B)” and inserting “subparagraph (B) or subsection (k)’’.

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-4(f)(3)) is amended by striking “because the facility” and all that follows and inserting the following: “because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility’s inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F))”. For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled
nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.”

(e) Payment for Outpatient Rural Primary Care Hospital Services.—

(1) Implementation of Prospective Payment System.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking “during a year before 1993” and inserting “during a year before the prospective payment system described in paragraph (2) is in effect”; and

(B) in paragraph (2), by striking “January 1, 1993,” and inserting “January 1, 1996,”.

(2) No Use of Customary Charge in Determining Payment.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following:

“The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.”.

(f) Clarification of Physician Staffing Requirement for Rural Primary Care Hospitals.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: “, except that in determining whether a facility meets
the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a `physician’ is a reference to a physician as defined in section 1861(r)(1).’’.

(g) **Technical Amendments Relating to Part A Deductible, Coinsurance, and Spell of Illness.—** (1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking “inpatient hospital services” the first place it appears and inserting “inpatient hospital services or inpatient rural primary care hospital services”;

(B) by striking “inpatient hospital services” the second place it appears and inserting “such services”; and

(C) by striking “and inpatient rural primary care hospital services”.

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking “inpatient hospital services” each place it appears and inserting “inpatient hospital services or inpatient rural primary care hospital services”.

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking “inpatient hos-
pital services’’ and inserting ‘‘inpatient hospital services,
inpatient rural primary care hospital services’’.

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amend-
ed—

(A) in paragraphs (1), by striking ‘‘inpatient
hospital services’’ and inserting ‘‘inpatient hospital
services, inpatient rural primary care hospital serv-
ices’’; and

(B) in paragraph (2), by striking ‘‘hospital’’
and inserting ‘‘hospital or rural primary care hos-
pital’’.

(h) Authorization of Appropriations.—Section
1820(k) (42 U.S.C. 1395i-4(k)) is amended by striking
1995’’.

(i) Effective Date.—The amendments made by
this section shall take effect on the date of the enactment
of this Act.

SEC. 13414. RURAL HEALTH TRANSITION GRANT PROGRAM
EXTENSION.

Section 4005(e)(9) of OBRA–1987 is amended—

(1) by striking ‘‘1989 and’’ and inserting
‘‘1989,’”’; and
(2) by striking “1992” and inserting “1992 and $30,000,000 for each of fiscal years 1993 through 1997”.

SEC. 13415. REGIONAL REFERRAL CENTER EXTENSION.

(a) Extension of Classification Through Fiscal Year 1994.—Effective on the date of the enactment of this Act, section 6003(d) of such Act (42 U.S.C. 1395ww note) is amended by striking “October 1, 1992” and inserting “October 1, 1994”.

(b) Permitting Hospitals to Decline Reclassification.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than sec-
tion 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) Requiring Lump-sum Retroactive Payment for Hospitals Losing Classification.—

(1) In general.—In the case of an affected regional referral center (as described in paragraph (2)), the Secretary of Health and Human Services shall make a lump sum payment to the center equal to the difference between the aggregate payment made to the center under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (3) and the aggregate payment that would have been made to the center under such section if, during the period of applicability, the center was classified a regional referral center under section 1886(d)(5)(C) of such Act.

(2) Affected centers described.—In paragraph (1), an “affected regional referral center” is a hospital classified as regional referral center under section 1886(d)(5)(C) of the Social Security Act as of September 30, 1992, that was not classified as such a center after such date but would have been so classified if the reference in section 6003(d) of
OBRA-1989 to “October 1, 1992,” had been deemed a reference to “October 1, 1994.”

(3) Period of applicability.—In paragraph (1), the “period of applicability” is the period that begins on October 1, 1992, and ends on the date of the enactment of this Act.

SEC. 13416. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) Extension of additional payments.—Effective on the date of the enactment of this Act, section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) in clause (i) in the matter preceding subclause (I)—

(A) by inserting “(or portion thereof)” after “cost reporting period”, and

(B) by striking “March 31, 1993,” and all that follows and inserting the following: “September 30, 1994, in the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) shall be equal to the sum of the amount determined under clause (ii) and the amount determined under paragraph (1)(A)(iii).”;

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(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and
(3) by inserting after clause (i) the following new clause:

``'(ii) The amount determined under this clause is—

'(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hospital’s target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii); and

'(II) for discharges occurring during any subsequent cost reporting period (or portion thereof), 50 percent of the amount by which the hospital’s target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii).''.

(b) Permitting Hospitals to Decline Reclassification.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for
fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) Requiring Lump-Sum Retroactive Payment.—

(1) In General.—In the case of a hospital treated as a medicare dependent, small rural hospital under section 1886(d)(5)(G) of the Social Security Act, the Secretary of Health and Human Services shall make a lump sum payment to the hospital equal to the difference between the aggregate payment made to the hospital under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (2) and the aggregate payment that would have been made to the hospital under such section if, during the period
of applicability, section 1886(d)(5)(G) of such Act had been applied as if—

(A) the reference in clause (i) to “March 31, 1993,” had been deemed a reference to “September 30, 1994,”; and

(B) the amendments made by subsection (a) had been in effect.

(2) PERIOD OF APPLICABILITY.—In paragraph (1), the “period of applicability” is, with respect to a hospital, the period that begins on the first day of the hospital’s first 12-month cost reporting period that begins after April 1, 1992, and ends on the date of the enactment of this Act.

SEC. 13417. EXTENSION OF REGIONAL FLOOR.


SEC. 13418. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of OBRA-1990 is amended by adding at the end the following new sentence: “The Secretary shall continue any such demonstration project until at least December 31, 1995.”.
SEC. 13419. HEMOPHILIA PASS-THROUGH EXTENSION.

Effective as if included in the enactment of OBRA-1989, section 6011(d) of such Act is amended by striking "2 years after the date of enactment of this Act" and inserting "September 30, 1994".

SEC. 13420. STATE HOSPITAL PAYMENT PROGRAMS.

In the case of a State hospital reimbursement system that meets the requirements of section 1814(b)(3) of the Social Security Act, no other provision of law shall be construed as preventing the system from providing that payment for services covered under the system be made on the basis of rates provided for under the system.

SEC. 13421. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 13422. GRADUATE MEDICAL EDUCATION PAYMENTS IN HOSPITAL-OWNED COMMUNITY HEALTH CENTERS.

Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by inserting after "the hospital" the following: "or providing services at any entity receiving a grant under section 330 of the Public
Health Service Act that is under the ownership or control of the hospital (if the hospital incurs all, or substantially all, of the costs of the services furnished to the hospital by such interns and residents)’’.

SEC. 13423. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any recoupment action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for services provided during the period beginning October 1, 1986, and ending December 31, 1989, except to the extent that funds were obligated to the Uniformed Services Treatment Facilities program to fulfill such an action pursuant to title VI of the Department of Defense Appropriations Act, 1993.

(2) FACILITIES DESCRIBED.—The facilities referred to in paragraph (1) are the hospitals described in section 248c of title 42, United States
Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(b) Study of Joint Medical Facilities.—

(1) Study.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall conduct a study of the feasibility and desirability of establishing joint medical facilities among the Department of Defense, the Department of Veterans’ Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facilities.

(2) Report.—Not later than October 1, 1993, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under paragraph (1).

SEC. 13424. EPILEPSY DRG.

(a) In General.—The Secretary of Health and Human Services shall review the diagnosis-related groups established pursuant to section 1886(d)(4) of the Social Security Act that are assigned to discharges of patients with intractable epilepsy, including patients whose admis-
sions involve intensive neurodiagnostic monitoring, and shall revise, for discharges occurring on or after October 1, 1994, the assignment of discharges to such groups as the Secretary considers appropriate to account for the resource requirements of such patients.

(b) Consultation Requirements.—In carrying out subsection (a), the Secretary shall consult with the Prospective Payment Assessment Commission and national organizations representing individuals with epilepsy or individuals and entities providing specialized medical services to such individuals related to the treatment of epilepsy.

SEC. 13425. SKILLED NURSING FACILITY WAGE INDEX.

(a) In General.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) P r o PAC Report.—The Prospective Payment Assessment Commission shall, by March 1, 1994, study and report to the Congress on the impact of applying rou-
Sec. 13426. HOSPICE NOTIFICATION TO BENEFICIARIES.

(a) Hospitals.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting “, including hospice services,” after “post-hospital services”.

(b) Nursing Facilities.—Section 1819(c)(1)(B) (42 U.S.C. 1395i–3(c)(1)(B)) is amended—

(1) by striking “and” at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting “; and”;

(3) by inserting after clause (iii) the following new clause:

“(iv) inform each resident who is entitled to benefits under this title, orally and in writing at the time of admission to the facility, of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the facility to refer patients to hospice programs located outside such geographic area).”.
(c) **Effective Date.**—The amendments made by this section shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

**SEC. 13427. REDUCTION IN PART A PREMIUM FOR CERTAIN INDIVIDUALS WITH 30 OR MORE QUARTERS OF SOCIAL SECURITY COVERAGE.**

(a) **In General.**—Section 1818(d) (42 U.S.C. 1395i–2(d)) is amended—

(1) in the second sentence of paragraph (2), by striking “Such amount” and inserting “Subject to paragraph (4), the amount of an individual’s monthly premium under this section”; and

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

“(4)(A) In the case of an individual described in subparagraph (B), the monthly premium for a month shall be reduced by the applicable reduction percent specified in the following table:

<table>
<thead>
<tr>
<th>For a month in:</th>
<th>The applicable reduction percent is:</th>
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<tbody>
<tr>
<td>1994</td>
<td>25 percent</td>
</tr>
<tr>
<td>1995</td>
<td>30 percent</td>
</tr>
<tr>
<td>1996</td>
<td>35 percent</td>
</tr>
<tr>
<td>1997</td>
<td>40 percent</td>
</tr>
<tr>
<td>1998 or subsequent year</td>
<td>45 percent.</td>
</tr>
</tbody>
</table>

“(B) An individual described in this subparagraph with respect to a month is an individual who establishes
to the satisfaction of the Secretary that, as of the last
day of the previous month, the individual—

“(i) had at least 30 quarters of coverage under
title II;

“(ii) was married (and had been married for
the previous 1 year period) to an individual who had
at least 30 quarters of coverage under such title;

“(iii) had been married to an individual for a
period of at least 1 year (at the time of the individ-
ual’s death) if at such time the individual had at
least 30 quarters of coverage under such title; and

“(iv) is divorced from an individual and had
been married to the individual for a period of at
least 10 years (at the time of the divorce) if at such
time the individual had at least 30 quarters of cov-
erage under such title.”.

(b) E F F E C T I V E D A T E.—The amendments made by
this section shall apply to monthly premiums under section
1818 of the Social Security Act for months beginning with
SEC. 13428. PERIODIC UPDATES TO SALARY EQUIVALENCY
GUIDELINES FOR PHYSICAL THERAPY AND
RESPIRATORY THERAPY SERVICES.
(a) In General.—Section 1861(v)(5) (42 U.S.C. 1395x(v)(5)) is amended by adding at the end the following new subparagraph:
``(C) Using the most recent available data, the Secretary shall update, not less often than every 3 years, the salary equivalency guidelines used under subparagraph (A) with respect to physical therapy and respiratory therapy services."``.
(b) Effective Date.—The Secretary of Health and Human Services shall first update the salary equivalency guidelines, under the amendment made by subsection (a), by not later than December 31, 1993. Such updated guidelines shall apply to cost reporting periods beginning on or after July 1, 1993.

SEC. 13429. EXTENSION OF DEADLINE FOR APPLICATION FOR GEOGRAPHIC CLASSIFICATION FOR CERTAIN RECLASSIFIED HOSPITALS.
Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board requesting a change in geographic classification for fiscal year 1994 after the first day of fiscal year 1993 if—
(1) the hospital’s geographic classification for fiscal year 1994 was changed from urban to rural as a result of the issuance of the Revised Statistical Definitions for Metropolitan Areas established by the Office of Management and Budget on December 28, 1992 (pursuant to OMB Bulletin No. 93-05); and

(2) the hospital submits the application not later than 60 days after the date of the enactment of this Act.

SEC. 13430. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) Clarification of DRG Payment Window Expansion.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is further amended by striking “and includes” and inserting “and (in the case of a subsection (d) hospital) includes”.

(b) Technical Correction Relating to Resident Assessment in Nursing Homes.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking “not later than” before “14 days”.

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking “such agency” and inserting “such agency’s”.

(3) Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking “, the sum of” and inserting “is equal to the sum of”.

CHAPTER 2—PROVISIONS RELATING TO PART B

Subchapter A—Elimination of Inflation Update

SEC. 13431. ELIMINATION OF INFLATION UPDATE FOR PHYSICIAN AND RELATED PROFESSIONAL SERVICES.

(a) NO INCREASE IN INDEX.—Section 1848(d)(3)(A) (42 U.S.C. 1395w±4(d)(3)(A)) is amended—

(1) in clause (i), by striking “clause (iii)” and inserting “clauses (iii) and (iv)”, and

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

“(iv) NO INCREASE IN INDEX FOR 1994 OR 1995.—In applying clause (i) for services furnished on or after January 1, 1994, the percentage increase in the appropriate update index for each of 1994 and 1995 shall be 0 percent.”.

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(b) No Increase in MEI for 1994 and 1995.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

“(vi) For purposes of this part for items and services furnished in 1994 or 1995, the percentage increase in the MEI is 0 percent.”.

SEC. 13432. ELIMINATION OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN ITEMS AND SERVICES.


(1) by striking “and” at the end of subclause (II),
(2) by striking the period at the end of subclause (III) and inserting “, and”, and
(3) by adding at the end the following new subclause:

“(IV) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1994 and 1995 shall be 0 percent.”.

(b) Durable Medical Equipment.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (A), as amended by 13469(a), by striking “and” at the end;
(A) by striking “a subsequent year” and inserting “1993”, and

(B) by striking “June of the previous year.” and inserting “June 1992,”; and

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

“(C) for 1994 and 1995, no percentage change, and

“(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-
month period ending with June of the previous year.”.

(c) Orthotics and Prosthetics.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) in clause (i), by striking “and”;

(2) in clause (ii), by striking “a subsequent year” and inserting “1992 and 1993”; and

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

“(iii) for 1994 and 1995, 0 percent, and

“(iv) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United
States city average) for the 12-month period ending with June of the previous year;¨.

(d) **Reasonable Charge Limits for Enteral and Parenteral Nutrients, Supplies and Equipment.**—In determining the amount of payment under part B of title XVIII of the Social Security Act during 1994 and 1995, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

**SEC. 13433. Ambulatory Surgical Center Services.**

(a) **Elimination of Inflation Update.**—The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for fiscal year 1994 or for fiscal year 1995.

(b) **Conforming Amendment.**—Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)), as added by section 13453(a)(2)(B), is amended by striking “fiscal year 1995” and inserting “fiscal year 1996”.

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SEC. 13434. OTHER ITEMS AND SERVICES UNDER PART B.

(a) Rural Health Clinic Services; Federally-Qualified Health Center Services; Comprehensive Outpatient Rehabilitation Facility Services.—In determining the amount of payment made for rural health clinic services, Federally qualified health center services, or comprehensive outpatient rehabilitation facility services furnished under part B of title XVIII of the Social Security Act for services furnished on or after January 1, 1994, the Secretary of Health and Human Services shall provide that any inflation update, in the applicable limits used to determine the costs which are reasonable and related to the cost of furnishing such services under section 1833(a)(3) of such Act, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.

(b) Dialysis Services.—In determining the amount of payment made for dialysis services furnished under part B of title XVIII of the Social Security Act on or after January 1, 1994, the Secretary of Health and Human Services shall provide that any inflation update, in the payment amounts determined under section 1881(b)(2)(B) of such Act or the rates determined under section 1881(b)(7) of such Act, that would otherwise have applied for 1994 or for 1995 shall be deemed to be 0 percent.
(c) Other Part B Items and Services.—In determining the amount of payment made for an item or service furnished under part B of title XVIII of the Social Security Act on or after January 1, 1994, other than an item or service to which a preceding provision of (or amendment made by) this subchapter applies, the Secretary of Health and Human Services shall provide that any inflation 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 per-
formed as part of or in conjunction with a visit
to or a consultation with a physician, and

“(B) shall adjust the relative values estab-
lished for visits and consultations under sub-
section (c) so as not to include relative value
units for interpretations of electrocardiograms
in the relative value for visits and consult-
tations.”.

(b) ASSURING BUDGET NEUTRALITY.—Section
1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by add-
ing at the end the following new subparagraph:

“(E) BUDGET NEUTRALITY ADJUST-
MENTS.—The Secretary—

“(i) shall reduce the relative values
for all services (other than anesthesia serv-
ices) established under this paragraph
(and, in the case of anesthesia services, the
conversion factor established by the Sec-
retary for such services) by such percent-
age as the Secretary determines to be nec-
ecessary so that, beginning in 1996, the
amendment made by section 13441(a) of
the Omnibus Budget Reconciliation Act of
1993 would not result in expenditures
under this section that exceed the amount
of such expenditures that would have been
made if such amendment had not been
made, and

“(ii) shall reduce the amounts deter-
dined under subsection (a)(2)(B)(i)(I) by
such percentage as the Secretary deter-
mines to be required to assure that, taking
into account the reductions made under
clause (i), the amendment made by section
13441(a) of the Omnibus Budget Rec-
conciliation Act of 1993 would not result in
expenditures under this section in 1993
that exceed the amount of such expendi-
tures that would have been made if such
amendment had not been made.”.

(c) Conforming Amendments.—Section 1848 (42
U.S.C. 1395w-4) is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting
“and as adjusted under subsection (c)(2)(E)(ii)”
after “for 1993”;

(2) in subsection (c)(2)(A)(i), by adding at the
end the following: “Such relative values are subject
to adjustment under subparagraph (E)(i).”; and
(3) in subsection (i)(1)(B), by adding at the end "including adjustments under subsection (c)(2)(E),".

(d) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 13442. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) Equal Treatment of New Physicians and Practitioners.—(1) Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) Budget Neutrality Adjustment.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1993 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1993 that exceed the amount of such expenditures that would have been made if such amendments had not been made:
(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(i)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) Conforming Amendments.—Section 1848 (42 U.S.C. 1395w-4), as amended by section 13441(c), is amended—


(2) in subsection (c)(2)(A)(i), by inserting “and section 13442(b) of the Omnibus Budget Reconciliation Act of 1993” after “under subparagraph (E)(i)”;

(3) in subsection (i)(1)(B), by inserting “and section 13442(b) of the Omnibus Budget Reconcili-
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1 action Act of 1993” after “under subsection
2 (c)(2)(E)”.
3
4 (d) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall apply to services furnished on or after

6 SEC. 13443. RETAINING PAYMENT FOR ACTUAL ANESTHESIA TIME.

7 (a) PHYSICIANS’ SERVICES.—Section 1848(b)(2)(B)
8 (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at
9 the end the following: “The Secretary may not modify the
10 methodology in effect as of January 1, 1992, for determi-
11 ning the amount of time that may be billed for such services
12 under this section.”.
13
14 (b) SERVICES OF CERTIFIED REGISTERED NURSE
15 ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C.
16 1395l(l)(1)(B)) is amended by adding at the end the fol-
17 lowing: “The Secretary may not modify the methodology
18 in effect as of January 1, 1992, for determining the
19 amount of time that may be billed for such services under
20 this section.”.
21
22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take apply to services furnished on or
24 after the date of the enactment of this Act.
SEC. 13444. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) Requiring Consultation with Representatives of Physicians in Reviewing Geographic Adjustment Factors.—Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)) is amended by striking “shall review” and inserting “shall, in consultation with appropriate representatives of physicians, review”.

(b) Use of Most Recent Data In Geographic Adjustment.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

“(D) Use of recent data.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.”.

(c) Deadline for Initial Review and Revision.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995. Not later than April 1, 1994, the Secretary shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy...
and Commerce of the House of Representatives on the construction of the geographic cost of practice index under section 1848(e)(1)(A)(i) of such Act.

(d) Report on Review Process.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians’ work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative
data sources for input components for which current
index values are based on data collected less fre-
quently than every three years; and
(4) the costs of developing more accurate and
timely data.
(e) DEVELOPMENT OF CRITERIA FOR USE IN DE-
TERMINING PAYMENT LOCALITIES.—The Physician Pay-
ment Review Commission shall conduct a study to develop
criteria that would be used to refine the fee schedule areas
that are used within States, in applying geographic adjust-
ment factors for computing payment amounts, under sec-
tion 1848 of the Social Security Act. The Commission
shall include a report on such study in its recommenda-
tions submitted to the Congress under section 1845(b) of
such Act in 1994.
SEC. 13445. EXTRA-BILLING.
(a) ENFORCEMENT AND UNIFORM APPLICATION.—
(1) ENFORCEMENT.—Paragraph (1) of section
1848(g) (42 U.S.C. 1395w-4(g)) is amended to read
as follows:
“(1) LIMITATION ON ACTUAL CHARGES.—
“(A) IN GENERAL.—In the case of a
nonparticipating physician or nonparticipating
supplier or other person (as defined in section
1842(i)(2)) who does not accept payment on an
assignment-related basis for a physician’s service furnished with respect to an individual enrolled under this part, the following rules apply:

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(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the phy-
sician, supplier, or other person shall pro-
vide on a timely basis a refund to the indi-
vidual charged in the amount by which the
amount collected exceeded the limiting
charge for the service. The amount of such
a refund shall be reduced to the extent the
individual has an outstanding balance owed
by the individual to the physician.

“(B) SANCTIONS.—If a physician, supplier,
or other person—

“(i) knowingly and willfully bills or
collects for services in violation of subpara-
graph (A)(i) on a repeated basis, or

“(ii) fails to comply with clause (iii)
or (iv) of subparagraph (A) on a timely
basis,

the Secretary may apply sanctions against the
physician, supplier, or other person in accord-
ance with paragraph (2) of section 1842(j). In
applying this subparagraph, paragraph (4) of
such section applies in the same manner as
such paragraph applies to such section and any
reference in such section to a physician is
deemed also to include a reference to a supplier
or other person under this subparagraph.
“(C) Timely basis.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided ‘on a timely basis’, if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).”.

(2) Uniform application of extra-billing limits to physicians’ services.—

(A) In general.—Section 1848(g)(2)(C) (42 U.S.C. 1395w–4(g)(2)(C)) is amended by inserting “‘or for nonparticipating suppliers or other persons’” after “nonparticipating physicians”.

(B) Conforming definition.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking “‘, and the term’” and inserting “‘; the term’, and

(ii) by inserting before the period at the end the following: “‘; and the term ‘nonparticipating supplier or other person’
means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))’’.

(b) PRE-PAYMENT SCREENING OF CLAIMS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

‘‘(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

‘‘(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2); ‘‘(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and ‘‘(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;’’.
(c) Information on Extra-Billing Limits.—

(1) Part of explanation of Medicare benefits.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking “and” at the end of subparagraph (B),

(B) in subparagraph (C), by striking “shall include” and by striking the period at the end and inserting “, and”, and

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

“(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).”.

(2) Report on charges in excess of limiting charge.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting “the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and” after “report to the Congress”.
(d) Applying the Limiting Charge to Nonphysician Services Provided Under the Physician Fee Schedule.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) in subsection (a)(3), by inserting “AND SUPPLIERS” after “PHYSICIANS”, and by inserting “or a nonparticipating supplier or other person” after “nonparticipating physician” and by adding at the end the following: “In the case of physicians’ services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.”;

(2) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting “(including services which the Secretary excludes pursuant to subsection (j)(3))” after “a physician’s service”;

(3) in subsection (g)(2)(D), by inserting “(or, if payment under this part is made on a basis other
than the fee schedule under this section, 95 percent of the other payment basis)’’ after ‘‘subsection (a)’’;

(4) in subsection (g)(3)(B)—

(A) by inserting after the first sentence the following: ‘‘No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.’’, and

(B) in the last sentence, by striking ‘‘previous sentence’’ and inserting ‘‘first sentence’’;

(5) in subsection (h)—

(A) by inserting ‘‘or nonparticipating supplier or other person furnishing physicians’ services (as defined in section 1848(j)(3))’’ after ‘‘physician’’ the first place it appears,

(B) by inserting ‘‘, supplier, or other person’’ after ‘‘physician’’ the second place it appears, and

(C) by inserting ‘‘, suppliers, and other persons’’ after ‘‘physicians’’ the second place it appears; and

(6) in subsection (j)(3), by inserting ‘‘, except for purposes of subsections (a)(3), (g), and (h)’’ after ‘‘tests and’’.

(e) Clarification of Mandatory Assignment Rules for Certain Practitioners.—
IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 13449(e), is amended by adding at the end the following new paragraph:

“(18)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

“(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of section 1842(j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.
“(C) A practitioner described in this subparagraph is any of the following:

“(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

“(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

“(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

“(iv) A clinical social worker (as defined in section 1861(hh)(1)).

“(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

“(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician’s service.”.

(2) Conforming amendments.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);
(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(f) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1), as amended by section 13479(e)(2)—

(A) by striking “and” before “(O)”, and

(B) by inserting before the semicolon at the end the following: “, and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)”;

(2) in subsection (h)(5)(D)—

(A) by striking “paragraphs (2) and (3)” and by inserting “paragraph (2)”, and

(B) by adding at the end the following: “Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.”.
(g) Effective Dates.—

(1) Enforcement and Uniform Application; Miscellaneous and Technical Amendments.—The amendments made by subsections (a), (d), and (f) shall apply to services furnished on or after the date of the enactment of this Act; except that such amendments made by subsections (a) and (d) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) Carrier Determinations.—The amendments made by subsection (b) shall apply to contracts as of January 1, 1994.

(3) EOMBs.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) Report.—The amendment made by subsection (c)(2) shall apply to reports for years beginning with 1994.

(5) Practitioners.—The amendments made by subsection (e) shall apply to services furnished on or after January 1, 1994.

Sec. 13446. Relative Values for Pediatric Services.

(a) In General.—The Secretary of Health and Human Services shall fully develop, by not later than July
1, 1994, relative values for the full range of pediatric physi-
sicians’ services which are consistent with the relative val-
ues developed for other physicians’ services under section
1848(c) of the Social Security Act. In developing such val-
ues, the Secretary shall conduct such refinements as may
be necessary to produce appropriate estimates for such rel-
ative values.

(b) Study.—

(1) In general.—The Secretary shall conduct a study of the relative values for pediatric and other
services to determine whether there are significant variations in the resources used in providing similar
services to different populations. In conducting such study, the Secretary shall consult with appropriate
organizations representing pediatricians and other physicians.

(2) Report.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the
study conducted under paragraph (1). Such report shall include any appropriate recommendations re-
garding needed changes in coding or other payment policies to ensure that payments for pediatric serv-
ices appropriately reflect the resources required to provide these services.
SEC. 13447. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) In General.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(2)(G)," after "(2)(D),".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1995.

SEC. 13448. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) Limitation on Carrier User Fees.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of claims related to physicians' services,

"(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining) a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services."
(b) Clarification of Permissible Substitute Billing Arrangements.—

(1) In general.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 13449(f), is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician".

(2) Effective date.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning
more than 60 days after the date of the enactment of this Act.

SEC. 13449. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ``, simple and subcutaneous'',

(B) by striking ``; small'' and inserting ``and small'',

(C) by striking ``treatments;'' the first place it appears and inserting ``and'',

(D) by striking ``lobectomy;'',

(E) by striking ``enterectomy; colectomy; cholecystectomy;'',

(F) by striking ``; transurerethral resection'' and inserting ``and resection'', and

(G) by striking ``sacral laminectomy;''.

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking ``1842(b)(16)'' and inserting ``1842(b)(16)(B)'', and

(B) in subparagraph (B)—

(i) by striking ``, simple and subcutaneous'',
(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and
(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260)."

(b) Radiology Services (Section 4102 of OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—
(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:"
(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for"
(C) in clause (vii), by striking "under this subparagraph", and
(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".
(3) Section 4102(c)(2) of OBRA-1990 is amended by striking “radiology services” and all that follows and inserting “nuclear medicine services.”.

(4) Section 4102(d) of OBRA-1990 is amended by striking “new paragraph” and inserting “new subparagraph”.

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting “RULE FOR CERTAIN SCANNING SERVICES.—” after “(E)”.

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-4(a)(2)(D)(iii)) is amended by striking “that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989” and by striking “provided under such section” and inserting “provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989”.

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is amended by striking “REDUCTION IN FEE SCHEDULE” and inserting “REDUCTION IN PREVAILING CHARGES”.

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking “shall be determined as follows:” and inserting “shall, subject to clause (iv), be reduced to the ad-
justed prevailing charge conversion factor for the locality determined as follows:”, and

(B) in clause (iii), by striking “Subject to clause (iv), the prevailing charge conversion factor to be applied in” and inserting “The adjusted prevailing charge conversion factor for”.

(d) Assistants at Surgery (Section 4107 of OBRA-1990).—(1) Section 4107(c) of OBRA-1990 is amended by inserting “(a)(1)” after “subsection”.

(2) Section 4107(a)(2) of OBRA-1990 is amended by adding at the end the following: “In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).”.

(e) Technical Components of Diagnostic Services (Section 4108 of OBRA-1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA-1990, as paragraph (17) and, in such paragraph, by inserting “, tests specified in paragraph (14)(C)(i),” after “diagnostic laboratory tests”.

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(f) Reciprocal Billing Arrangements (Section 4110 of OBRA-1990).—Section 1842(b)(6)(D) (42 U.S.C. 1395u(b)(6)(D)) is amended—

(1) by striking “visit services (including emergency visits and related services)” and inserting “physicians’ services (and services furnished incident to such services)”;

(2) by striking “on an occasional, reciprocal basis” and inserting “under an arrangement that is informal and reciprocal or involves per diem or other fee-for-time compensation for services”;

(3) by striking “visit” in subclauses (i), (ii), and (iv); and

(4) in subclause (iii), by striking “the claim” and all that follows through the comma at the end and inserting “the claim meets the requirements of this clause for payment to the first physician”.

(g) Study of Aggregation Rule for Claims of Similar Physician Services (Section 4113 of OBRA-1990).—Section 4113 of OBRA-1990 is amended—

(1) by inserting “of the Social Security Act” after “1869(b)(2)”; and

(2) by striking “December 31, 1992” and inserting “December 31, 1993”.

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(h) **STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA-1990).**—Section 4117 of OBRA-1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the‘ and all that follows through ‘1991, ‘; and

(2) by striking subsections (b), (c), and (d).

(i) **OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.**—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA-1990 is amended—

(i) in paragraph (2), by striking “amendments” and inserting “amendment”, and

(ii) in paragraph (3), by striking “amendments made by paragraphs (1) and (2)” and inserting “amendment made by paragraph (1)’.

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-4(f)(2)(C)) is amended by inserting “PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—” after “(C)”.

(C) Section 4105(d) of OBRA-1990 is amended by inserting “PUBLICATION OF PERFORMANCE STANDARD RATES.—” after “(d)”. 
(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking “prevailing charge” the first place it appears and inserting “customary charge”; and

(B) in clause (ii)(III), by striking “second, third, and fourth” and inserting “first, second, and third”.


(5) Section 4106(c) of OBRA-1990 is amended by inserting “of the Social Security Act” after “1848(d)(1)(B)”.

(6) Section 4114 of OBRA-1990 is amended by striking “patients” the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)) is amended by inserting “date of the” after “since the”.

(8) Section 4118(f)(1)(D) of OBRA-1990 is amended by striking “is amended”.

(10) Section 1845(e) (42 U.S.C. 1395w-1(e)) is amended—
(A) by striking paragraph (2); and
(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).
(11) Section 4118(j)(2) of OBRA-1990 is amended by striking “In section” and inserting “Section”.
(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-4(i)(3)) is amended by striking the space before the period at the end.
(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—
(i) by striking “apply to” and inserting “would otherwise apply to”, and
(ii) by inserting before the period at the end “but for the application of section 1848(i)(3)”.
(j) EFFECTIVE DATE.—The amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA-1990.

Subchapter C—Ambulatory Surgical Center Services

SEC. 13451. DESIGNATION OF CERTAIN HOSPITALS AS EYE OR EYE AND EAR HOSPITALS.
(a) In General.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—
(1) in subparagraph (B)(ii)—

(A) by striking “the last sentence of this clause” and inserting “paragraph (4)”, and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

“(4)(A) In the case of a hospital that—

“(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

“(ii) receives more than 30 percent of its total revenues from outpatient services, and

“(iii) on October 1, 1987—

“(I) was an eye specialty hospital or an eye and ear specialty hospital, or

“(II) was operated as an eye or eye and ear unit (as defined in subparagraph (B)) of a general acute care hospital which, on the date of the application described in clause (i), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital’s other acute care operations,
the cost proportion and ASC proportion in effect under subclauses (I) and (II) of paragraph (2)(B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

“(B) For purposes of this subparagraph (A)(iii)(II), the term ‘eye or eye and ear unit’ means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.”.

(b) **Effective Date.**—The amendments made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1994.

**SEC. 13452. TREATMENT OF INTRAOCULAR LENSES.**

(a) **Extension of Cap on Payments Through 1994.**—

(1) **In General.**—Section 4151(c)(3) of OBRA-1990 is amended by striking “December 31, 1992” and inserting “December 31, 1994”.

(2) **Effective Date.**—The amendment made by paragraph (1) this subsection shall be effective as if included in the enactment of OBRA-1990.

(b) **Study of Costs of Intraocular Lenses.**—

(1) **Study.**—The Secretary of Health and Human Services shall conduct a study, based on recent data, of the acquisition costs to providers of
intraocular lenses provided to individuals enrolled under part B of the medicare program and shall include in the study an analysis of the impact of the availability of new technology lenses on such costs.

(2) R EPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and shall include in the report any recommendations the Secretary considers appropriate regarding the determination of payment amounts for intraocular lenses under part B of the medicare program.

SEC. 13453. TECHNICAL AMENDMENTS.

(a) P AYMENT AMOUNTS FOR SERVICES FURNISHED IN A MBULATORY SURGICAL CENTERS.—

(1) U SE OF SURVEY TO DETERMINE INCURRED COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: “, as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1994, and every 5
years thereafter, of the actual audited costs incurred by such centers in providing such services,‘‘.

(2) Automatic application of inflation adjustment.—Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking ‘‘and may be adjusted by the Secretary, when appropriate,‘‘; and

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

(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1995), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.‘‘.

(3) Consultation requirement.—The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ‘‘, in consultation with appropriate trade and professional organizations.’’. 
(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—

(1) Establishment of process for review of amounts.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) Factors considered.—In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual
acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) NOTICE AND COMMENT.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) EFFECTIVE DATE OF ADJUSTMENT.—Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

(c) TECHNICAL CORRECTION RELATING TO BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—
(A) by striking “for reporting” and inserting “for portions of cost reporting”; and

(B) by striking “and on or before” and inserting “and ending on or before”.

(2) Effective Date.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA-1990.

(d) Technical Correction Related to Cataract Surgery.—Effective as if included in the enactment of OBRA-1990, section 4151(c)(3) of such Act is amended by striking “for the insertion of an intraocular lens” and inserting “for an intraocular lens inserted”.

Subchapter D—Durable Medical Equipment

SEC. 13461. CERTIFICATION OF SUPPLIERS.

(a) Requirements.—

(1) In general.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

 ``(i) Requirements for Suppliers of Medical Equipment and Supplies.—

 ``(1) Issuance and renewal of supplier number.—

 ``(A) Payment.—Except as provided in subparagraph (C), no payment may be made under this part after October 1, 1993, for items
furnished by a supplier of medical equipment
and supplies unless such supplier obtains (and
renews at such intervals as the Secretary may
require) a supplier number.

“(B) STANDARDS FOR POSSESSING A SUP-
PLIER NUMBER.—A supplier may not obtain a
supplier number unless—

“(i) for medical equipment and sup-
plies furnished on or after October 1,
1993, and on or before December 31,
1994, the supplier meets standards pre-
scribed by the Secretary; and

“(ii) for medical equipment and sup-
plies furnished on or after January 1,
1995, the supplier meets revised standards
prescribed by the Secretary (in consulta-
tion with representatives of suppliers of
medical equipment and supplies, carriers,
and consumers) that shall include require-
ments that the supplier—

“(I) comply with all applicable
State and Federal licensure and regu-
latory requirements;

“(II) maintain a physical facility
on an appropriate site;
“(III) have proof of appropriate liability insurance; and
“(IV) meet such other requirements as the Secretary may specify.
“(C) Exception for Items Furnished as Incident to a Physician’s Service.—
Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished as an incident to a physician’s service.
“(D) Prohibition Against Multiple Supplier Numbers.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier’s ownership or control.
“(E) Prohibition Against Delegation of Supplier Determinations.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.
“(2) Certificates of Medical Necessity.—
“(A) Standardized certificates.—Not later than October 1, 1993, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in subparagraph (C)) for medical equipment and supplies for which the Secretary determines that such a certificate is necessary.

“(B) Prohibition against distribution by suppliers of certificates of medical necessity.—

“(i) In general.—Except as provided in clause (ii), a supplier of medical equipment and supplies may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity on or after October 1, 1993.

“(ii) Exception for certain billing information.—Clause (i) shall not apply with respect to a certificate of medical necessity for any item that is not contained on the list of potentially overused items developed by the Secretary under
subsection (a)(15)(A) to the extent that such certificate contains only information completed by the supplier of medical equipment and supplies identifying such supplier and the beneficiary to whom such medical equipment and supplies are furnished, a description of such medical equipment and supplies, any product code identifying such medical equipment and supplies, and any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary. In the event a supplier provides a certificate of medical necessity containing information permitted under this clause, such certificate shall also contain the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(iii) Penalty.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) is subject to a civil money penalty in an
amount not to exceed $1,000 for each such
certificate of medical necessity so distrib-
uted. The provisions of section 1128A
(other than subsections (a) and (b)) shall
apply to civil money penalties under this
subparagraph in the same manner as they
apply to a penalty or proceeding under sec-
tion 1128A(a).

“(C) D E F I N I T I O N.—For purposes of this
paragraph, the term ‘certificate of medical ne-
cessity’ means a form or other document con-
taining information required by the Secretary to
be submitted to show that a covered item is
reasonable and necessary for the diagnosis or
treatment of illness or injury or to improve the
functioning of a malformed body member.

“(3) C O V E R A G E A N D R E V I E W C R I T E R I A .—

“(A) D E V E L O P M E N T A N D E S T A B L I S H-
M E N T.—Not later than January 1, 1995, the
Secretary, in consultation with representatives
of suppliers of medical equipment and supplies,
individuals enrolled under this part, and appro-
date medical specialty societies, shall develop
and establish uniform national coverage and
utilization review criteria for 200 items of medi-
cal equipment and supplies selected in accord-
ance with the standards described in subpara-
graph (B). The Secretary shall publish the cri-
teria as part of the instructions provided to fis-
cal intermediaries and carriers under this part
and no further publication, including publica-
tion in the Federal Register, shall be required.

“(B) STANDARDS FOR SELECTING ITEMS
SUBJECT TO CRITERIA.—The Secretary may se-
lect an item for coverage under the criteria de-
veloped and established under subparagraph
(A) if the Secretary finds that—

“(i) the item is frequently purchased
or rented by beneficiaries;

“(ii) the item is frequently subject to
a determination that such item is not
medically necessary; or

“(iii) the coverage or utilization cri-
teria applied to the item (as of the date of
the enactment of this subsection) is not
consistent among carriers.

“(C) ANNUAL REVIEW AND EXPANSION OF
ITEMS SUBJECT TO CRITERIA.—The Secretary
shall annually review the coverage and utiliza-
tion of items of medical equipment and supplies
to determine whether items not included among the items selected under subparagraph (A) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

“(4) Definition.—The term ‘medical equipment and supplies’ means—

“(A) durable medical equipment (as defined in section 1861(n));

“(B) prosthetic devices (as described in section 1861(s)(8));

“(C) orthotics and prosthetics (as described in section 1861(s)(9));

“(D) surgical dressings (as described in section 1861(s)(5));

“(E) such other items as the Secretary may determine; and

“(F) for purposes of paragraphs (1) and (3)—

“(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)), and

“(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)).”.
(2) **Conforming Amendment.**—Effective October 1, 1993, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) **Report on Effect of Uniform Criteria on Utilization of Items.**—Not later than July 1, 1995, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under section 1834(i)(3)(A) of the Social Security Act (as added by subsection (a)) on the utilization of items of medical equipment and supplies by individuals enrolled under part B of the medicare program.

(c) **Use of Covered Items by Disabled Beneficiaries.**—

(1) **In General.**—The Secretary of Health and Human Services in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of
such individuals to obtain items of such equipment, including customized items.

(2) **REPORT.**—Not later than May 1, 1994, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(d) **CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETICS DEVICES OR ORTHOTICS AND PROSTHESES.**—Not later than July 1, 1994, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.
SEC. 13462. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) In General.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

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(12) USE OF CARRIERS TO PROCESS CLAIMS.—

(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate regional carrier (as designated by the Secretary).

(ii) For purposes of clause (i), the term ‘appropriate regional carrier’ means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.’’.
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(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after October 1, 1993.
(c) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

SEC. 13463. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

````(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—
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item the supplier has already furnished to the individual) unless—

“(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

“(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

“(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

“(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier’s conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the
programs under this Act, in accordance with
the procedures set forth in subsections (c), (f),
and (g) of section 1128.''.

(2) Requiring refund of amounts collected for
disallowed items.—Section 1834(a)
(42 U.S.C. 1395m(a)), as amended by paragraph
(1), is amended by adding at the end the following
new paragraph:

``(18) Refund of amounts collected for

certain disallowed items.—

``(A) In general.—If a nonparticipating
supplier furnishes to an individual enrolled
under this part a covered item for which no
payment may be made under this part by rea-
son of paragraph (17)(B), the supplier shall re-
fund on a timely basis to the patient (and shall
be liable to the patient for) any amounts col-
lected from the patient for the item, unless—

``(i) the supplier establishes that the
supplier did not know and could not rea-
sonably have been expected to know that
payment may not be made for the item by
reason of paragraph (17)(B), or

``(ii) before the item was furnished,
the patient was informed that payment
under this part may not be made for that item and the patient has agreed to pay for that item.

“(B) SAnctions.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

“(C) N otice.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

“(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

“(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or
“(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.”.

(b) Conforming Amendment.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking “Paragraph (12)” and inserting “Paragraphs (12) and (17)”.

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 13464. ANTI-KICKBACK CLARIFICATION.

(a) In General.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7(b)(3)(B)) is amended by inserting before the semicolon “(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits
under part B of title XVIII, or performance of warehousing or stock inventory functions).”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services furnished on or after the first day of the first month that begins after the expiration of the 60-day period beginning on the date of the enactment of this Act.

SEC. 13465. LIMITATIONS ON BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) IN GENERAL.—Section 1834(i) (42 U.S.C. 1395m(i)), as added by section 13461(a)(1), is amended—

(1) by redesignating paragraph (4) as paragraph (5), and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) LIMITATION ON PATIENT LIABILITY.—If a supplier of medical equipment and supplies (as defined in paragraph (5))—

“(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1); or

“(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or
“(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);
any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.”.

(2) **Conforming Amendment.**—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)), as amended by section 13464(a), is amended by striking “1834(i)(4)” and inserting “1834(i)(5)”.

(b) **Effective Date.**—The amendments made by subsection (a) shall apply to items or services furnished on or after October 1, 1993.
SEC. 13466. ADJUSTMENTS FOR INHERENT REASONABLE-NESS.

(a) Adjustments Made to Final Payment Amounts.—

(1) In general.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: “In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.”.

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) Adjustment Required for Certain Items.—

(1) In general.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.
(2) **ITEMS DESCRIBED.**—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

**SEC. 13467. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

(a) **IN GENERAL.**—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking “ventilators, aspirators, IPPB machines, and nebulizers” and inserting “ventilators and IPPB machines”.

(b) **PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.**—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking “or” at the end of clause (i),

(2) by adding “or” at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

“(iii) which is an accessory used in conjunction with a nebulizer or aspirator,”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

**SEC. 13468. PAYMENT FOR OSTOMY SUPPLIES AND OTHER SUPPLIES.**

(a) **OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, AND UROLOGICALS.**—
(1) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

“(E) EXCEPTION FOR CERTAIN ITEMS.—

Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).”.

(2) CONFORMING AMENDMENT.—Section 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is amended by striking “subparagraph (C),” and inserting “subparagraphs (C) and (E),”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

(b) SURGICAL DRESSINGS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 13461(a), is amended by adding at the end the following new subsection:

“(j) PAYMENT FOR SURGICAL DRESSINGS.—

“(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount
for the purchase of the item in an amount equal to
80 percent of the lesser of—

“(A) the actual charge for the item; or

“(B) a payment amount determined in ac-
cordance with the methodology described in
subparagraphs (B) and (C) of subsection (a)(2)
(except that in applying such methodology, the
national limited payment amount referred to in
such subparagraphs shall be initially computed
based on local payment amounts using average
reasonable charges for the 12-month period
ending December 31, 1992, increased by the
covered item updates described in such sub-
section for 1993 and 1994).

“(2) Exceptions.—Paragraph (1) shall not
apply to surgical dressings that are—

“(A) furnished as an incident to a physi-
cian’s professional service; or

“(B) furnished by a home health agency.”.

(2) Conforming Amendment.—Section
1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by
sections 13478(e)(2) and 13445(e)(1), is amended—
(A) by striking “and” before “(P)”, and
(B) by inserting before the semicolon at
the end the following: “, and (Q) with respect
to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j);”.

(3) **Effective Date.**—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

(c) **Reduction in Payments for TENS Devices.**—

(1) **In General.**—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking “15 percent” the second place it appears and inserting “45 percent”.

(2) **Effective Date.**—The amendment made by paragraph (1) shall apply to items furnished on or after January 1, 1994.

SEC. 13469. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) **Updates to Payment Amounts.**—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

“(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and”.
(b) Treatment of Potentially Overused Items and Advanced Determinations of Coverage.—

(1) In general.—Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

“(15) Special Treatment for Potentially Overused Items.—

“(A) Development of List of Items by Secretary.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, decubitus care mattresses, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

“(i) the item is marketed directly to potential patients;

“(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at
no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

“(iii) the item has been subject to a consistent pattern of overutilization; or

“(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

“(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.”

(2) ADVANCE DETERMINATION BY CARRIERS.—Effective January 1, 1994, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

“(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection be-
cause of the application of section 1862(a)(1)
if—

“(i) the item is a customized item
(other than inexpensive items specified by
the Secretary); or

“(ii) the item is a specified covered
d item under subparagraph (B).”.

(3) Inclusion in Carrier Performance
Evaluations.—Effective for standards applied for
contract years beginning after the date of the enact-
ment of this Act, section 1842(c) (42 U.S.C.
1395u(c)), as amended by section 13448(a), is
amended by adding at the end the following new
paragraph:

“(5) Each contract under this section which provides
for the disbursement of funds, as described in subsection
(a)(1)(B), shall require the carrier to meet criteria devel-
oped by the Secretary to measure the timeliness of carrier
responses to requests for payment of items described in
section 1834(a)(11)(C).”.

(4) Application to Prosthetic Devices and
Orthotics and Prosthetics.—Section 1834(h)(3)
(42 U.S.C. 1395m(h)(3)) is amended by striking
“paragraph (10) and paragraph (11)” and inserting
“paragraphs (10) and (11)”. 
(c) Study of Variations in Durable Medical Equipment Supplier Costs.—

(1) Collection and analysis of supplier cost data.—The Administration of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) Development of geographic adjustment index; reports.—Not later than January 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator’s recommendations for a geographic cost adjust-
ment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) Oxygen Retesting.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55” and inserting “56”.

(e) Other Miscellaneous and Technical Amendments.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking “amendment made by subsection (a)” and inserting “amendments made by this subsection”.

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking “1395m(a)(7)(A)” and inserting “1395m(a)(7)’’.

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause (v)” and inserting “clause (vi)”.

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(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking “or paragraph (3)”.  
(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).  
(6) Section 4153(c)(1) of OBRA-1990 is amended by striking “1834(a)” and inserting “1834(h)”.  
(7) Section 4153(d)(2) of OBRA-1990 is amended by striking “Reconciliation” and inserting “Reconciliation”.  
(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).  
(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—  
  (i) in subparagraphs (A) and (B) of paragraph (1), by striking “(2) through (7)” each place it appears and inserting “(2) through (5) and (7)”;  
  (ii) in paragraph (7), by striking “(2) through (6)” and inserting “(2) through (5)”;
  (iii) in paragraph (8), by striking “paragraphs (6) and (7)” each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting “paragraph (7)”;
  (iv) in paragraph (8)(A)(i), by striking “described—” and all that follows and inserting “described—”.
scribed in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.”.

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

**Subchapter E—Other Provisions**

**SEC. 13471. CLARIFYING PAYMENTS FOR MEDICALLY DIRECTED CERTIFIED REGISTERED NURSE ANESTHETIST SERVICES.**

(a) In General.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended to read as follows:

“(B) Except as provided in subparagraph (D), the conversion factor used to determine the amount paid under the fee schedule under this subsection for services furnished by a certified registered nurse anesthetist who is medically directed—

“(i) in a year after 1993 and before 1997, shall be $10.75, or

“(ii) in a subsequent calendar year, shall be the previous year’s conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.”.
(b) **Effective Date.**—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

**SEC. 13472. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.**

Section 9342 of OBRA-1986, as amended by section 4164(a)(2) of OBRA-1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years"; and

(2) in subsection (f), —

(A) by striking "$55,000,000" and inserting "$58,000,000", and

(B) by striking "$3,000,000" and inserting "$5,000,000".

**SEC. 13473. ORAL CANCER DRUGS.**

(a) **New Coverage of Certain Self-Administered Anticancer Drugs.**—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 13478(f)(8)(B), is amended—

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

(2) by adding "and" at the end of subparagraph (O); and

(3) by adding at the end the following new subparagraph:
“(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;”.

(b) Uniform Coverage of “Off-Label” Anticancer Drugs.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) by inserting “(1)” after “(t)”;

(2) by striking “(m)(5) of this section” and inserting “(m)(5) and paragraph (2)”; and

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

“(2)(A) For purposes of paragraph (1), the term ‘drugs’ also includes any drugs or biologicals used in an anticancer chemotherapeutic regimen for a medically accepted indication (as described in subparagraph (B)).

“(B) In subparagraph (A), the term ‘medically accepted indication’, with respect to the use of a drug, includes any use which has been approved by the Food and
Drug Administration for the drug, and includes another use of the drug if—

“(i) the drug has been approved by the Food and Drug Administration, and

“(ii) the carrier involved determines, based upon guidance provided by the Secretary to carriers for determining medically accepted uses of drugs, that the use is medically accepted taking into account the uses of such drug which are—

“(I) included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopoeia-Drug Information; or

“(II) supported by clinical evidence in peer reviewed medical literature appearing in publications which have been specifically approved for purposes of this paragraph by the Secretary.”.

(c) Study of Medicare Coverage of Patient Care Costs Associated with Clinical Trials of New Cancer Therapies.—

(1) Study.—The Secretary of Health and Human Services shall conduct a study of the effects
of expressly covering under the medicare program
the patient care costs for beneficiaries enrolled in
clinical trials of new cancer therapies, where the pro-
tocol for the trial has been approved by the National
Cancer Institute or meets similar scientific and ethi-
cal standards, including approval by an institutional
review board. The study shall include—

(A) an estimate of the cost of such cov-
erage, taking into account the extent to which
medicare currently pays for such patient care
costs in practice;

(B) an assessment of the extent to which
such clinical trials represent the best available
treatment for the patients involved and of the
effects of participation in the trials on the
health of such patients;

(C) an assessment of whether progress in
developing new anticancer therapies would be
assisted by medicare coverage of such patient
care costs; and

(D) an evaluation of whether there should
be special criteria for the admission of medicare
beneficiaries (on account of their age or phys-
ical condition) to clinical trials for which medi-
care would pay the patient care costs.
(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. Such report shall include recommendations as to the coverage under the medicare program of patient care costs of beneficiaries enrolled in clinical trials of new cancer therapies.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall apply to items furnished on or after January 1, 1994.

SEC. 13474. PART B PREMIUM PAYMENTS FOR LATE ENROLLMENT.

(a) Limitation on Medicare Part B Late Enrollment Penalty.—

(1) In general.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) The percent increase in premiums under subsection (b) due to late enrollment under this part shall not exceed 25 percent in the case of an individual who is an annuitant described in subparagraph (A) or (B) of
section 8901(3) of title 5, United States Code (including an individual or survivor described in section 8906(g)(2)(A) of such title) for a month if—

“(1) during the individual’s initial enrollment period under section 1837(d)—

“(A) the individual was enrolled in a group health plan (as defined in section 1862(b)(1)(A)(v)) that provided coverage of items and services for which payment may be made under this part, and

“(B) the individual elected not to enroll (or to be deemed enrolled) under this section; and

“(2) due to a change of coverage under such plan, there is no coverage during the month under such plan with respect to items and services for which payment may be made under this part unless the individual is enrolled under this part.”.

(2) E F F E C T I V E D A T E.— The amendment made by paragraph (1) shall apply to premiums for months beginning with January 1992.

(b) P A Y M E N T O F P A R T B P R E M I U M L A T E E N R O L L-
M E N T P E N A L T I E S B Y S T A T E S.— Section 1839 (42 U.S.C. 1395r), as amended by subsection (a), is further amended by adding at the end the following new subsection:
“(h)(1) Upon the request of a State, the Secretary may enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)).

“(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

“(3) In this subsection:

“(A) The term ‘eligible individual’ means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

“(B) The term ‘part B late enrollment premium increase’ means any increase in a premium as a result of the application of subsection (b).”.

SEC. 13475. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) Services Defined.—Section 1861 (42 U.S.C. 1395x), as amended by section 13478(f)(8)(E), is amend-
ed by inserting after subsection (kk) the following new subsection:

“Speech-Language Pathology Services; Audiology Services

“(ll)(1) The term ‘speech-language pathology services’ means such speech, language, and related function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

“(2) The term ‘audiology services’ means such hearing and balance assessment services furnished by a qualified audiologist as the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law).

“(3) In this subsection:

“(A) The term ‘qualified speech-language pathologist’ means an individual with a master’s or doctoral degree in speech-language pathology who has performed not less than 9 months of supervised full-time speech-language pathology services after obtaining such degree and who—
“(i) is licensed (or is otherwise certified) as a speech-language pathologist by the State in which the individual furnishes such services, or

“(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of speech-language pathologists, has successfully completed a national clinical competency examination in speech-language pathology approved by the Secretary.

“(B) The term ‘qualified audiologist’ means an individual with a master’s or doctoral degree in audiology who has performed not less than 9 months of supervised full-time audiology services after obtaining such degree and who—

“(i) is licensed (or is otherwise certified) as an audiologist by the State in which the individual furnishes such services, or

“(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of audiologists, has successfully completed a national clinical competency examination in audiology approved by the Secretary.”
(b) Conforming Amendments Relating to Medicare Treatment of Speech and Language Services.—

(1) Extended care services.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking “, occupational, or speech therapy” and inserting “or occupational therapy or speech-language pathology services”.

(2) Home health services.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking “, occupational, or speech therapy” and inserting “or occupational therapy or speech-language pathology services”.

(3) Outpatient physical therapy services.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking “speech pathology services” and inserting “speech-language pathology services”.

(4) Comprehensive outpatient rehabilitation facility services.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking “speech pathology services” and inserting “speech-language pathology services”.

(5) Hospice care.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking
“therapy or speech-language pathology” and inserting “therapy, or speech-language pathology services”.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 13476. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA-1989, is amended—

(1) by striking “December 31, 1993” and inserting “December 31, 1997”, and

(2) in the second sentence, by inserting after “beneficiary costs,” the following: “costs to the medicaid program and other payers, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,”.

SEC. 13477. TREATMENT OF CERTAIN INDIAN HEALTH PROGRAMS AND FACILITIES AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) In General.—Section 1861(aa)(4) (42 U.S.C. 1395x(aa)(4)) is amended—

(1) by striking “or” at the end of subparagraph (B);
(2) by striking the period at the end of sub-
paragraph (C) and inserting ‘‘; or’’; and
(3) by adding at the end the following new sub-
paragraph:
‘‘(D) is an outpatient health program or facility
operated by a tribe or tribal organization under the
Indian Self-Determination Act or by an urban In-
dian organization receiving funds under title V of
the Indian Health Care Improvement Act.’’.
(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall apply to services furnished on or after
SEC. 13478. MISCELLANEOUS AND TECHNICAL CORRE-
CTIONS.
(a) REVISION OF INFORMATION ON PART B CLAIMS
FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is
amended—
(1) by striking ‘‘provider number’’ and inserting
‘‘unique physician identification number’’; and
(2) by striking ‘‘and indicate whether or not the
referring physician is an interested investor (within
the meaning of section 1877(h)(5))’’.
(b) CONSULTATION FOR SOCIAL WORKERS.—Effect-
tive with respect to services furnished on or after January
1, 1991, section 6113(c) of OBRA-1989 is amended—
(1) by inserting “and clinical social worker services” after “psychologist services”; and
(2) by striking “psychologist” the second and third place it appears and inserting “psychologist or clinical social worker”.

(c) Reports on Hospital Outpatient Payment.—(1) OBRA-1989 is amended by striking section 6137.
(2) Section 1135(d) (42 U.S.C. 1320b-5(d)) is amended—

(A) by striking paragraph (6); and
(B) in paragraph (7)—

(i) by striking “systems” each place it appears and inserting “system”; and
(ii) by striking “paragraphs (1) and (6)” and inserting “paragraph (1)”.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—(1) Effective as if included in the enactment of OBRA-1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by inserting “and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992” after “1989”; and
(B) by striking “1842(b)” and inserting
“1842(b) (or, in the case of services furnished on or
after January 1, 1992, under section 1848)”.

(2) Effective as if included in the enactment of
1395l(n)(1)(B)(i)(II)) is amended by striking “January 1,
1989” and inserting “April 1, 1989”.

(e) Payments to Nurse Practitioners in Rural Areas (Section 4155 of OBRA–1990).—(1) Section
1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is
amended—

(A) by striking “subsection (aa)(3)” and insert-
ing “subsection (aa)(5)”; and

(B) by striking “subsection (aa)(4)” and insert-
ing “subsection (aa)(6)”.

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is
amended—

(A) by striking “and” before “(N)”;

(B) with respect to the matter inserted by sec-
tion 4155(b)(2)(B) of OBRA–1990—

(i) by striking “(M)” and inserting “, and

(O)”, and

(ii) by transferring and inserting it (as
amended) immediately before the semicolon at
the end.
(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking “ambulatory” each place it appears and inserting “or ambulatory”; and

(B) by striking “center,” and inserting “center”.


(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking “subsection (s)(2)(K)(i)” and inserting “clauses (i) or (iii) of subsection (s)(2)(K)”.

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking “this Act” and inserting “this title”.

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.


(f) Other Miscellaneous and Technical Amendments.—

(1) Immediate enrollment in part B by individuals covered by an employment-based
PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking “beginning with the first day of the first month in which the individual is no longer enrolled” and inserting “including each month during any part of which the individual is enrolled”; and

(ii) by striking “and ending seven months later” and inserting “ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled”.

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

“(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or
“(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.”.

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) Blend amounts for ambulatory surgical center payments.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking “for reporting” and inserting “for portions of cost reporting”; and

(B) by striking “and on or before” and inserting “and ending on or before”.

(3) Clinical diagnostic laboratory tests (section 4154 of OBRA-1990).—Section 4154(e)(5) of OBRA-1990 is amended by striking “(1)(A)” and inserting “(1)(A),”.

(4) Separate payment under part B for certain services (section 4157 of OBRA-1990).—Section 4157(a) of OBRA-1990 is amended by striking “(a) Services of” and all that follows
through “Section” and inserting “(a) treatment of services of certain health practitioners.—Section”.


(6) Community health centers and rural health clinics (Section 4161 of OBRA–1990).—
(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—
   (i) by striking “certification” the first place it appears and inserting “approval”; and
   (ii) by striking “the Secretary’s approval or disapproval of the certification” and inserting “Secretary’s approval or disapproval”.
(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting “and to the Committee on Finance of the Senate” after “Representatives”.

(7) Screening mammography (Section 4163 of OBRA–1990).—Section 4163 of OBRA–1990 is amended—
(A) by adding at the end of subsection (d) the following new paragraph:
“(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990.”; and

(B) in subsection (e), by striking “The amendments” and inserting “Except as provided in subsection (d)(3), the amendments”.

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA-1990 is amended—

(i) in the matter preceding paragraph (1), by striking “a bone fracture related to”;

(ii) in paragraph (1), by striking “patient” and inserting “individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual”.

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA-1990 is
amended by striking “if” and inserting “by a home health agency if”.

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking “but excluding” and inserting “and a covered osteoporosis drug (as defined in subsection (kk), but excluding other”.

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding “and” at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking “health services” and inserting “health services (other than covered osteoporosis drug (as defined in section 1861(kk)))’’;

(ii) by striking “and” at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting “; and”; and
(iv) by adding at the end the following new subparagraph:

“(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);”.

(D) Application of Part B Deductible.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking “‘services’” and inserting “‘services (other than covered osteoporosis drug (as defined in section 1861(kk)))’”.

(E) Covered Osteoporosis Drug (Section 4156 of OBRA-1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA-1990, by striking “‘(jj) The term’” and inserting “‘(kk) The term’”.

(9) Other Miscellaneous and Technical Corrections (Section 4164 of OBRA-1990).—

(A) Ownership Disclosure Requirements.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a-3a(a)(2)(A)) is amended by striking “‘of the Social Security Act’”.

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(ii) Section 4164(b)(4) of OBRA-1990 is amended by striking “paragraph” and inserting “paragraphs”.

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA-1990 is amended by striking “publish” and inserting “publish, and shall periodically update,”.

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

Subchapter F—Part B Premium

SEC. 13481. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by inserting “and for each month in 1996 and 1997” after “January 1991”, and

(2) in paragraph (2), by striking “1991” and inserting “1998”.

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CHAPTER 3—PROVISIONS RELATING TO
PARTS A AND B

Subchapter A—Elimination of Updates

SEC. 13501. ELIMINATION OF COST-OF-LIVING UPDATE IN
PER RESIDENT AMOUNTS FOR DIRECT MEDICAL EDUCATION.

Section 1886(h)(2)(D) (42 U.S.C. 1395ww(h)(2)(D))
is amended by inserting “(other than in the case of cost
reporting periods beginning during fiscal year 1994 or fis-
cal year 1995)” after “updated”.

SEC. 13502. ELIMINATION OF INFLATION UPDATE IN COST
LIMITS FOR HOME HEALTH SERVICES.
The Secretary of Health and Human Services shall
not provide for any increase, on the basis of inflation or
changes in the cost of goods and services, in the per visit
cost limits for home health services under section
1861(v)(1)(L) of the Social Security Act for cost reporting
periods beginning during fiscal year 1994 or fiscal year
1995.

Subchapter B—Medicare Secondary Payer
Provisions

SEC. 13511. EXTENSION OF TRANSFER OF DATA.

(a) Extension of Data Match Program.—
(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "1995" and inserting "1998".

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

(A) in clause (i), by striking "1995" and inserting "1998",

(B) in clause (ii)(I), by striking "1994" and inserting "1997", and

(C) in clause (ii)(II), by striking "1995" and inserting "1998".

(b) Secondary Payer Exemption for Members of Religious Orders.—Effective as if included in the enactment of OBRA—1989, section 6202(e)(2) of such Act is amended by adding at the end the following: "Such amendment also shall apply to items and services furnished before such date with respect to secondary payer cases which the Secretary of Health and Human Services had not identified as of such date."

(c) Permitting the Use of Minimum Income Thresholds.—

(1) Section 6103(l)(12)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting ", above an amount (if any) specified by the Secretary
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of Health and Human Services,'' after ``section
13401(a))''.

(2) The matter in section 6103(l)(12)(B)(ii) of
such Code preceding subclause (I) is amended by in-
serting ``, above an amount (if any) specified by the
Secretary of Health and Human Services,'' after
``wages''.

(3) The heading to section 6103(l)(12) of such
Code is amended by striking `` TAXPAYER IDENTITY ''
and inserting `` RETURN''.

SEC. 13512. 3-YEAR EXTENSION OF MEDICARE SECONDARY
PAYER TO DISABLED BENEFICIARIES.

Section 1862(b)(1)(B)(iii) (42 U.S.C.
1395y(b)(1)(B)(iii)) is amended by striking ``1995'' and
inserting ``1998''.

SEC. 13513. 3-YEAR EXTENSION OF 18-MONTH RULE FOR
ESRD BENEFICIARIES.

Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is
amended by striking ``1996'' and inserting ``1999''.

SEC. 13514. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SEC-

(1) SURVEY OF BENEFICIARIES .Ð
(A) I N GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

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(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan.
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(B) D ISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than November 1, 1993, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) N O MEDICARE SECONDARY PAYER DEPENDENT ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:
The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.''

(2) Mandatory Screening by Providers and Suppliers under Part B.

(A) In General.

Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

``(6) Screening Requirements for Providers and Suppliers.

(A) In General.

Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

(B) Penalties.

An entity that knowingly, willfully, and repeatedly fails to complete

...
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a claim form in accordance with subparagraph 1
provides inaccurate information relating 2
to the availability of other health benefit plans 3
under such subparagraph shall 4
be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections 7
(a) and (b)) shall apply to a civil money penalty 8
under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).''.

(B) EFFECTIVE DATE.ÐThe amendment 12
made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 1994.

(b) IMPROVEMENTS IN RECOVERY OF PAYMENTS 17

(1) SUBMISSION OF REPORTS ON EFFORTS TO 19
RECOVER ERRONEOUS PAYMENTS .Ð 20

(A) FISCAL INTERMEDIARIES UNDER PART 21
A.ÐSection 1816 (42 U.S.C. 1396h) is amend-
22
ed by adding at the end the following new sub-
section:
``(k) An agreement with an agency or organization
24
under this section shall require that such agency or orga-
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organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).''.

(B) CARRIERS UNDER PART B.ÐSection 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amendedÐ(1) by striking ``and'' at the end of subparagraph (H); and

(ii) by inserting after subparagraph (H) the following new subparagraph:

``(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).''.

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.Ð(A) FISCAL INTERMEDIARIES UNDER PART A.ÐSection 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking ``processing'' and inserting ``processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).''.
which payment has been or could be made
under a primary plan (as defined in section
1862(b)(2)(A)))''.

(B) CARRIERS UNDER PART B.ÐSection
1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended
by adding at the end the following new sub-
paragraph:
``(D) In addition to any other standards and criteria
established by the Secretary for evaluating carrier per-
formance under this paragraph relating to avoiding erro-
neous payments, the Secretary shall establish standards
and criteria relating to the carrier's success in recovering
payments made under this part for items or services for
which payment has been or could be made under a pri-
mary plan (as defined in section 1862(b)(2)(A)).''.

(3) DEADLINE FOR REIMBURSEMENT BY PRI-
MARY PLANS.Ð

(A) IN GENERAL.ÐSection
is amended by adding at the end the following
sentence: ``If reimbursement is not made to the
appropriate Trust Fund before the expiration of
the 60-day period that begins on the date such
notice or other information is received, the Sec-
retary may charge interest (beginning with the
(B) CONFORMING AMENDMENT.ÐThe heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: ``REPAYMENT REQUIRED.Ð''.

(C) EFFECTIVE DATE.ÐThe amendments made by this paragraph shall apply to payments for items and services furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.ÐThe amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1994.

(c) APPLICATION OF AGGREGATION RULES.Ð

(1) WORKING AGED.ÐSection 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is amended by adding at the end the following new clause:

``(vi) APPLICATION OF AGGREGATION RULES.ÐAll employers treated as a single

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employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subparagraph.’’.

(2) DISABLED INDIVIDUALS.—Section 5000(b)(2) of the Internal Revenue Code of 1986 (relating to large group health plans) is amended by adding at the end the following: ‘‘All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this paragraph.’’.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act.

(d) APPLICATION OF EXCISE TAX TO FAILURE TO REIMBURSE FEDERAL GOVERNMENT.—

(1) IN GENERAL.—Section 5000(c) of the Internal Revenue Code of 1986 (relating to nonconforming group health plans) is amended by striking ‘‘of section 1862(b)(1)’’ and inserting ‘‘of paragraph (1), or with the requirements of paragraph (2), of section 1862(b)’’.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to demands for reimbursement after the date of the enactment of this Act.
(e) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA±1990 is amended—

(A) by striking ``on or before'' and inserting ``before'', and

(B) by striking ``clauses (i) and (ii)'' and inserting ``this subparagraph''.

(2) Effective as if included in the enactment of OBRA±1989, section 1862(b)(1) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ``, without regard to section 5000(d) of such Code'' before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking ``current calendar year or the preceding calendar year'' and inserting ``current calendar year and the preceding calendar year''; and

(C) in the matter in subparagraph (C) after clause (ii), by striking ``taking into account that'' and inserting ``paying benefits secondary to this title when''.


(4) Section 4203(c)(2) of OBRA±1990 is amendedÐ

(A) by striking ``the application of clause (iii)'' and inserting ``the second sentence'';

(B) by striking ``on individuals'' and all that follows through ``section 226A of such Act'';

(C) in clause (ii), by striking ``clause'' and inserting ``sentence'';

(D) in clause (v), by adding ``and'' at the end; and

(E) in clause (vi)Ð

(i) by inserting ``of such Act'' after ``1862(b)(1)(C)'', and

(ii) by striking the period at the end and inserting the following: ``, without re-''.
(5) Section 4203(d) of OBRA±1990 is amended by striking ``this subsection'' and inserting ``this section''.

(6) Except as provided in paragraphs (2) and (3), the amendments made by this subsection shall be effective as if included in the enactment of OBRA±1990.

Subchapter CÐPhysician Ownership and Referral

SEC. 13521. APPLICATION OF MEDICARE BAN ON SELF-REFERRALS TO ALL PAYERS.

(a) IN GENERAL.ÐSection 1877 (42 U.S.C. 1395nn) is amended

(1) in subsection (a)Ð

(A) in paragraph (1)(A), by striking ``for which payment otherwise may be made under this title'' and inserting ``for which a charge is imposed'', and

(B) in paragraph (1)(B), by striking ``under this title'';

(2) by amending paragraph (1) of subsection (g) to read as follows: ``,(1) D ENIAL OF PAYMENT .ÐNo payment may be made under this title, under another Federal health care program, or under a State health care program...""
(as defined in section 1128(h)) for a designated health service for which a claim is presented in violation of subsection (a)(1)(B). No individual, third party payer, or other entity is liable for payment for designated health services for which a claim is presented in violation of such subsection.''

and

(3) in subsection (g)(3), by striking ''for which payment may not be made under paragraph (1)'' and inserting ''for which such a claim may not be presented under subsection (a)(1).''

(b) CONFORMING AMENDMENT TO REPORTING REQUIREMENT.ÐSection 1877(f) (42 U.S.C. 1395nn(f)) is amended—

(1) by striking ''for which payment may be made under this title'' each place it appears and inserting ''for which a charge is imposed'', and

(2) by striking the third sentence.

SEC. 13522. EXTENSION OF SELF-REFERRAL BAN TO ADDITIONAL SPECIFIED SERVICES. Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking ''clinical laboratory service'', ''clinical laboratory services'', and ''CLINICAL LABORATORY SERVICES'' and inserting ''designated health service'', ''designated health services'', and
(2) by adding at the end the following new sub-section:

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(i) DESIGNATED HEALTH SERVICES DEFINED.ÐIn this section, the term `designated health services' means any of the following items or services:
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1. clinical laboratory services;
2. physical and occupational therapy services;
3. radiology services, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services;
4. radiation therapy services;
5. durable medical equipment;
6. parenteral and enteral nutrition equipment and supplies;
7. prosthetic devices and orthotics and prosthetics;
8. outpatient prescription drugs;
9. home infusion therapy services, home dialysis, and home health services;
10. ambulance services;
11. inpatient and outpatient hospital services;
(12) comprehensive outpatient rehabilitation facility services;
(13) contact lenses and eyeglasses; and
(14) hearing aids.''

SEC. 13523. EXCEPTIONS FOR BOTH OWNERSHIP AND COMPENSATION ARRANGEMENTS.

(a) MODIFICATION TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.ÐSection 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amendedÐ
(1) by inserting ``(other than durable medical equipment, parenteral and enteral nutrition equipment and supplies, and ambulance services)'' after ``services'' the first place it appears, and
(2) in subparagraph (A)(ii)(II), by striking ``centralized provision'' and inserting ``provision of some or all''.

(b) MODIFICATION OF RURAL PROVIDER EXCEPTION.Ð

(A) IN GENERAL .ÐSection 1877(b) (42 U.S.C. 1395nn(b)) is amendedÐ
(B) by redesignating paragraph (5) as paragraph (6), and
(C) by inserting after paragraph (4) the following new paragraph:
(5) RURAL PROVIDERS.—In the case of designated health services if—

(A) the entity furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)), and

(B) substantially all of the services (as defined by the Secretary) furnished by the entity are furnished to individuals who reside in such a rural area.

(2) CONFORMING AMENDMENTS.—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

SEC. 13524. EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT.

(a) PUBLICLY-TRADED SECURITIES.—Section 1877(c)(2) (42 U.S.C. 1395nn(c)(2)) is amended by striking ``total assets'' and inserting ``stockholder equity''.

(b) RURAL PROVIDERS.—For amendment to exception relation to rural providers, see section 13523(b).

SEC. 13525. EXCEPTIONS RELATED ONLY TO COMPENSATION ARRANGEMENTS.

(a) RENTAL OF OFFICE SPACE AND EQUIPMENT.
(A) OFFICE SPACE. Payments made by a lessee to a lessor for the use of premises if:

(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

(ii) the aggregate space rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

(iii) the lease provides for a term of rental or lease for at least one year,

(iv) the aggregate rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,
(v) the lease would be commercially reasonable even if no referrals were made between the parties,

(vi) the lease covers all of the premises leased between the parties for the period of the lease, and

(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

(B) EQUIPMENT. Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

(ii) the equipment rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

(iii) the lease provides for a term of rental or lease of at least one year,
(iv) the aggregate rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

(v) the lease would be commercially reasonable even if no referrals were made between the parties,

(vi) the lease covers all of the equipment leased between the parties for the period of the lease, and

(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.''

(2) CONFORMING AMENDMENT. Ð Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by striking paragraphs (5) and (6).

(b) BONA FIDE EMPLOYMENT RELATIONSHIPS. Ð Section 1877(e) (42 U.S.C. 1395nn(e)) is amended Ð (1) in paragraph (2) Ð
(A) by striking "EMPLOYMENT" and all that follows through "if" and inserting "BONA FIDE EMPLOYMENT RELATIONSHIPS.ÐAny amount paid by an employer to a physician (or immediate family member) who has a bona fide employment relationship with the employer for the provision of services if ";
(B) in subparagraphs (A), (B), and (D), by striking "arrangement" and inserting "employment";
(C) in subparagraph (C), by striking "to the hospital";
(D) by adding at the end the following:
``Subparagraph (B)(ii) shall not be construed as prohibiting the payment of remuneration in the form of shares of overall profits or in the form of a productivity bonus based on services performed personally by the physician or family member, if the amount of the remuneration is not determined in a manner that takes into account directly the volume or value of any referrals by the referring physician.''; and
(2) in paragraph (5)(A), by striking "in the same manner as they apply to a hospital".

(c) PERSONAL SERVICE ARRANGEMENTS.Ð
IN GENERAL.—Paragraph (3) of section 11877(e) of title 42, United States Code, is amended to read as follows:

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(3) PERSONAL SERVICE ARRANGEMENTS.—Reimbursement from an entity under an arrangement if—

(A) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

(B) the arrangement covers all of the services to be provided by the physician (or family member) to the entity,

(C) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

(D) the term of the arrangement is for at least one year,

(E) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account directly or indirectly the volume or value of any referrals or other business generated between the parties,
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(F) the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any State or Federal law, and

(G) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

(2) HEALTH SERVICES FURNISHED UNDER CERTAIN HOSPITAL ARRANGEMENTS. Ð Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

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(7) CERTAIN GROUP PRACTICE ARRANGEMENTS WITH A HOSPITAL. Ð 

(A) IN GENERAL. Ð An arrangement between a hospital and a group for the provision of designated health services by the group but billed in the name of the hospital if

(i) the group would be a group practice, but for the fact that it bills for such services in the name of the hospital;

(ii) with respect to services provided to an inpatient of the hospital, the arrangement is
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pursuant to the provision of inpatient hospital services under section 1861(b)(3);

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(iii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;
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(iv) the group provides substantially all of the designated health services furnished under the arrangement to the hospital's patients;
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(v) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement;
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(vi) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;
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(vii) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and
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(viii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.''

(d) PHYSICIAN RECRUITMENT. Ð Section 1877(e)(4) (42 U.S.C. 1395nn(e)(4)) is amended Ð 

(1) by redesignating subparagraphs (A) through (C) as subparagraph (B) through (D), and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

``(A) the remuneration arrangement is set out in writing, signed by the parties, and specifies the benefits provided by the hospital, the terms under which the benefits are to be provided, and the obligations of the parties,''

(e) ISOLATED TRANSACTIONS. Ð Section 1877(e)(5) (42 U.S.C. 1395nn(e)(5)) is amended Ð 

(1) by striking ``ISOLATED'' and inserting ``ONE-TIME'',

(2) by striking ``isolated'' and inserting ``one-time'', and

(3) by inserting ``or practice'' after ``one-time sale of property''.

(f) NEW EXCEPTION FOR PAYMENTS BY PHYSICIAN. Ð Section 1877(e) (42 U.S.C. 1395nn(e)), as amend
is further amended by adding at the end the following new paragraph:

```
(8) Payments by a physician for items and services.—Payments made by a physician—
          (A) to a laboratory in exchange for the provision of clinical laboratory services, or
          (B) to an entity as compensation for other items or services if the items or services
          are furnished at a price that is consistent with fair market value.
```

SEC. 13526. CLARIFICATION CONCERNING CIVIL MONEY PENALTY SANCTIONS.

Section 1877(g)(3) (42 U.S.C. 1395nn(g)(3)) is amended by inserting ``(including a referring physician)'' after ``Any person''.

SEC. 13527. REQUIREMENTS FOR GROUP PRACTICE.

(a) ADDITIONAL REQUIREMENTS.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

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

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (vii), respectively;

(3) by inserting ``(A)'' after ``.Ð'';
(4) by inserting after clause (iii), as so redesignated, the following:

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(iv) subject to subparagraph (B), no physician who is a member of the group receives compensation based on the volume or value of referrals by the physician;
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(v) there are no less than, on average, 5 physicians for each office location (as defined in subparagraph (C)), except where there is only a single office location for the entire group practice;
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(vi) members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and''
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and

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

```
(B) A physician in a group practice may be paid a share of overall profits of the group or a productivity bonus (based on services personally performed or personally supervised by the physician or by another physician in the group) so long as the share or bonus is not determined in any manner which is directly related to the volume or value of referrals by that physician.
```
(C)(i) Except as provided in clauses (ii) through (iv), the term `office location' means an of-

(ii) Such term does not include a location con-

(iii) Any office location which is located imme-

(iv) The term `office location' does not include

(b) USE OF BILLING NUMBERS, ETC.ÐSection 1877

(42 U.S.C. 1395nn) is amendedÐ

(1) in subsection (b)(2)(B), by inserting ``under

(2) in subsection (h)(4)(A)(ii), as redesignated

by subsection (a)(2), by inserting ``and under a bill-

after ``in the

name of the group'', and
(h)(4)(A)(iii), as redesignated by subsection (a)(2), by striking "by members of the group.".

(c) Treatment of Certain Faculty Practice Plans. The last sentence of section 1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as redesignated by subsection (a)(2), is amended by inserting "institution of higher education, or medical school" after "hospital.".

SEC. 13538. NO FEDERAL PREEMPTION OF MORE RESTRICTIVE STATE LAWS.
Section 1877 (42 U.S.C. 1395nn), as amended by section 13522(2), is amended by adding at the end the following new subsection:

``(j) NO FEDERAL PREEMPTION OF MORE RESTRICTIVE STATE LAWS.ÑNothing in this section shall preempt provisions of State law—

(1) that relate to referrals not covered by this section, or

(2) that relate to referrals covered by this section and are more restrictive with respect to such referrals than the provisions of this section.''.

SEC. 13529. MISCELLANEOUS PROVISIONS.
(a) Indirect Financial Relationships. The last sentence of section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by inserting before the period the following:
and includes an interest in an entity that holds an owner-
ship or investment in another entity”.

(b) **MINOR REMUNERATION.** Ð Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended Ð
(1) in subparagraph (A), by inserting before the period at the end the following: “(other than an ar-
rangement involving only remuneration described in
subparagraph (C))”, and
(2) by adding at the end the following new sub-
paragraph:
```
(C) Remuneration described in this subpara-
graph is any remuneration consisting of any of the
following:

(i) The forgiveness of amounts owed for
inaccurate tests or procedures, mistakenly per-
formed tests or procedures, or the correction of
minor billing errors.

(ii) The provision of items, devices, or
supplies that are used solely to—

(I) collect, transport, process, or
store specimens for the entity providing
the item, device, or supply, or

(II) communicate the results of tests
or procedures for such entity.’’.
```
Section 1877(h)(7)(C) is amended—

(1) by inserting “a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy,” after “examination services,” and

(2) by inserting “, radiologist, or radiation oncologist” after “pathologist” the second place it appears.

Section 1877 (42 U.S.C. 1395nn) is further amended—

(1) in the next to last sentence of subsection (f)—

(A) by striking “provided” and inserting “furnished”, and

(B) by striking “provides” and inserting “furnish”;

(2) in the last sentence of subsection (f)—

(A) by striking “providing” each place it appears and inserting “furnishing”,

(B) by striking “with respect to the providers” and inserting “with respect to the entities”, and
(C) by striking ``diagnostic imaging services of any type'' and inserting ``magnetic resonance imaging, computerized axial tomography scans, and ultrasound services''; and (3) in subsection (a)(2)(B), by striking ``subsection (h)(1)(A)'' and inserting ``subsection (h)(1)."

SEC. 13530. EFFECTIVE DATES.

(a) EXPANSION OF PAYERS AND SERVICES.ÐThe amendments made by sections 13521 and 13522 shall apply with respect to a referral by a physician made on or after December 31, 1994.

(b) OTHER PROVISIONS.Ð(1) IN GENERAL.ÐExcept as provided in this subsection, the amendments made by sections 13523 through 13529 shall apply to referrals made on or after January 1, 1992.

(2) DELAY IN EFFECTIVENESS FOR MORE RESTRICTIVE PROVISIONS.ÐThe amendments made by the following sections shall apply with respect to a referral by a physician made on or after December 31, 1994:

(A) Section 13523(b) (relating to the rural provider exception).

(B) Section 13524(a) (relating to publicly-traded securities).
[6x15]1029
[3x1]•
[3x1]HR 2264 RH
[5x14](C)(i) Section 13525(a) (relating to an ex-
1
[4x12]ception for office rental and equipment), other
2
[3x12]than the exception relating to equipment.
3
(ii) Section 13525(c)(1) (relating to excep-
4
[4x12]tion for personal services arrangements).
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(iii) Section 13525(d) (relating to physi-
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7
(D) Section 13526 (relating to civil money
8
penalty).
9
(E) Section 13527 (relating to require-
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ments for group practices), other than sub-
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section (c) (relating to faculty plans).
12
(F) Section 13528 (relating to non-pre-
13
emption).
14
(G) Section 13529(a) (relating to indirect
15
financial relationships).
16
Subchapter D—Other Provisions
17
SEC. 13551. DIRECT GRADUATE MEDICAL EDUCATION.
18
(a) A DJUSTMENT IN GME B ASE-YEAR COSTS OF
19
FEDERAL INSURANCE CONTRIBUTIONS ACT. Ð
20
(1) I N GENERAL . ÐIn determining the amount
21
of payment to be made under section 1886(h) of the
22
Social Security Act in the case of a hospital de-
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scribed in paragraph (2) for cost reporting periods
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beginning on or after October 1, 1992, the Secretary
25
of Health and Human Services shall redetermine the amount that would have been paid the hospital if, during the hospital's base cost reporting period, the hospital had been liable for FICA taxes or for contributions to the retirement system of a State, a political subdivision of a State, or an instrumentality of such a State or political subdivision with respect to interns and residents in its medical residency training program.

(2) HOSPITALS AFFECTED. A hospital described in this paragraph is a hospital that did not pay FICA taxes with respect to interns and residents in its medical residency training program during the hospital's base cost reporting period, but is required to pay FICA taxes or make contributions to a retirement system described in paragraph (1) with respect to such interns and residents because of the amendments made by section 11332(b) of OBRA±1990.

(3) DEFINITIONS. In this subsection:

(A) The "base cost reporting period" for a hospital is the hospital's cost reporting period that began during fiscal year 1984.
(b) PUBLICLY-FUNDED FAMILY PRACTICE RESIDENCY PROGRAMS. Ð

(1) IN GENERAL. Ð Section 1886(h)(5) (42 U.S.C. 1395ww(h)(5)) is amended by adding at the end the following new subparagraph:

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(I) ADJUSTMENTS FOR CERTAIN FAMILY PRACTICE RESIDENCY PROGRAMS. Ð
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(i) IN GENERAL. Ð In the case of an approved medical residency training program (meeting the requirements of clause (ii)) of a hospital which received payments from the United States, a State, or a political subdivision of a State or an instrumentality of such a State or political subdivision (other than payments under this title or a State plan under title XIX) for the program during the cost reporting period that began during fiscal year 1984, the Secretary shall Ð
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(I) provide for an average amount under paragraph (2)(A) that takes into account the Secretary's es Ð
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(II) reduce the payment amount otherwise provided under this sub-section in an amount equal to the proportion of such program payments during the cost reporting period involved that is allocable to this title."

``(ii) ADDITIONAL REQUIREMENTS.Ð A hospital’s approved medical residency program meets the requirements of this clause if—

``(I) the program is limited to training for family and community medicine;

``(II) the program is the only approved medical residency program of the hospital; and

``(III) the average amount determined under paragraph (2)(A) for the hospital (as determined without regard to the increase in such amount..."
(2) EFFECTIVE DATE. The amendment made by paragraph (1) shall apply to payments under section 1886(h) of the Social Security Act for cost reporting periods beginning on or after October 1, 1990.

(c) PREVENTIVE CARE RESIDENCIES. (1) ELIGIBILITY OF PREVENTIVE CARE RESIDENCY PROGRAMS FOR EXPANDED INITIAL RESIDENCY PERIODS. Section 1886(h)(5)(F)(ii) (42 U.S.C. 1395ww(h)(5)(F)(ii)) is amended by inserting after ``fellowship program'' the following: ``or a preventive care residency or fellowship program''.

(2) EFFECTIVE DATE. The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1993.

SEC. 13552. IMMUNOSUPPRESSIVE DRUG THERAPY. Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking ``title, within'' and all that follows and inserting the following: ``title, but only in the case of drugs furnishedÐ``(i) before 1994, within 12 months after the date of the transplant procedure,
(ii) during 1994, within 18 months after the date of the transplant procedure,
(iii) during 1995, within 24 months after the date of the transplant procedure,
(iv) during 1996, within 30 months after the date of the transplant procedure, and
(v) during any year after 1997, within 36 months after the date of the transplant procedure;''.

SEC. 13553. REDUCTION IN PAYMENTS FOR ERYTHROPOIENTIN.

(1) by striking ``1991'' and inserting ``1994''; and
(2) by striking ``$11'' and inserting ``$10''.

(b) EFFECTIVE DATE. — The amendments made by subsection (a) shall apply to erythropoietin furnished on or after January 1, 1994.

SEC. 13554. QUALIFIED MEDICARE BENEFICIARY OUT-REACH.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be...
eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 13555. EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION DEMONSTRATIONS.

(a) EXTENSION OF CURRENT WAIVERS.ÐSection 4018(b) of OBRA±1987, as amended by section 4207(b)(4)(B) of OBRA±1990, is amendedÐ(1) in paragraph (1) by striking ``December 31, 1995'' and inserting ``December 31, 1997''; and

(2) in paragraph (4) by striking ``March 31, 1996'' and inserting ``March 31, 1998''.

(b) EXPANSION OF DEMONSTRATIONS.ÐSection 2355 of the Deficit Reduction Act of 1984 is amendedÐ(1) in the last sentence of subsection (a) by striking ``12 months'' and inserting ``36 months''; and

(2) in subsection (b)(1)(B)(A) by striking ``or'' at the end of clause (iii); and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:


(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or''.

(c) EXPANSION OF NUMBER OF MEMBERS PER SITE.ÐThe Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.Ð

(1) The section following section 4206 of OBRA±1990 is amended by striking ``SEC. 4027.''

(2) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA±1990, is amended--
(A) by striking ``12907(c)(4)(A)'' and inserting ``4207(b)(4)(B)(i)'', and
(B) by striking ``feasibilitly'' and inserting ``feasibility''.

(3) Section 4207(b)(4)(B)(iii)(III) of OBRA±1990 is amended by striking the period at the end and inserting a semicolon.

(4) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA±1990, are each amended by striking ``12907(c)(4)(A)'' each place it appears and inserting ``4207(b)(4)(B)''.

(5) Section 4207(c)(2) of OBRA±1990 is amended by striking ``the Committee on Ways and Means'' each place it appears and inserting ``the Committees on Ways and Means and Energy and Commerce''.

(6) Section 4207(d) of OBRA±1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(7) Section 4207(i)(2) of OBRA±1990 is amendedÐ(}
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(B) in clause (v), by striking ``residents'' and inserting ``patients''.

(8) Section 4207(j) of OBRA±1990 is amended by striking ``title'' each place it appears and inserting ``subtitle''.

(e) EFFECTIVE DATE.ÐThe amendments made by this section shall take effect as if included in the enactment of OBRA±90.

SEC. 13556. HOSPICE NOTIFICATION TO HOME HEALTH BENEFICIARIES.

(a) IN GENERAL.ÐSection 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

``(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).''.
(b) EFFECTIVE DATE. The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 13557. INTEREST PAYMENTS.

(a) IN GENERAL. Sections 1816(c)(2)(B)(ii)(IV) and 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied with respect to claims received in the 12-month period beginning October 1, 1992, by substituting "30 calendar days" for "24 calendar days" and "17 calendar days".

(b) EFFECTIVE DATE. Subsection (a) shall be in effect during the period that begins on the date of the enactment of this Act and ends on September 30, 1993.

SEC. 13558. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.

(1) IN GENERAL. Section 1164 (42 U.S.C. 1320c±13) is repealed.

(2) CONFORMING AMENDMENTS. (A) Section 1154 (42 U.S.C. 1320c±3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) by striking paragraph (13).
(ii) in subsection (d), by striking
``(and except as provided in section
1164)''.

(B) Section 1833 (42 U.S.C. 1395l) is
amendedÐ

(i) in subsection (a)(1)(D)(i), by strik-
``, or for tests furnished in connection
with obtaining a second opinion required
under section 1164(c)(2) (or a third opin-
ion, if the second opinion was in disagree-
ment with the first opinion)'';

(ii) in subsection (a)(1), by striking
clause (G);

(iii) in subsection (a)(2)(A), by strik-
``, to items and services (other than
clinical diagnostic laboratory tests) fur-
nished in connection with obtaining a sec-
dond opinion required under section
1164(c)(2) (or a third opinion, if the sec-
ond opinion was in disagree-
ment with the first opinion),'';

(iv) in subsection (a)(2)(D)(i)Ð

(I) by striking ``basis,'' and in-
serting ``basis or'', and
(II) by striking ``, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)''; and (v) in subsection (a)(3), by striking ``and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)''; and (vi) in the first sentence of subsection (b), by striking ``(4)'' and all that follows through ``and (5)'' and inserting and (4)''.

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking ``and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)''.

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—
(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ``, with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),''.

(3) EFFECTIVE DATE.ÐThe amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.Ð(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c±5(b)(1)) is amended by striking ``whehter'' and inserting ``whether''.

(2) Section 1154(a)(9)(B) (42 U.S.C. 1320c±3(a)(9)(B)) is amended by striking ``this subsection'' and inserting ``section 1156(a)''.
(3) Section 4205(d)(2)(B) of OBRA±1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c±9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA±1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA±1990.

(B) The amendment made by paragraph (2) (relating to the requirement on reporting of information to State licensing boards) shall take effect on the date of the enactment of this Act.

SEC. 13559. HEALTH MAINTENANCE ORGANIZATIONS.

(a) A DJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN APPLICATION OF SECONDARY PAYER PROVISIONS.Ð

(1) I N GENERAL .ÐSection 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: "In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the"
area with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.''

(2) EFFECTIVE DATE.ÐThe amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.ÐSection 4204(b) of OBRA±1990 is amended to read as follows:

``(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.Ð(1)(A) Not later than October 1, 1993, the Secretary of Health and Human Services (in this subsection referred to as the `Secretary') shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1995 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

``(B) In proposing the revisions required under sub-paragraph (A) the Secretary shall considerÐ``(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and
(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking ``subsection (c)(7)'' and inserting ``subsections (c)(2)(B)(ii) and (c)(7)''.

(2) Section 4204(c)(3) of OBRA±1990 is amended by striking ``for 1991'' and inserting ``for years beginning with 1991''.

(3) Section 4204(d)(2) of OBRA±1990 is amended by striking ``amendment'' and inserting ``amendments''.

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after ``contributed to''.

(5) Section 4204(e)(2) of OBRA±1990 is amended by striking ``(which has a risk-sharing contract under section 1876 of the Social Security Act)''.
(6) Section 4204(f)(4) of OBRA±1990 is amended by striking ``final''.

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—
(A) in the heading, by striking `` PLAN'' and inserting `` PLAN OR A LARGE GROUP HEALTH PLAN'';
(B) by striking ``group health plan'' and inserting ``group health plan or a large group health plan'';
(C) by striking ``, unless such incentive is also offered to all individuals who are eligible for coverage under the plan''; and
(D) by striking ``the first sentence of subsection (a) and other than subsection (b)'' and inserting ``subsections (a) and (b)''.

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA±1990.

SEC. 13560. MEDICARE ADMINISTRATION BUDGET PROC-ES.

(a) A DJUSTMENTS.ÐSection 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subpara-
(E) Medicare Administrative Costs. ÐTo the extent that appropriations are enacted that provide additional new budget authority (as compared with a base level of $1,526,000,000 for new budget authority) for the administration of the Medicare program by fiscal intermediaries and carriers pursuant to sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed Ð

``(i) for fiscal year 1994, $198,000,000 in new budget authority and $198,000,000 in outlays; and
``(ii) for fiscal year 1995, $220,000,000 in new budget authority and $220,000,000 in outlays; and
the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph.''

(b) Conforming Amendments. Ð(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking "section"
(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking “section 251(b)(2)(E)(i)” and inserting “section 251(b)(2)(F)(i)”; and

(B) in paragraph (2), by inserting “251(b)(2)(E),” after “251(b)(2)(D),”.

SEC. 13561. OTHER PROVISIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—

(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking “title” and inserting “title (other than any fee relating to section 353 of the Public Health Service Act)”;

(B) in the first sentence of subsection (a), by striking “1861(s) or” and all that follows through “Service Act,” and inserting “1861(s),”.

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining...
whether a laboratory meets the requirements of section 1353 of the Public Health Service Act.

(b) HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTION.ÐSection 4202 of OBRA±1990 is amendedÐ(1) in subsection (b)(1)(A), by striking ``home hemodialysis staff assistant'' and inserting ``qualified home hemodialysis staff assistant (as described in subsection (d))'';

(2) in subsection (b)(2)(B)(ii)(I), by striking ``(as adjusted to reflect differences in area wage levels);''

(3) in subsection (c)(1)(A), by striking ``skilled''; and

(4) in subsection (c)(1)(E), by striking ``(b)(4)'' and inserting ``(b)(2)''.

(c) OTHER TECHNICAL AMENDMENTS.Ð(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA±1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking ``1833(r)'' and inserting ``1833(s)''.

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by
(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking ``1861(s)(2)(Q)'' and inserting ``1861(s)(2)(P)''.

(5) Section 4201(d)(2) of OBRA±1990 is amended by striking ``(B) by striking'', ``(C) by striking'', and ``(3) by adding'' and inserting ``(i) by striking'', ``(ii) by striking'', and ``(B) by adding'', respectively.

(6)(A) Section 4207(a)(1) of OBRA±1990 is amended by adding closing quotation marks and a period after ``such review.''.

(B) Section 4207(a)(4) of OBRA±1990 is amended by striking ``this subsection'' and inserting ``paragraphs (2) and (3)''.

(C) Section 4207(b)(1) of OBRA±1990 is amended by striking ``section 3(7)'' and inserting ``section 601(a)(1)''.

(d) E FFECTIVE DATE.ÐThe amendments made by this section shall take effect as if included in the enactment of OBRA±1990.
CHAPTER 4—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 13571. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES. Ð

(1) Section 4351 of OBRA±1990 is amended by striking ``(a) IN GENERAL. Ð''.

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking ``promulgates'' and inserting ``changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate'',

(ii) by striking ``(such limitations, language, definitions, format, and standards referred to collectively in this subsection as `NAIC standards'),'', and

(iii) by striking ``included a reference to the NAIC standards'' and inserting ``were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to as `revised NAIC standards'),'',
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ferred to in this section as the `1991 NAIC Model Regulation');''

(B) in paragraph (1)(B)

(i) by striking ``promulgate NAIC standards'' and inserting ``make the changes in the revised NAIC Model Regulation'',

(ii) by striking ``limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as `Federal standards')'' and inserting ``a regulation'', and

(iii) by striking ``included a reference to the Federal standards'' and inserting ``were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the `1991 Federal Regulation')'';

(C) in paragraph (1)(C)(i), by striking ``NAIC standards or the Federal standards'' and inserting ``1991 NAIC Model Regulation or 1991 Federal Regulation'';
(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards'' and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation'';

(E) in paragraph (2)(C), by striking "(5)(B)'' and inserting "(4)(B)'';

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)'' after "(B)'';

(G) in paragraph (4), by striking "applicable standards'' each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation'’;

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)'' and inserting "described in clauses (i) through (iii) of paragraph (1)(A)'’;

(I) in paragraph (7), by striking "policyholder'' and inserting "policyholders'’;

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection'' and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991..."
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NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)''

(K) in paragraph (9), by adding at the end the following new subparagraph:

``(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).''

(L) in paragraph (10), by striking ``this subsection'' and inserting ``paragraph (1)(A)(i)''.

(b) GUARANTEED RENEWABILITY.ÐSection 1882(q) (42 U.S.C. 1395ss(q)) is amendedÐ

(1) in paragraph (2), by striking ``paragraph (2)'' and inserting ``paragraph (4)'', and

(2) in paragraph (4), by striking ``the succeeding issuer'' and inserting ``issuer of the replacement policy''.

(c) ENFORCEMENT OF STANDARDS.Ð

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amendedÐ

(A) in subparagraph (A), by striking ``NAIC standards or the Federal standards''
and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation," and (B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)."

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA±1990 is amended—(A) by striking "The report" and inserting "Each report," (B) by inserting "and requirements" after "standards," (C) by striking "and" after "compliance," and (D) by striking the comma after "Commissioners."

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary." (4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary." (d) PREVENTING DUPLICATION.Ð(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—
(A) by amending the first sentence to read as follows:
``(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—
(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or
(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.''
(B) by designating the second sentence as clause (ii) and, in such clause, by striking "the previous sentence" and inserting "clause (i)";
(C) by designating the third sentence as clause (iii) and, in such clause—
(i) by striking "the previous sentence" and inserting "clause (i) with respect to"
the sale of a medicare supplemental policy'', and
(ii) by striking ``and the statement'' and all that follows up to the period at the end; and
(D) by striking the last sentence.
(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amendedÐ
(A) in clause (ii)(II), by striking ``65 years of age or older'',
(B) in clause (iii)(I), by striking ``another medicare'' and inserting ``a medicare'',
(C) in clause (iii)(I), by striking ``such a policy'' and inserting ``a medicare supplemental policy'',
(D) in clause (iii)(II), by striking ``another policy'' and inserting ``a medicare supplemental policy'', and
(E) by amending subclause (III) of clause (iii) to read as follows:
``(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan...
under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the full amount of medicare cost-sharing as described in subparagraphs (B), (C), and (D) of section 1905(p)(3) for such individual.'

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking “the selling” and inserting “(i) the sale or issuance”, and

(ii) by inserting before the period at the end the following: “, (ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (B)).”
(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

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(D)(i) If Ð
(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title,

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(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I), each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than Medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (D)) the statement specified under this subparagraph for the type of policy involved.
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of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.''.

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date of the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) are amended by striking ``of the Social Security Act''.

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS. Ð (1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended Ð (A) in paragraph (1), by striking ``or sold'' and inserting ``or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))''; (B) in paragraph (1)(A), by inserting ``for periods after the effective date of these provisions'' after ``the policy can be expected''; (C) in paragraph (1)(A), by striking ``Commissioners,'' and inserting ``Commissioners'';
(D) in paragraph (1)(B), by inserting before the period at the end the following: " treating policies of the same type as a single policy for each standard package;"

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 13571(m)(4) of the Omnibus Budget Reconciliation Act of 1993."

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package;"

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue."
• (H) in the last sentence of paragraph 1 (2)(A), by striking ``in order'' and all that follows through ``are effective'';

(I) by adding at the end of paragraph (2)(A), the following new sentence: ``In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 13571(m)(4) of the Omnibus Budget Reconciliation Act of 1993.''

(J) in paragraph (2), by striking ``policy year'' each place it appears and inserting ``calendar year'';

(K) in paragraph (4), by striking ``February'', ``disallowance'', ``loss-ratios'' each place it appears, and ``loss-ratio'' and inserting ``October'', ``disallowance'', ``loss ratios'', and ``loss ratio'', respectively;

(L) in paragraph (6)(A), by striking ``issues a policy in violation of the loss ratio requirements of this subsection'' and ``such violation'' and inserting ``fails to provide refunds or credits as required in paragraph (1)(B)'' and ``policy issued for which such failure occurred'', respectively; and
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(1) Paragraph (6)(B), by striking ``to policyholders'' and inserting ``to the policyholder or, in the case of a group policy, to the certificate holder''.

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking ``subsection (F)'' and inserting ``subparagraph (F)''.

(3) Section 4355(d) of OBRA±1990 is amended by striking ``sold or issued'' and all that follows and inserting ``issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of such Act.''.

(f) TREATMENT OF HMO'S.Ð

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking ``a health maintenance organization or other direct service organization'' and all that follows through ``1833'' and inserting ``an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983,
(2) Section 4356(b) of OBRA±1990 is amended by striking ``on the date of the enactment of this Act'' and inserting ``on the date specified in section 1882(p)(1)(C) of the Social Security Act''.

(g) PRE-EXISTING CONDITION LIMITATIONS.ÐSection 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking ``for which an application is submitted'' and inserting ``in the case of an individual for whom an application is submitted prior to or'';

(2) in paragraph (2)(A), by striking ``in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B'' and inserting ``as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B'', and

(3) in paragraph (2)(B), by striking ``before it'' and inserting ``before the policy''.

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(h) MEDICARE SELECT POLICIES.Ð

1. Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting ``medicare supplemental'' after ``If a'',

(B) in paragraph (1), by striking ``NAIC Model Standards'' and inserting ``1991 NAIC Model Regulation or 1991 Federal Regulation'',

(C) in paragraph (1)(A), by inserting ``or agreements'' after ``contracts'',

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking ``NAIC standards'' and inserting ``standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation'',

(E) in paragraph (2), by inserting ``the issuer'' before ``is subject to a civil money penalty''.

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c±3(a)(4)(B)) is amended—

(A) by inserting ``that is'' after ``(or'', and

(B) by striking ``1882(t)'' and inserting ``1882(t)(3)''.

(i) H EALTH INSURANCE COUNSELING.ÐSection 4360 of OBRA±1990 is amended—
(1) in subsection (b)(2)(A)(ii), by striking ``Act'' and inserting ``Act)'';
(2) in subsection (b)(2)(D), by striking ``services'' and inserting ``counseling'';
(3) in subsection (b)(2)(I), by striking ``assistance'' and inserting ``referrals'';
(4) in subsection (c)(1), by striking ``and that such activities will continue to be maintained at such level'';
(5) in subsection (d)(3), by striking ``to the rural areas'' and inserting ``eligible individuals residing in rural areas'';
(6) in subsection (e)Ð(1) by striking ``subsection (c) or (d)'' and inserting ``this section'','
(B) by striking ``and annually thereafter, issue an annual report'' and inserting ``and annually thereafter during the period of the grant, issue a report'', and
(C) in paragraph (1), by striking ``State-wide'';
(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and
(8) by redesignating the second subsection (f) relating to authorization of appropriations for grants as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM. Ð (1) Section 1804 (42 U.S.C. 1395b±2) is amended Ð (A) by adding at the end of the heading the following: ``MEDICARE AND MEDIGAP INFORMATION'', (B) by inserting ``(a)'' after ``1804.'', and (C) by adding at the end the following new subsection:

``(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.''

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

``(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).''

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES. Ð Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended Ð
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(1) in subparagraph (D), by striking ``, if such policy'' and all that follows up to the period at the end, and

(2) by adding at the end the following new sub-

paragraph:

``(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the require-

ments of subsection (q).''.

(l) EFFECTIVE DATE.ÐThe amendments made by this section shall be effective as if included in the enact-

ment of OBRA±1990; except thatÐ

(1) the amendments made by subsection (d)(1)

shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section

1882(d)(3)(A) of the Social Security Act (for an ac-

tion occurring after the effective date of the amend-

ments made by section 4354 of OBRA±1990 and be-

fore the date of the enactment of this Act) with re-

spect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection

(d)(2)(A) and by subparagraphs (A), (B), and (E)
of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1994, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1994, and who were not covered under such section before January 1, 1994, the 6-month period specified in that section shall begin January 1, 1994).

(m) TRANSITION PROVISIONS.

(1) IN GENERAL. If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS. If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in
this subsection referred to as the "NAIC" modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with "unless", such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.ÐIf the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.Ð

(A) IN GENERAL.ÐSubject to subparagraph (B), the date specified in this paragraph for a State is the earlier ofÐ

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or
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(ii) 1 year after the date the NAIC or
the Secretary first makes the modifications
under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIZED.ÐIn the case of a State which the Sec-
retary identifies asÐ
t (i) requiring State legislation (other
than legislation appropriating funds) to
conform its regulatory program to the
changes made in this section, but
(ii) having a legislature which is not
scheduled to meet in 1994 in a legislative
session in which such legislation may be
considered,
the date specified in this paragraph is the first
day of the first calendar quarter beginning after
the close of the first legislative session of the
State legislature that begins on or after Janu-
ary 1, 1994. For purposes of the previous sen-
tence, in the case of a State that has a 2-year
legislative session, each year of such session
shall be deemed to be a separate regular session
of the State legislature.
Section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

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(5)(A) Except as provided in subparagraphs (B) and (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393±1 through 393±51).
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(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefits plans.
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(C) If the Secretary of Labor notifies the Governor of the State of Hawaii that as the result of an amendment to the Hawaii Prepaid Health Care Act enacted after October 5, 1992Ð
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(i) the proportion of the population with health care coverage under such Act is less than such proportion on such date, or
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(ii) the level of benefit coverage provided under such Act is less than the actuarial equivalent of such level of coverage on such date,
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(a) UNITED STATES INTERNATIONAL TRADE COMMISSION.—Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

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(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

(i) $45,416,000 for fiscal year 1994.

(ii) $45,974,000 for fiscal year 1995.

(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the Executive..."
(b) UNITED STATES CUSTOMS SERVICE. Ð Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

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(b) AUTHORIZATION OF APPROPRIATIONS. Ð

(1) FOR NONCOMMERCIAL OPERATIONS. Ð
There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

(A) $540,783,000 for fiscal year 1994.
(B) $527,000,000 for fiscal year 1995.

(2) FOR COMMERCIAL OPERATIONS. Ð
(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

(i) $771,036,000 for fiscal year 1994.
(ii) $748,000,000 for fiscal year 1995.

(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in noncommercial operations, shall be available only when expenditures for commercial operations are set on the basis of such rates as are consistent with the competitive rates prevailing in the field of similar services.
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incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

``(3) FOR AIR AND MARINE INTERDICTION.Ð There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air and marine interdiction programs of the Customs Service not to exceed the following:

``(A) $95,156,000 for fiscal year 1994.
``(B) $128,000,000 for fiscal year 1995.''

(c) OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.Ð Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

``(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:
``(i) $20,143,000 for fiscal year 1994.
``(ii) $20,419,000 for fiscal year 1995.
``(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal yearÐ
(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and

(ii) not to exceed $2,500,000 shall remain available until expended.''

SEC. 13602. EXTENSION OF AUTHORITY TO LEVY CUSTOMS USER FEES.


SEC. 13603. GENERALIZED SYSTEM OF PREFERENCES.

(a) TREATMENT OF COUNTRIES FORMERLY WITHIN THE UNION OF SOVIET SOCIALIST REPUBLICS.ÐThe table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out ``Union of Soviet Socialist Republics''.

(b) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.Ð

(1) IN GENERAL.ÐSection 505(a) of the Trade Act of 1974 (19 U.S.C. 2465(a)) is amended by striking out ``July 4, 1993'' and inserting ``September 30, 1994''.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.ÐNotwithstanding section 514 of the Tariff Act of 1930 or
any other provision of law, upon proper request filed
with the appropriate customs officer within 180 days
after the date of the enactment of this Act, the
entry—
(A) of any article to which duty-free treat-
manship under title V of the Trade Act of 1974
would have applied if the entry had been made
on July 4, 1993, and
(B) that was made after July 4, 1993, and
before such date of enactment,
shall be liquidated or reliquidated as free of duty,
and the Secretary of the Treasury shall refund any
duty paid with respect to such entry. As used in this
paragraph, the term "entry" includes a withdrawal
from warehouse for consumption.

SEC. 13604. EXTENSION OF, AND AUTHORIZATION OF AP-
PROPRIATIONS FOR, THE WORKER TRADE
ADJUSTMENT ASSISTANCE PROGRAM.
(a) E XTENSION.ÐSection 285 of the Trade Act of
1974 (19 U.S.C. note preceding 2271) is amended—
(1) by striking out "No" and all that follows
thereafter down through "chapter 2, no" in sub-
section (b) and inserting "No"; and
(2) by adding at the end the following new sub-
section:
(c) No assistance, vouchers, allowances, or other payments may be provided under chapter 2 after September 30, 1996.


SEC. 13605. EXTENSION OF URUGUAY ROUND TRADE AGREEMENT NEGOTIATING AND PROCLAMATION AUTHORITY AND OF ``FAST TRACK'' IMPLEMENTING LEGISLATION.

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) is amended by inserting at the end the following new subsection:

``(e) Special Provisions Regarding Uruguay Round Trade Negotiations. Ð

``(1) In General. Ð Notwithstanding the time limitations in subsections (a) and (b), if the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade has not resulted in trade agreements by May 31, 1993, the President may, during the period after May 31, 1993, and before April 16, 1994, enter into, under subsections (a) and (b), trade agreements resulting from such negotiations.
``(2) APPLICATION OF TARIFF PROCLAMATION AUTHORITY.ÐNo proclamation under subsection (a) to carry out the provisions regarding tariff barriers of a trade agreement that is entered into pursuant to paragraph (1) may take effect before the effective date of a bill that implements the provisions regarding nontariff barriers of a trade agreement that is entered into under such paragraph.

``(3) APPLICATION OF IMPLEMENTING AND `FAST TRACK' PROCEDURES.ÐSection 1103 applies to any trade agreement negotiated under subsection (b) pursuant to paragraph (1), except thatÐ

``(A) in applying subsection (a)(1)(A) of section 1103 to any such agreement, the phrase `at least 120 calendar days before the day on which he enters into the trade agreement (but not later than December 15, 1993),' shall be substituted for the phrase `at least 90 calendar days before the day on which he enters into the trade agreement; and

``(B) no provision of subsection (b) of section 1103 other than paragraph (1)(A) applies to any such agreement and in applying such paragraph, `April 16, 1994;' shall be substituted for `June 1, 1991;'.

``(4) ADVISORY COMMITTEE REPORTS. – The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement provided for under paragraph (1) shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 1103(a)(1)(A) of his intention to enter into the agreement (but before January 15, 1994).''.

SEC. 13606. REPEAL OF EAST-WEST TRADE STATISTICS MONITORING SYSTEM.

(a) REPEAL. – Section 410 of the Trade Act of 1974 (19 U.S.C. 2440) is repealed.

(b) CONFORMING AMENDMENT. – The table of contents for such Act of 1974 is amended by striking out the following:

``Sec. 410. East-West Trade Statistics Monitoring System.''.

Subtitle E – Customs Officer Pay Reform

SEC. 13701. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL. – Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:
``SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) OVERTIME PAY. Ð

(1) IN GENERAL. Ð Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.

(A) MINIMUM DURATION. Ð Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment and ends at least 1 hour before the beginning of the following regularly scheduled work assignment.
``(B) COMPENSATION FOR COMMUTING TIME. Ð

(i) IN GENERAL. Ð Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

(ii) EXCEPTION. Ð Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1) Ð

(I) does not commence within 16 hours of the customs officer's last regularly scheduled work assignment, or

(II) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

(b) PREMIUM PAY FOR CUSTOMS OFFICERS. Ð

(1) NIGHT WORK DIFFERENTIAL. Ð

(A) 3 P.M. TO MIDNIGHT SHIFTWORK. Ð If the majority of the hours of regularly scheduled
work of a customs officer occur during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

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(B) 11 P.M. TO 8 A.M. SHIFTWORK. If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.
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(C) 7:30 P.M. TO 3:30 A.M. SHIFTWORK. If the regularly scheduled work assignment of a customs officer is 7:30 p.m. to 3:30 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate for the period from 7:30 p.m. to 11:30 p.m. and at the officer's
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hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate for the period from 11:30 p.m. to 3:30 a.m.

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(2) SUNDAY DIFFERENTIAL. A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.

(3) HOLIDAY DIFFERENTIAL. A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

(4) TREATMENT OF PREMIUM PAY. Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

(c) LIMITATIONS.
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(1) FISCAL YEAR CAP. The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) and premium pay under subsection (b) that a customs officer may be paid in any fiscal year may not exceed $25,000; except that the Commissioner of
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Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

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(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.ÐA customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.
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(d) REGULATIONS.ÐThe Secretary of the Treasury shall prescribe such regulations as are necessary or appropriate to carry out this section, including regulationsÐ
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(1) to ensure that callback work assignments are commensurate with the overtime pay authorized for such work; and
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(2) to prevent the disproportionate assignment of overtime work to customs officers who are near to retirement.
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(e) DEFINITIONS.ÐAs used in this section:
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(1) The term `customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable
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standards as may be promulgated by the Office of Personnel Management.

``(2) The term `holiday' means any day designated as a holiday under a Federal statute or Executive order.''

(b) CONFORMING AMENDMENTS.Ð

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amendedÐ

(A) by striking out ``at night'' in the section heading and inserting ``during overtime hours'';

(B) by striking out ``at night'' and inserting ``during overtime hours'';

(C) by inserting ``aircraft,'' immediately before ``vessel''.

c) EFFECTIVE DATE.ÐThe amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after October 1, 1993.

SEC. 13702. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR CUSTOMS OFFICERS.

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in
section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

SEC. 13703. APPROPRIATIONS REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows: ``(i) in—

``(I) paying overtime compensation under section 5(a) of the Act of February 13, 1911,

``(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the cost of the premium pay for that year calculated under such section 5(b) as amended by section 13701 of the Omnibus Budget Reconciliation Act of 1993 and the cost of such pay calculated under subchapter V of chapter 55 of title 5, United States Code,
(III) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I), and

(IV) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and'';

(2) by inserting before the flush sentence appearing after clause (ii) of subparagraph (A) the following sentence: ``The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), and (IV) of clause (i).'';

(3) by striking out ``except for costs described in subparagraph (A)(i) (I) and (II),'' in subparagraph (B)(i); and

(4) by amending subparagraph (C)Ð

(A) by striking out ``to fully reimburse inspectional overtime and preclearance costs'' in clause (i) and inserting ``to reimburse costs described in subparagraph (A)(i)''; and

(B) by inserting after clause (ii) of subparagraph (C) the following:
(iii) For each fiscal year, the Secretary of the Treasury shall calculate the difference between—

(I) the estimated cost for overtime compensation that would have been incurred during that fiscal year for inspectional services if section 5 of the Act of February 13, 1911 (1961 U.S.C. 261 and 267), as in effect before the enactment of section 13701 of the Omnibus Budget Reconciliation Act of 1993, had governed such costs, and

(II) the actual cost for overtime compensation, premium pay, and agency retirement contributions that is incurred during that fiscal year in regard to such services under section 5 of the Act of February 1991, as amended by section 13701 of the Omnibus Budget Reconciliation Act of 1993, and under section 8331(3) of title 5, United States Code, as amended by section 13704 of such Act of 1993, and shall transfer from the Customs User Fee Account to the General Fund of the Treasury an amount equal to the difference calculated under this clause, or $18,000,000, whichever amount is less.

Transfers shall be made under this clause at least quarterly and on the basis of estimates to the same
SEC. 13704. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFICERS FOR RETIREMENT PURPOSES.

(a) IN GENERAL.ÐSection 8331(3) of title 5, United States Code, is amendedÐ

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

(2) by striking out the semicolon at the end of subparagraph (D) and inserting ``; and'';

(3) by adding after subparagraph (D) the following:

``(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;'';

(4) by striking out ``subparagraphs (B), (C), and (D) of this paragraph,'' and inserting ``subparagraphs (B), (C), (D), and (E) of this paragraph''.

(b) EFFECTIVE DATE.ÐThe amendments made by subsection (a) take effect on the date of the enactment...
of this Act and apply only with respect to service per-
formed on or after such date.

SEC. 13705. REPORTS.

(a) CUSTOMS USER FEE ACCOUNT REPORTS.ÐSub-
paragraph (D) of section 13031(f)(3) of the Consolidated
Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.
58c(f)(3)(D)) is amended to read as follows:

``(D) At the close of each fiscal year, the
Secretary of the Treasury shall submit a report
to the Committee on Finance of the Senate and
the Committee on Ways and Means of the
House of RepresentativesÐ

``(i) containing a detailed accounting
of all expenditures from the Customs User
Fee Account during such year, including a
summary of the expenditures, on a port-by-
port basis, for which reimbursement has
been provided under subparagraph (A)(ii);
``(ii) containing a listing of all call-
back assignments of customs officers for
which overtime compensation was paid
under section 5(a) of the Act of February
13, 1911, and that were less than 1 hour
in duration; and
(iii) containing a listing of all customs officers who were paid $25,000 or more under subsections 5(a) and 5(b) of the Act of February 13, 1911, including a listing of the total compensation paid to each of those customs officers under all other statutory authority.''

(b) OTHER REPORTS.Ð

(1) GAO REPORT.ÐThe Comptroller General of the United States shall undertakeÐ

(A) an evaluation of the appropriateness and efficiency of the customs user fee laws for financing the provision of customs inspectional services; and

(B) a study to determine whether cost savings in the provision of overtime inspectional services could be realized by the United States Customs Service through the use of additional inspectors as opposed to continuing the current practice of relying on overtime pay.

The Comptroller General shall submit a report on the evaluation and study required under this subsection to the Committees by no later than the 1st anniversary of the date of the enactment of this Act.
(2) Treasury Recommendation.—On the day that the President submits the budget for the United States Government for fiscal year 1995 to the Congress under section 1105(a) of title 31, United States Code, the Secretary of the Treasury shall submit to the Committees recommended legislative proposals for improving the operation of customs user fee laws in financing the provision of customs inspectional services.

(3) Definition of Committees.—For purposes of this subsection, the term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE XIV—REVENUE

SEC. 14001. SHORT TITLE; ETC.

(a) Short Title.—This title may be cited as the "Revenue Reconciliation Act of 1993".

(b) Amendment to 1986 Code.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.
(c) SECTION 15 NOT TO APPLY. – Except in the case of the amendments made by section 14221 (relating to corporate rate increase), no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) WAIVER OF ESTIMATED TAX PENALTIES. – No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this title.

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PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

SEC. 14101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) PERMANENT EXTENSION OF EXCLUSION.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).
(2) CONFORMING AMENDMENT.ÐParagraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.ÐParagraph (8) of section 132(i) is amended to read as follows:
``(8) A PPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.Ð Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe.''

(c) EFFECTIVE DATES.Ð

(1) S UBSECTION (a).ÐThe amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) S UBSECTION (b).ÐThe amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

(d) TRANSITION RULES.Ð

(1) W AIVER OF INTEREST AND PENALTIES.Ð No interest, penalty, or addition to tax shall be imposed or required to be paid solely by reason of a failure, before the date of the enactment of this Act,
to treat educational assistance in a manner consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as in effect before the amendments made by subsection (a)).

(2) SPECIAL RULES FOR 1992. Ð If (i) an employer provided an employee with educational assistance during the period beginning on July 1, 1992, and ending on December 31, 1992, (ii) consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as so in effect), such employer treated such assistance as taxable for purposes of any employment tax and as a result of such treatment there was an increase in taxable wages for purposes of such tax, (iii) on or after the date of the enactment of this Act and before January 1, 1994, such employer pays such employee amounts which are taxable wages for purposes of such tax and which equal or exceed the increase referred to in clause (ii), and
(iv) such employee did not treat such assistance for purposes of such employment tax (or for purposes of chapter 1 of the Internal Revenue Code of 1986 in the case of employment tax imposed by chapter 24 of such Code) in a manner inconsistent with the employer's treatment of such assistance, the amendments made by subsection (a) shall not apply to such educational assistance for purposes of such employment tax, but, for purposes of applying such employment tax (and for purposes of the reporting requirements imposed by chapter 61 of such Code), the taxable wages of the employee referred to in clause (iii) shall be reduced by the amount of the increase referred to in clause (ii). For purposes of clause (iv), an employer may assume that the employee treated the assistance in a manner consistent with the employer's treatment unless such employer has actual knowledge to the contrary.

(B) REPORTING REQUIREMENT. An employer shall separately report the amounts of any reduction under subparagraph (A) as non-
taxable income on any returns or receipts required under chapter 61 of such Code for calendar year 1993.

(C) Definitions. For purposes of this paragraph—

(i) Employment Tax. The term "employment tax" means any tax imposed by subtitle C of such Code.

(ii) Taxable Wages. The term "taxable wages" means—

(I) wages (as defined in section 3121(a) of such Code) in the case of the taxes imposed by chapter 21 of such Code,

(II) compensation (as defined in section 3231(e) of such Code) in the case of the taxes imposed by chapter 22 of such Code,

(III) wages (as defined in section 3306(b) of such Code) in the case of the taxes imposed by chapter 23 of such Code, and

(IV) wages (as defined in section 3401(a) of such Code) in the case of...
(3) INCOME TAX TREATMENT.—If—
(A) subparagraph (A) of paragraph (2) ap-
plies to any educational assistance referred to
in such paragraph provided to any employee,
and 
(B) such employee included such assistance
in his taxable income for purposes of the tax
imposed by chapter 1 of such Code,
the amendments made by subsection (a) shall not
apply to such assistance for purposes of such chap-
ter 1, but the amount included in the gross income
of such employee by reason of wages received from
the employer referred to in subparagraph (A) of
paragraph (2) during 1993 shall be reduced in the
manner provided in such subparagraph (A).

SEC. 14102. TARGETED JOBS CREDIT.

(a) PERMANENT EXTENSION OF CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 51
(relating to amount of targeted jobs credit) is
amended by striking paragraph (4).

(2) EFFECTIVE DATE.—The amendment made
by paragraph (1) shall apply to individuals who
begin work for the employer after June 30, 1992.
(b) CREDIT FOR PARTICIPANTS IN APPROVED SCHOOL-TO-WORK PROGRAMS.

(1) IN GENERAL. Subparagraph (I) of section 51(d)(1) (defining members of targeted group) is amended to read as follows:

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(I) a qualified participant in an approved school-to-work program, or
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(2) QUALIFIED PARTICIPANT IN AN APPROVED SCHOOL-TO-WORK PROGRAM. Paragraph (10) of section 51(d) is amended to read as follows:

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(10) QUALIFIED PARTICIPANT IN AN APPROVED SCHOOL-TO-WORK PROGRAM DEFINED. IN GENERAL. Except as otherwise provided in this paragraph, the term `qualified participant in an approved school-to-work program' means any individual who is certified under an approved school-to-work program as:

(A) IN GENERAL. Except as otherwise provided in this paragraph, the term `qualified participant in an approved school-to-work program' means any individual who is certified under an approved school-to-work program as:

(i) having attained age 16 but not having attained age 21, and

(ii) being enrolled in and making satisfactory progress in completing such approved school-to-work program.

(B) LIMITATION ON NUMBER OF PARTICIPANTS.
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Any individual who begins work for the employer during any calendar year shall not be treated as a qualified participant in an approved school-to-work program unless the individual is certified under such program as an eligible participant with respect to such calendar year.

The aggregate number of individuals certified under an approved school-to-work program as eligible participants with respect to any calendar year shall not exceed the portion of the national school-to-work program limitation for such calendar year allocated under subsection (l) to such program.

The term `approved school-to-work program' means any program which

(i) is a planned program of structured job training designed to integrate academic instruction provided by an educational institution and work-based learning provided by an employer,
``(D) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.ÐFor purposes of applying this subpart to wages paid or incurred to any qualified participant in an approved school-to-work program, subsection (b)(3) shall be applied by substituting `$3,000' for `$6,000'.

``(E) WAGES.ÐIn the case of remuneration attributable to services performed while the individual meets the requirements of subparagraph (A), wages, and unemployment insurance wages, shall be determined without regard to section 3306(c)(10)(C).

(3) OVERALL LIMITATIONS.ÐSection 51 is amended by adding at the end thereof the following new subsection:

``(l) OVERALL LIMITATION ON APPROVED SCHOOL-TO-WORK PROGRAM PARTICIPANTS.Ð

``(1) IN GENERAL.ÐFor purposes of subsection (d)(10), the national school-to-work program limitationÐ

``(A) for calendar year 1994 is 125,000,
``(B) for calendar year 1995 is 140,000,
``(C) for calendar year 1996 is 160,000,
(D) for calendar year 1997 is 180,000,

and (E) for calendar year 1998 and any sub-
sequent calendar year is 200,000.

(2) ALLOCATION TO STATES—The national
school-to-work program limitation for any calendar
year shall be allocated among the States in propor-
tion to the number of their eligible participants that
are estimated to be served in approved school-to-
work programs for that year. Such estimates shall
be published by the Secretaries of Labor and Edu-
cation before the beginning of the calendar year to
which the allocation applies.

(3) ALLOCATION TO APPROVED SCHOOL-TO-
WORK PROGRAMS—The portion of the national
school-to-work program limitation for any calendar
year which is allocated to any State shall be allo-
cated among the approved school-to-work programs
in such State in such manner as the Secretaries of
Labor and Education shall prescribe.

(4) EFFECTIVE DATE—The amendments made
by this subsection shall apply in the case of individ-
uals who begin work for the employer after Decem-
Subpart A—Research Credit

SEC. 14111. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 14112. MODIFICATION OF FIXED BASE PERCENTAGE FOR STARTUP COMPANIES.

(a) GENERAL RULE.—Clause (ii) of section 41(c)(3)(B) is amended to read as follows:

``(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

``(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

``(II) in the case of the taxpayer's 6th such taxable year, 1/6 of
the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

``(III) in the case of the taxpayer's 7th such taxable year, 1/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

``(IV) in the case of the taxpayer's 8th such taxable year, 1/2 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

``(V) in the case of the taxpayer's 9th such taxable year, 2/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

``(VI) in the case of the taxpayer's 10th such taxable year, the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years,
research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,
``(VI) in the case of the taxpayer's 10th such taxable year, 5/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and
``(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the taxpayer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years.''.
(b) CONFORMING AMENDMENTS.Ð(1) Clause (iii) of section 41(c)(3)(B) is amended by striking ``clause (i)'' and inserting ``clauses (i) and (ii)''.

Subparagraph (D) of section 41(c)(3) is amended by striking ``subparagraph (A)'' and inserting ``subparagraphs (A) and (B)(ii)''.

(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Capital Gain Provisions

SEC. 14113. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE. Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

``SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

``(a) 50-PERCENT EXCLUSION. In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

``(b) PER-ISSUER LIMITATION ON TAXPAYER'S ELIGIBLE GAIN. If the taxpayer has eligible gain for the taxable year from 1 or more dispositions of stock issued by any corporation, the aggregate amount of such gain from dispositions of stock is-


sued by such corporation which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of

``(A) $10,000,000 reduced by the aggregate amount of eligible gain taken into account under subsection (a) for prior taxable years and attributable to dispositions of stock issued by such corporation, or
``(B) 10 times the aggregate adjusted bases of qualified small business stock issued by such corporation and disposed of by the taxpayer during the taxable year.

For purposes of subparagraph (B), the adjusted basis of any stock shall be determined without regard to any addition to basis after the date on which such stock was originally issued.

``(2) Eligible Gain .—For purposes of this subsection, the term `eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

``(3) Treatment of Married Individuals .—

``(A) Separate Returns .—In the case of a separate return by a married individual, paragraph (1)(A) shall be applied by substituting `$5,000,000' for `$10,000,000'.
``(B) Allocation of Exclusion.ÐIn the case of any joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

``(C) Marital Status.ÐFor purposes of this subsection, marital status shall be determined under section 7703.

``(c) Qualified Small Business Stock.ÐFor purposes of this sectionÐ

``(1) In general.ÐExcept as otherwise provided in this section, the term `qualified small business stock' means any stock in a C corporation which is originally issued after December 31, 1992, ifÐ

``(A) as of the date of issuance, such corporation is a qualified small business, and

``(B) except as provided in subsections (f) and (h), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)Ð

``(i) in exchange for money or other property (not including stock), or
(ii) as compensation for services provided to such corporation (other than services performed as an underwriter of such stock).

(2) ACTIVE BUSINESS REQUIREMENT; ETC.

(A) IN GENERAL. Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e) and such corporation is a C corporation.

(B) SPECIAL RULE FOR CERTAIN SMALL BUSINESS INVESTMENT COMPANIES.

(i) WAIVER OF ACTIVE BUSINESS REQUIREMENT. Notwithstanding any provision of subsection (e), a corporation shall be treated as meeting the active business requirements of such subsection for any period during which such corporation qualifies as a specialized small business investment company.

(ii) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY. For purposes of clause (i), the term `specialized small business investment company' means...
(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK. Ð

(A) REDEMPTIONS FROM TAXPAYER OR RELATED PERSON. Ð Stock acquired by the taxpayer shall not be treated as qualified small business stock if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the corporation issuing such stock purchased (directly or indirectly) any of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

(B) SIGNIFICANT REDEMPTIONS. Ð Stock issued by a corporation shall not be treated as qualified business stock if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such corporation made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchase)
chases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2±year period.

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(C) A CQUISITIONS BY RELATED PERSONS.ÐFor purposes of this paragraph, the purchase by any person related (within the meaning of section 267(b) or 707(b)) to the issuing corporation of any stock in the issuing corporation shall be treated as a purchase by the issuing corporation.
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(d) QUALIFIED SMALL BUSINESS.ÐFor purposes of this section—
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(1) I N GENERAL .ÐThe term `qualified small business' means any domestic corporation which is a C corporation if—
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(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after January 1, 1993, and before the issuance did not exceed $50,000,000,
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(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts received in the issuance) does not exceed $50,000,000, and
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such corporation agrees to submit such reports to the Secretary and to shareholders as the Secretary may require to carry out the purposes of this section.

(2) Aggregate Capitalization. For purposes of paragraph (1), the term "aggregate capitalization" means the excess of

(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term "short-term indebtedness" means any indebtedness which, when incurred, did not have a term in excess of 1 year.

(3) Look-Thru in Case of Subsidiaries. In determining whether a corporation meets the requirements of this subsection

(A) stock and debt of any subsidiary (as defined in subsection (e)(5)(C)) held by such corporation shall be disregarded, and

(B) such corporation shall be treated as holding its ratable share of the assets of such
subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

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(e) ACTIVE BUSINESS REQUIREMENT. Ð

(1) IN GENERAL. ÐFor purposes of subsection (c)(2), the requirements of this subsection are met by a corporation for any period if during such period Ð

(A) at least 80 percent (by value) of the assets of such corporation are used by such corporation in the active conduct of a qualified trade or business, and

(B) such corporation is an eligible corporation.

(2) SPECIAL RULE FOR CERTAIN ACTIVITIES. ÐFor purposes of paragraph (1), if, in connection with any future qualified trade or business, a corporation is engaged in Ð

(A) start-up activities described in section 195(c)(1)(A),

(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

(C) activities with respect to in-house research expenses described in section 41(b)(4),
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assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

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(3) QUALIFIED TRADE OR BUSINESS.ÐFor purposes of this subsection, the term `qualified trade or business' means any trade or business other thanÐ
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(A) any trade or business involving the performance of services in the fields of health, law, engineering, architecture, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any other trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees,
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(B) any banking, insurance, financing, leasing, investing, or similar business,
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(C) any farming business (including the business of raising or harvesting trees),
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(D) any business involving the production or extraction of products of a character with re-
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(E) any business of operating a hotel, motel, restaurant, or similar business.

(4) ELIGIBLE CORPORATION. For purposes of this subsection, the term `eligible corporation' means any domestic corporation; except that such term shall not include—

(A) a DISC or former DISC,

(B) a corporation with respect to which an election under section 936 is in effect,

(C) a regulated investment company, real estate investment trust, or REMIC, and

(D) a cooperative.

(5) STOCK IN OTHER CORPORATIONS. (A) LOOK-THRU IN CASE OF SUBSIDIARIES. For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

(B) PORTFOLIO STOCK OR SECURITIES. A corporation shall be treated as failing to meet the requirements of paragraph (1) for any pe...
period during which more than 10 percent of the
value of its assets (in excess of liabilities) con-
sists of stock or securities in other corporations
which are not subsidiaries of such corporation
(other than assets described in paragraph (6)).

``(C) SUBSIDIARY.ÐFor purposes of this
paragraph, a corporation shall be considered a
subsidiary if the parent owns more than 50 per-
cent of the combined voting power of all classes
of stock entitled to vote, or more than 50 per-
cent in value of all outstanding stock, of such
corporation.

``(6) WORKING CAPITAL .ÐFor purposes of
paragraph (1)(A), any assets whichÐ
``(A) are held as a part of the reasonably
required working capital needs of a qualified
trade or business of the corporation, or
``(B) are held for investment and are rea-
sonably expected to be used within 2 years to
finance future research and experimentation in
a qualified trade or business or increases in
working capital needs of a qualified trade or
business,

shall be treated as used in the active conduct of a
qualified trade or business. For periods after the
corporation has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the corporation qualify as used in the active conduct of a qualified trade or business by reason of this paragraph.

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(7) MAXIMUM REAL ESTATE HOLDINGS.ÐA corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.
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(8) COMPUTER SOFTWARE ROYALTIES.ÐFor purposes of paragraph (1), rights to computer software which produces active business software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.
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(f) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.ÐIf any stock in a corporation is acquired solely through the conversion of other stock in such corporation
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(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer—

(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

(g) TREATMENT OF PASS-THRU ENTITIES.—

(1) IN GENERAL.ÐIf any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2)—

(A) such amount shall be treated as gain described in subsection (a), and

(B) for purposes of applying subsection (b), such amount shall be treated as gain from a disposition of stock in the corporation issuing the stock disposed of by the pass-thru entity and the taxpayer's proportionate share of the adjusted basis of the pass-thru entity in such stock shall be taken into account.

(2) REQUIREMENTS.ÐAn amount meets the requirements of this paragraph if—
(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity (determined by treating such entity as an individual) and which was held by such entity for more than 5 years, and

(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.ÐParagraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

(4) PASS-THRU ENTITY.ÐFor purposes of this subsection, the term `pass-thru entity' meansÐ
(B) any S corporation,
(C) any regulated investment company,
and
(D) any common trust fund.

(h) CERTAIN TAX-FREE AND OTHER TRANS-FERS.ÐFor purposes of this sectionÐ

(1) IN GENERAL.ÐIn the case of a transfer described in paragraph (2), the transferee shall be treated as

(A) having acquired such stock in the same manner as the transferor, and
(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

(2) DESCRIPTION OF TRANSFERS.ÐA transfer is described in this subsection if such transfer is

(A) by gift,
(B) at death, or
(C) from a partnership to a partner of stock with respect to which requirements similar to the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding period requirement).
(3) CERTAIN RULES MADE APPLICABLE.

Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.

(A) IN GENERAL.

In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified small business stock is exchanged for other stock which would not qualify as qualified small business stock but for this subparagraph, such other stock shall be treated as qualified small business stock acquired on the date on which the exchanged stock was acquired.

(B) LIMITATION.

This section shall apply to gain from the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

(C) SUCCESSIVE APPLICATION.

For purposes of this paragraph, stock treated as qualified small business stock under subparagraph...
(A) shall be so treated for subsequent trans-
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(D) C O N T R O L T E S T . ÐExcept in the case

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(i) B A SIS RULES. ÐFor purposes of this sectionÐ

``
(1) S TOCK EXCHANGED FOR PROPERTY . ÐIn

``
(A) such stock shall be treated as having

``
(B) the basis of such stock in the hands

``
of the taxpayer shall in no event be less than

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the fair market value of the property ex-

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changed.
(2) Treatment of Contributions to Capital. If the adjusted basis of any qualified small business stock is adjusted by reason of any contribution to capital after the date on which such stock was originally issued, in determining the amount of the adjustment by reason of such contribution, the basis of the contributed property shall in no event be treated as less than its fair market value on the date of the contribution.

(j) Treatment of Certain Short Positions.

(1) In General. If the taxpayer has an offsetting short position with respect to any qualified small business stock, subsection (a) shall not apply to any gain from the sale or exchange of such stock unless:

(A) such stock was held by the taxpayer for more than 5 years as of the first day on which there was such a short position, and

(B) the taxpayer elects to recognize gain as if such stock were sold on such first day for its fair market value.

(2) Offsetting Short Position. For purposes of paragraph (1), the taxpayer shall be treated as having an offsetting short position with respect to any qualified small business stock if:

...
``(A) the taxpayer has made a short sale of substantially identical property, (B) the taxpayer has acquired an option to sell substantially identical property at a fixed price, or (C) to the extent provided in regulations, the taxpayer has entered into any other transaction which substantially reduces the risk of loss from holding such qualified small business stock.

For purposes of the preceding sentence, any reference to the taxpayer shall be treated as including a reference to any person who is related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

``(k) REGULATIONS.ÐThe Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, or otherwise.

(b) ONE-HALF OF EXCLUSION TREATED AS REFERENCE FOR MINIMUM TAX. Ð (1) IN GENERAL.ÐSubsection (a) of section 57 (relating to items of tax preference) is amended by
adding at the end thereof the following new paragraph:

``(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK. - An amount equal to one-half of the amount excluded from gross income for the taxable year under section 1202.''

(2) CONFORMING AMENDMENT. - Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ``and (6)'' and inserting ``(6), and (8)''.

(c) PENALTY FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS. - Section 6652 is amended by inserting before the last subsection thereof the following new subsection:

``(k) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTION 1202. - In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to $50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting `$100' for `$50'. In the...
case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this sub-section shall be multiplied by the number of such years.''

(d) CONFORMING AMENDMENTS.Ð

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

``(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.ÐIn the case of a taxpayer other than a corporationÐ

``(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

``(B) the exclusion provided by section 1202 shall not be allowed.''

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ``, (2)(B),'' after ``paragraph (1)''.

(2) Paragraph (4) of section 642(c) is amended to read as follows:

``(4) ADJUSTMENTS.ÐTo the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section
(a) Proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).''

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: ``The exclusion under section 1202 shall not be taken into account.''.

(4) Paragraph (4) of section 691(c) is amended by striking ``1201, and 1211'' and inserting ``1201, 1202, and 1211''.

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting ``such gains and losses shall be determined without regard to section 1202 and'' after ``except that''.

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

``Sec. 1202. 50-percent exclusion for gain from certain small business stock.''

e) EFFECTIVE DATE.â€”The amendments made by this section shall apply to stock issued after December 31, 1992.
SEC. 14114. ROLLOVER OF GAIN FROM SALE OF PUBLICLY TRADED SECURITIES INTO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end the following new section:

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SEC. 1044. ROLLOVER OF PUBLICLY TRADED SECURITIES GAIN INTO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

(a) NONRECOGNITION OF GAIN.—In the case of the sale of any publicly traded securities with respect to which the taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that

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(1) the cost of any common stock or partnership interest in a specialized small business investment company purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

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(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

(b) LIMITATIONS.—

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(1) LIMITATION ON INDIVIDUALS.—In the case of an individual, the amount of gain which may

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be excluded under subsection (a) for any taxable year shall not exceed the lesser of:

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(A) $50,000, or
(B) $500,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.
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(2) LIMITATION ON C CORPORATIONS. In the case of a C corporation, the amount of gain which may be excluded under subsection (a) for any taxable year shall not exceed the lesser of:

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(A) $250,000, or
(B) $1,000,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.
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(3) SPECIAL RULES FOR MARRIED INDIVIDUALS. For purposes of this subsection:

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(A) SEPARATE RETURNS. In the case of a separate return by a married individual, paragraph (1) shall be applied by substituting `$25,000' for `$50,000' and `$250,000' for `$500,000'.

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(B) ALLOCATION OF GAIN. In the case of any joint return, the amount of gain excluded under subsection (a) for any taxable year shall be allocated equally between the
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(C) Marital Status. For purposes of this subsection, marital status shall be determined under section 7703.

(4) Special Rules for C Corporation. For purposes of this subsection—

(A) all corporations which are members of the same controlled group of corporations (within the meaning of section 52(a)) shall be treated as 1 taxpayer, and

(B) any gain excluded under subsection (a) by a predecessor of any C corporation shall be treated as having been excluded by such C corporation.

(c) Definitions and Special Rules. For purposes of this section—

(1) Publicly Traded Securities. The term `publicly traded securities' means securities which are traded on an established securities market.

(2) Purchase. The term `purchase' has the meaning given such term by section 1043(b)(4).

(3) Specialized Small Business Investment Company. The term `specialized small business investment company' shall take into account the following—

...
A 'specialized small business investment company' means any partnership or corporation which is licensed by the Small Business Administration under section 301(d) of the Small Business Investment Act of 1958 (as in effect on May 13, 1993).

``(4) CERTAIN ENTITIES NOT ELIGIBLE.ÐThis section shall not apply to any estate, trust, partnership, or S corporation.

``(d) BASIS ADJUSTMENTS.ÐIf gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any common stock or partnership interest in any specialized small business investment company which is purchased by the taxpayer during the 60-day period described in subsection (a). This subsection shall not apply for purposes of section 1202.''

(b) CONFORMING AMENDMENT.ÐParagraph (24) of section 1016(a) is amended—

(1) by striking ``section 1043'' and inserting ``section 1043 or 1044'', and

(2) by striking ``section 1043(c)'' and inserting ``section 1043(c) or 1044(d), as the case may be''.

(c) Clerical Amendment. The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

```
Sec. 1044. Rollover of publicly traded securities gain into specialized small business investment companies.
```

(d) Effective Date. The amendments made by this section shall apply to sales on and after the date of the enactment of this Act, in taxable years ending on and after such date.

Subpart C—Modifications To Minimum Tax Depreciation Rules

SEC. 14115. MODIFICATION TO MINIMUM TAX DEPRECIATION RULES.

(a) General Rule. Paragraph (1) of section 56(a) (relating to depreciation) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

```
(B) Treatment of Certain Personal Property Placed in Service After 1993.
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(i) In General. In the case of any property to which this subparagraph applies, the depreciation deduction allowable under section 167 shall be determined as provided in section 168(a), except that the method of depreciation used shall be—
```
(I) the 120 percent declining balance method switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance, or
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(II) the straight line method in the case of property for which the applicable depreciation method under section 168(a) is the straight line method.
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```
(ii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.ÐThis subparagraph shall apply to any tangible property placed in service after December 31, 1993, except that this subparagraph shall not apply to
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(I) any residential rental property or nonresidential real property (within the meaning of section 168(e)), and
```
```
(II) any other property for which the depreciation deduction provided by section 167(a) for purposes
```
of the regular tax is computed under the alternative depreciation system of section 168(g).

``(iii) COORDINATION WITH SUBPARAGRAPH (A).—Subparagraph (A) shall not apply to any property to which this sub-paragraph applies.''

(b) ELIMINATION OF ACED DEPRECIATION ADJUSTMENT. — Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end thereof the following new sentence: ``The preceding sentence shall not apply to any property to which subsection (a)(1)(B) applies, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(B).''.

(c) CONFORMING AMENDMENTS. —

(1) Paragraph (2) of section 168(b) is amended to read as follows:

``(2) SPECIAL RULE FOR DECLINING BALANCE METHOD IN CERTAIN CASES. —

``(A) 150 PERCENT METHOD FOR CERTAIN PROPERTY. — Paragraph (1) shall be applied by substituting `150 percent' for `200 percent' in the case of—

```
(i) any 15-year or 20-year property,
or
(ii) any property used in a farming business (within the meaning of section 263A(e)(4)).

(B) Election to use minimum tax method.â€”In the case of any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this subparagraph apply, paragraph (1) shall be applied by substituting `120 percent' for `200 percent' (and subparagraph (A) of this paragraph shall not apply).''

(2) Paragraph (5) of section 168(b) is amended by striking ``paragraph (2)(C)'' and inserting ``paragraph (2)(B)''.

(3) Subsection (c) of section 168 is amendedâ€”

(A) by striking paragraph (2), and
(B) by striking so much of such subsection as precedes the table contained in paragraph (1) and inserting the following:

``(c) Applicable recovery period.â€”For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:''.


(d) EFFECTIVE DATES.Ð(1) IN GENERAL .ÐExcept as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1993. 

(2) COORDINATION WITH TRANSITIONAL RULES.ÐThe amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (D)(i) thereof (as redesignated by subsection (a) of this section).

Subpart DÐIncrease in Expense Treatment for Small Businesses

SEC. 1416. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.ÐParagraph (1) of section 179(b) (relating to dollar limitation) is amended by striking ``$10,000'' and inserting ``$25,000''.

(b) EFFECTIVE DATE.ÐThe amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.
PART III—TAX-EXEMPT BOND PROVISIONS

SEC. 14121. HIGH-SPEED INTERCITY RAIL FACILITY BONDS EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exemption for certain bonds) is amended by striking ``75 percent of''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1993.

SEC. 14122. PERMANENT EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

``(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.ÐSubparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

``(i) any manufacturing facility, or
``(ii) any land or property in accordance with section 147(c)(2).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.
PART IV—EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT

SEC. 14131. EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

``(a) ALLOWANCE OF CREDIT.—
``(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.
``(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—
``(A) the credit percentage of the earned income amount, over
``(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—
(1) **Percentages.** The credit percentage and the phaseout percentage shall be determined as follows:

- **In General.** In the case of taxable years beginning after 1994:
  - 1 qualifying child: 34.37%  
  - 2 or more qualifying children: 39.66%  
  - No qualifying children: 7.65%

- **Transitional Percentages.** In the case of a taxable year beginning in 1994:
  - 1 qualifying child: 26.60%  
  - 2 or more qualifying children: 31.59%  
  - No qualifying children: 7.65%

(2) **Amounts.** The earned income amount and the phaseout amount shall be determined as follows:

- **In General.** In the case of taxable years beginning after 1994:
  - 1 qualifying child: $6,000  
  - 2 or more qualifying children: $8,500  
  - No qualifying children: $4,000

- **Phaseout Amount.** In the case of taxable years beginning after 1994:
  - $11,000
(B) TRANSITIONAL AMOUNTS. In the case of a taxable year beginning in 1994:

1 qualifying child...

2 or more qualifying children ...

No qualifying child ...

- The earned income amount is:

- The phaseout amount is:

(b) ELIGIBLE INDIVIDUAL. Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

(A) IN GENERAL. The term `eligible individual' means—

(i) any individual who has a qualifying child for the taxable year, or

(ii) any other individual who does not have a qualifying child for the taxable year, if—

(I) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

(II) such individual (or, if the individual is married, the individual's spouse) has attained age 22 before the close of the taxable year,
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``(III) such individual (or, if the individual is married, the individual's spouse) is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.''

(c) INFLATION ADJUSTMENTS.ÐSection 32(i) (relating to inflation adjustments) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraph:

``(1) IN GENERAL.ÐIn the case of any taxable year beginning after 1994, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

``(A) such dollar amount, multiplied by

``(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting `calendar year 1993' for `calendar year 1992'.', and

(2) by redesignating paragraph (3) as paragraph (2).

(d) CONFORMING AMENDMENTS.Ð
(1) Subparagraph (D) of section 32(c)(3) is amended—

(A) by striking ``clause (i) or (ii)'' in clause (iii) and inserting ``clause (i)'',

(B) by striking clause (ii), and

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

(2) Paragraph (3) of section 162(l) is amended to read as follows:

``(3) COORDINATION WITH MEDICAL DEDUCTION.ÐAny amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).''

(3) Section 213 is amended by striking subsec-

(4) Subsection (b) of section 3507 is amended

by redesignating paragraphs (2) and (3) as para-

graphs (3) and (4), respectively, and by inserting

after paragraph (1) the following new paragraph:

``(2) certifies that the employee has 1 or more qualifying children (within the meaning of section 32(c)(3)) for such taxable year,''.

(5) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

```
(i) of not more than the credit percentage in effect under section 32(b)(1) for an eligible individual with 1 qualifying child and with earned income not in excess of the earned income amount in effect under section 32(b)(2) for such an eligible individual, which

(ii) phases out at the phaseout percentage in effect under section 32(b)(1) for such an eligible individual between the phaseout amount in effect under section 32(b)(2) for such an eligible individual and the amount of earned income at which the credit under section 32(a) phases out for such an eligible individual, or''.
```

(e) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years beginning after December 31, 1993.
SEC. 14141. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

```
(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term `qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue.''
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XX\n
SEC. 14142. PERMANENT EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(b) HOME ASSISTANCE NOT TO RESULT IN CERTAIN BUILDINGS BEING FEDERALLY SUBSIDIZED.—Paragraph (2) of section 42(i) (relating to determination of whether building is federally subsidized) is amended by adding at the end thereof the following new subparagraph:

``(E) BUILDINGS RECEIVING HOME ASSISTANCE.ÐAssistance provided under the HOME Investment Partnerships Act (as in effect on the date of the enactment of this subparagraph) with respect to any building shall not be taken under subparagraph (D) if 40 percent or more of the residential units in the building are occupied by individuals whose income is 50 percent or less of area median gross income. Subsection (d)(5)(C) shall not apply to any building to which the preceding sentence applies.''

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to periods after June 30, 1992.

(2) The amendment made by subsection (b) shall apply to periods after the date of the enactment of this Act.
SEC. 14143. APPLICATION OF PASSIVE LOSS RULES TO RENTAL REAL ESTATE ACTIVITIES.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Subsection (c) of section 469 (defining passive activity) is amended by adding at the end thereof the following new paragraph:

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(7) SPECIAL RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS —

(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity. Nothing in the preceding provisions of this subparagraph shall be construed as affecting the determination of whether the taxpayer materially participates with respect to any interest in a limited partnership as a limited partner.
```
(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.ÐThis paragraph shall apply to a taxpayeur for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

(C) REAL PROPERTY TRADE OR BUSINESS.ÐFor purposes of this paragraph, the term `real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

(D) SPECIAL RULES FOR SUBPARAGRAPH (B).Ð

(i) CLOSELY HELD CORPORATIONS.ÐIn the case of a closely held corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property
trades or businesses in which the corporation materially participates.

(ii) PERSONAL SERVICES AS AN EMPLOYEE. For purposes of subparagraph (B), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer.

(b) CONFORMING AMENDMENTS. (1) Paragraph (2) of section 469(c) is amended by striking ``The'' and inserting ``Except as provided in paragraph (7), the''.

(2) Clause (iv) of section 469(i)(3)(E) is amended by inserting ``or any loss allowable by reason of subsection (c)(7)'' after ``loss''.

(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years beginning after December 31, 1993.
SEC. 14144. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.ÐParagraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

``(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.ÐExcept as otherwise provided by regulationsÐ

``(i) SMALL LEASES DISREGARDED.ÐFor purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building (or complex of buildings) is covered by the lease and if the lease is on commercially reasonable terms.

``(ii) COMMERCIALLY REASONABLE FINANCING.ÐClause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

``(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.Ð
```
(i) In general. Ð In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

(ii) Qualifying sale. Ð For purposes of this clause, there is a qualifying sale by a financial institution if—

(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable,

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``(III) the present value (determined as of the time of the sale and by using the applicable Federal rate determined under section 1274(d)) of the maximum amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property cannot exceed 30 percent of the total purchase price of the property (including the contingent payments).

``(iii) Property to Which Subparagraph Applies.—Property is described in this clause if such property is foreclosure property, or is real property which—

``(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

``(II) was held by the financial institution at the time it entered into conservatorship or receivership.
(iv) Financial Institution. For purposes of this subparagraph, the term `financial institution' means—

``(I) any financial institution described in section 581 or 591(a),

``(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

``(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

(v) Foreclosure Property. For purposes of this subparagraph, the term `foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property
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at foreclosure, or by operation of an agree-

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ment or process of law, after there was a

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default (or a default was imminent) on in-

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debtedness which such property secured.''.

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(b) C ONFORMING AMENDMENT.ÐParagraph (9) of

5
section 514(c) is amendedÐ

6
(1) by adding the following new sentence at the

7
end of subparagraph (A): ``For purposes of this

8
paragraph, an interest in a mortgage shall in no

9
event be treated as real property.'', and

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(2) by striking the last sentence of subpara-

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graph (B).

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(c) EFFECTIVE DATES.Ð

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(1) I N GENERAL .ÐThe amendments made by

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this section shall apply to acquisitions on or after

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(2) S MALL LEASES .ÐThe provisions of section

17
514(c)(9)(G)(i) of the Internal Revenue Code of

18
1986 shall, in addition to any leases to which the

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provisions apply by reason of paragraph (1), apply

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to leases entered into on or after January 1, 1994.

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SEC. 14145. REPEAL OF SPECIAL TREATMENT OF PUBLICLY

22
TREATED PARTNERSHIPS.

23
(a) G ENERAL RULE.ÐSubsection (c) of section 512

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is amendedÐ
(1) by striking paragraph (2),
(2) by redesignating paragraph (3) as paragraph (2), and
(3) by striking ``paragraph (1) or (2)'' in paragraph (2) (as so redesignated) and inserting ``paragraph (1)''.

(b) EFFECTIVE DATE. The amendments made by subsection (a) shall apply to partnership years beginning on or after January 1, 1994.

SEC. 14146. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE. Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

``(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

``(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the
Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income.''

(b) CONFORMING AMENDMENT. Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.''

(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years beginning on or after January 1, 1994.

SEC. 14147. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE. Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

``(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

``(i) such property was acquired by the organization from—}
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(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

(iii) such sale, exchange, or disposition occurs before the later of

(I) the date which is 30 months after the date of the acquisition of such property, or

(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and
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(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

(B) Property is described in this subparagraph if it is real property which—

(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage.''

(b) EFFECTIVE DATE. The amendment made by subsection (a) shall apply to property acquired on or after January 1, 1994.
(b) OPTION PREMIUMS. The second sentence of section 512(b)(5) is amended—
(1) by striking ``all gains on'' and inserting ``all gains or losses recognized, in connection with the organization's investment activities, from'',
(2) by striking `, written by the organization in connection with its investment activities,'', and
(3) by inserting ``or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities'' before the period.
(c) EFFECTIVE DATE. The amendments made by this section shall apply to amounts received on or after January 1, 1994.

SEC. 14149. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE. Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:
``(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401 (a).''
(A) LOOK-THRU TREATMENT.

(i) IN GENERAL. Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE. Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES. If any entity
qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

``(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.–If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the `REIT year') as

``(i) the gross income (less direct expenses related thereto) of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

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``(ii) the gross income (less direct expenses related thereto) of the REIT for the REIT year.
``This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.
``(D) PENSION-HELD REIT.ÐThe purposes of subparagraph (C)Ð
``(i) IN GENERAL.ÐA real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.
``(ii) PREDOMINANTLY HELD.ÐFor purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts ifÐ
``(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or
``(II) 1 or more qualified trusts (each of whom own more than 10 percent) hold more than 25 percent (by value) of the interests in such real estate investment trust,
(E) QUALIFIED TRUST.ÐFor purposes of this paragraph, the term `qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a).''

(b) EFFECTIVE DATE.ÐThe amendment made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart DÐDischarge of Indebtedness

SEC. 14150. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.ÐParagraph (1) of section 108(a) (relating to income from discharge of indebtedness) is amended by striking ``or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting `, or'', and by adding at the end the following new subparagraph:

``(D) in the case of a taxpayer other than a C corporation, the indebtedness discharged is qualified real property business indebtedness.''
(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.ÐSection 108 is amended by inserting after subsection (b) the following new subsection:

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(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.Ð

(1) BASIS REDUCTION.Ð

(A) IN GENERAL.ÐThe amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

(B) CROSS REFERENCE.ÐFor provisions making the reduction described in subparagraph (A), see section 1017.

(2) LIMITATIONS.Ð

(A) INDEBTEDNESS IN EXCESS OF VALUE.ÐThe amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of

(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

(ii) the fair market value of the real property described in paragraph (3)(A) (as

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of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

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(B) OVERALL LIMITATION. - The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).
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(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS. - The term `qualified real property business indebtedness' means indebtedness which:
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(A) was incurred or assumed by the taxpayer in connection with real property used in a trade or business and is secured by such real property,
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(B) was incurred or assumed before January 1, 1993, or if incurred or assumed on or after such date, is qualified acquisition indebtedness,
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```
(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

``(4) QUALIFIED ACQUISITION INDEBTEDNESS. Ð For purposes of paragraph (3)(B), the term `qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

``(5) REGULATIONS. Ð The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means.''

c) TECHNICAL AMENDMENTS. Ð (1) Subparagraph (A) of section 108(a)(2) is amended by striking ``and (C)'' and inserting`, (C), and (D)''.
(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

```
(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION. ÐSubparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent.
```

(3) Subsection (d) of section 108 is amended Ð

(A) by striking ``subsections (a), (b), and (g)'' in paragraphs (6) and (7)(A) and inserting ``subsections (a), (b), (c), and (g)'',

(B) by striking ``SUBSECTIONS (a), (b), AND (g)'' in the subsection heading and inserting ``CERTAIN PROVISIONS'', and

(C) by striking ``SUBSECTIONS (a), (b), AND (g)'' in the headings of paragraphs (6) and (7)(A) and inserting ``CERTAIN PROVISIONS''.

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence: ``The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge.''

Subparagraph (A) of section 108(d)(9) is amended by inserting ``or under paragraph (3)(B) of subsection (c)'' after ``subsection (b)''.

Paragraph (2) of section 1017(a) is amended by striking ``or (b)(5)'' and inserting `, (b)(5), or (c)(1)''.

Subparagraph (A) of section 1017(b)(3) is amended by inserting ``or (c)(1)'' after ``subsection (b)(5)''.

Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

``(F) SPECIAL RULES FOR QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.Ð In the case of any amount which under section 108(c)(1) is to be applied to reduce basis

``(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

``(ii) subparagraph (E) shall not apply, and

``(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately
before disposition if earlier than the time
under subsection (a).''

(9) Paragraph (1) of section 703(b) is amended
by striking ``subsection (b)(5)'' and inserting ``sub-
section (b)(5) or (c)(3)''.

(d) EFFECTIVE DATE.ÐThe amendments made by
this section shall apply to discharges after December 31,
1992, in taxable years ending after such date.

Subpart EÐIncrease in Recovery Period for
Nonresidential Real Property

SEC. 14151. INCREASE IN RECOVERY PERIOD FOR
NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.ÐParagraph (1) of section
168(c) (relating to applicable recovery period) is amended
by striking the item relating to nonresidential real prop-
erty and inserting the following:
``Nonresidential real property .................................................. 39 years.''

(b) EFFECTIVE DATE.Ð

(1) IN GENERAL .ÐExcept as provided in para-
graph (2), the amendment made by subsection (a)
shall apply to property placed in service by the tax-
payer on or after February 25, 1993.

(2) EXCEPTION.ÐThe amendments made by
this section shall not apply to property placed in
service by the taxpayer before January 1, 1994, ifÐ
part vi—luxury tax

sec. 14161. repeal of luxury excise taxes other than on passenger vehicles.

(a) in general.—subchapter a of chapter 31 (relating to retail excise taxes) is amended to read as follows:

``subchapter a—luxury passenger automobiles

``sec. 4001. imposition of tax.
``sec. 4002. first retail sale; uses, etc. treated as sales; determination of price.
``sec. 4003. special rules.

``sec. 4001. imposition of tax.
``(a) imposition of tax.—there is hereby imposed on the first retail sale of any passenger vehicle a tax equal

...
to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

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(b) PASSENGER VEHICLE.Ð
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(1) IN GENERAL.ÐFor purposes of this sub-
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(A) which is manufactured primarily for
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(B) which is rated at 6,000 pounds un-
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```
(2) SPECIAL RULES.Ð
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```
(A) TRUCKS AND VANS.ÐIn the case of a
```

```
(B) LIMOUSINES.ÐIn the case of a lim-
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(3) EXCEPTIONS FOR TAXICABS, ETC.ÐThe tax im-
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posed by this section shall not apply to the sale of any
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passenger vehicle for use by the purchaser exclusively in
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the active conduct of a trade or business of transporting
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persons or property for compensation or hire.
```
(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC. — No tax shall be imposed by this section on the sale of any passenger vehicle —

(1) to the Federal Government, or a State or local government, for use exclusively in police, fire-fighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

(2) to any person for use exclusively in providing emergency medical services.

(e) INFLATION ADJUSTMENT. —

(1) IN GENERAL. — In the case of any calendar year after 1992, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to —

(A) $30,000, multiplied by

(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting `calendar year 1990' for `calendar year 1992' in subparagraph (B) thereof.

(2) ROUNDING. — If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and
not of $100, such amount shall be rounded to the next highest multiple of $100).

``(f) TERMINATION.ÐThe tax imposed by this section shall not apply to any sale or use after December 31, 1999.

``SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

``(a) 1ST RETAIL SALE.ÐFor purposes of this subchapter, the term `1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

``(b) USE TREATED AS SALE.Ð

``(1) I N GENERAL .ÐIf any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

``(2) E XEMPTION FOR FURTHER MANUFACTURE.ÐParagraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.
``(3) EXEMPTION FOR DEMONSTRATION USE.Ð Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator.

``(4) EXCEPTION FOR USE AFTER IMPORTATION.Ð Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the first use of the vehicle occurred before January 1, 1991, outside the United States.

``(5) COMPUTATION OF TAX.Ð In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

``(c) LEASES CONSIDERED AS SALES.Ð For purposes of this subchapter—

``(1) IN GENERAL.Ð Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

``(2) SPECIAL RULES FOR LONG-TERM LEASES.Ð

``(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.Ð The sale of any vehicle under a lease entered into—
a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

``(B) LONG-TERM LEASE.ÐFor purposes of subparagraph (A), the term `long-term lease' means any long-term lease (as defined in section 4052).

``(C) SPECIAL RULES.ÐIn the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicleÐ

``(i) DETERMINATION OF PRICE.ÐThe tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

``(ii) PAYMENT OF TAX.ÐRules similar to the rules of section 4217(e)(2) shall apply.

``(iii) NO TAX WHERE EXEMPT USE BY LESSEE.ÐNo tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such
lease is an exempt use (as defined in section 4003(b)) of such vehicle.

```
(d) DETERMINATION OF PRICE. Ð
(1) IN GENERAL Ð In determining price for purposes of this subchapter Ð
(A) there shall be included any charge in connection with placing the article in condition ready for use,
(B) there shall be excluded Ð
(i) the amount of the tax imposed by this subchapter,
(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and
(iii) the value of any component of such article if Ð
(I) such component is furnished by the 1st user of such article, and
(II) such component has been used before such furnishing, and
(C) the price shall be determined without regard to any trade-in.
```
(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

SEC. 4003. SPECIAL RULES.

(a) SEPARATE PURCHASE OF VEHICLE AND PARTS THEREFOR.—Under regulations prescribed by the Secretary—

(1) IN GENERAL.—Except as provided in paragraph (2), if—

(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

(B) such installation is not later than the date 6 months after the date the vehicle was first placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

(A) the sum of—
``(i) the price of such part or accessory and its installation,
``(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus
``(iii) the price for which the passenger vehicle was sold, over
``(B) $30,000.
``(3) EXCEPTIONS.ÐParagraph (1) shall not apply if
``(A) the part or accessory installed is a replacement part or accessory,
``(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or
``(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason...
``(4) INSTALLERS SECONDARILY LIABLE FOR TAX.ÐThe owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

``(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.Ð

``(1) IN GENERAL .ÐIfÐ

``(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

``(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

``(2) EXEMPT USE .ÐFor purposes of this subsection, the term `exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.
(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.ÐParts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

(d) PARTIAL PAYMENTS, ETC.ÐIn the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter.

(b) TECHNICAL AMENDMENTS.Ð

(1) Subsection (c) of section 4221 is amended by striking ``4002(b), 4003(c), 4004(a)'' and inserting ``4001(d)''.

(2) Subsection (d) of section 4222 is amended by striking ``4002(b), 4003(c), 4004(a)'' and inserting ``4001(d)''.

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

``Subchapter A. Luxury passenger vehicles.''

(c) EFFECTIVE DATE.ÐThe amendments made by this section shall take effect on January 1, 1993.
SEC. 14162. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect on the day before the date of the enactment of this Act, is amended—

(1) by striking ``or'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C),

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

``(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or'', and

(4) by inserting after subparagraph (C) the following flush sentence:

``The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).''
(b) Effectiveness Date. The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

(c) Period for Filing Claims. If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 14163. Tax on Diesel Fuel Used in Noncommercial Boats.

(a) General Rule. Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking “or a diesel-powered train” and inserting “, a diesel-powered train, or a diesel-powered boat.”

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking “diesel-powered highway vehicle” each place it appears and inserting “diesel-powered highway vehicle, an oceangoing vessel, a vessel engaged in the interstate or foreign trade, or a noncommercial boat”
``diesel-powered highway vehicle or diesel-powered boat'', and
(B) by striking ``such vehicle'' and inserting ``such vehicle or boat''.
(3) Subparagraph (B) of section 4092(b)(1) is amended by striking ``commercial and noncommercial vessels'' each place it appears and inserting ``vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))''.

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.ÐSubparagraph (B) of section 6421(e)(2) is amended to read as follows:
``(B) USES IN BOATS.ÐThe term `off-highway business use' does not include any use in a motorboat; except that such term shall include any use in
``(i) a vessel employed in the fisheries or in the whaling business, and
``(ii) in the case of diesel fuel, a boat in the active conduct of
``(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or
(II) any other trade or business  

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(2) Taxes imposed at leaking underground storage tank trust fund financing rate.ÐSubsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new subparagraph:

```
(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat.
```
of the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) EFFECTIVE DATE. The amendments made by this section shall take effect on January 1, 1994.

PART VII—OTHER CHANGES

SEC. 14171. ALTERNATIVE MINIMUM TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) REPEAL OF TAX PREFERENCE. Subsection (a) of section 57 (as amended by section 14113) is amended by striking paragraph (6) (relating to appreciated property charitable deduction) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) EFFECT ON ADJUSTED CURRENT EARNINGS. Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

``(J) TREATMENT OF CHARITABLE CONTRIBUTIONS. Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings.''

(c) CONFORMING AMENDMENT.ÐSubclause (II) of section 53(d)(1)(B)(ii) (as amended by section 14113) is amended by striking ``(5), (6), and (8)'' and inserting ``(5), and (7)''.

(d) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

(e) REPORT ON ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.ÐNot later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied. Such report shall address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure, and steps that can be taken to encourage taxpayers to use the procedure.
procedure only to items with significant artistic or cultural
value, and recommendations for legislative action needed
to implement the proposed procedure.

SEC. 14172. CERTAIN TRANSFERS TO RAILROAD RETIRE-
MENT ACCOUNT MADE PERMANENT.

Subsection (c)(1)(A) of section 224 of the Railroad
Retirement Solvency Act of 1983 (relating to section 72(r)
revenue increase transferred to certain railroad accounts)
is amended by striking ``with respect to benefits received
before October 1, 1992''.

SEC. 14173. TEMPORARY EXTENSION OF DEDUCTION FOR
HEALTH INSURANCE COSTS OF SELF±EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—

(1) EXTENSION.—Paragraph (6) of section
162(l) (relating to special rules for health insurance
costs of self-employed individuals) is amended by
striking ``June 30, 1992'' and inserting ``December
31, 1993''.

(2) CONFORMING AMENDMENT.—Paragraph (2)
of section 110(a) of the Tax Extension Act of 1991
is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made
by this subsection shall apply to taxable years end-
ing after June 30, 1992.
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(b) DETERMINATION OF ELIGIBILITY FOR EMPLOYER-SPONSORED HEALTH PLAN.

(1) IN GENERAL. — Paragraph (2)(B) of section 162(l) is amended to read as follows:

``(B) OTHER COVERAGE. — Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer.''

(2) EFFECTIVE DATE. — The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1992.

Subtitle B—Revenue Increases

PART I—PROVISIONS AFFECTING INDIVIDUALS

Subpart A—Rate Increases

SEC. 14201. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE. — Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

``(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES. — There is hereby imposed on the taxable income of —
(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and
```
(2) every surviving spouse (as defined in section 2(a)),
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a tax determined in accordance with the following table:
```
<table>
<thead>
<tr>
<th>If taxable income is:</th>
<th>The tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $36,900</td>
<td>15% of taxable income.</td>
</tr>
<tr>
<td>Over $36,900 but not over $89,150</td>
<td>$5,535, plus 28% of the excess over $36,900.</td>
</tr>
<tr>
<td>Over $89,150 but not over $140,000</td>
<td>$20,165, plus 31% of the excess over $89,150.</td>
</tr>
<tr>
<td>Over $140,000</td>
<td>$35,928.50, plus 36% of the excess over $140,000.</td>
</tr>
</tbody>
</table>
```
```
(b) HEADS OF HOUSEHOLDS.ÐThere is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:
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<table>
<thead>
<tr>
<th>If taxable income is:</th>
<th>The tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $29,600</td>
<td>15% of taxable income.</td>
</tr>
<tr>
<td>Over $29,600 but not over $76,400</td>
<td>$4,440, plus 28% of the excess over $29,600.</td>
</tr>
<tr>
<td>Over $76,400 but not over $127,500</td>
<td>$17,544, plus 31% of the excess over $76,400.</td>
</tr>
<tr>
<td>Over $127,500</td>
<td>$33,385, plus 36% of the excess over $127,500.</td>
</tr>
</tbody>
</table>
```
```
(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).ÐThere is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703):
HR 2264 RH 7703) a tax determined in accordance with the following table:

```
If taxable income is:  The tax is:
Not over $22,100 .......................... 15% of taxable income.
Over $22,100 but not over $53,500.
$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000.
$12,107, plus 31% of the excess over $53,500.
Over $115,000 ............................... $31,172, plus 36% of the excess over $115,000.
```

(d) M ARRIED INDIVIDUALS FILING SEPARATE RETURNS.ÐThere is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

```
If taxable income is:  The tax is:
Not over $18,450 .......................... 15% of taxable income.
Over $18,450 but not over $44,575.
$2,767.50, plus 28% of the excess over $18,450.
Over $44,575 but not over $70,000.
$10,082.50, plus 31% of the excess over $44,575.
Over $70,000 ................................. $17,964.25, plus 36% of the excess over $70,000.
```

(e) E STATES AND TRUSTS.ÐThere is hereby imposed on the taxable income of (1) every estate, and (2) every trust, taxable under this subsection a tax determined in accordance with the following table:

```
If taxable income is:  The tax is:
Not over $1,500 ............................ 15% of taxable income.
Over $1,500 but not over $3,500 .. $225, plus 28% of the excess over $1,500.
```
If taxable income is: The tax is:
Over $3,500 but not over $5,500 ................................................................. $785, plus 31% of the excess over $3,500.
Over $5,500 ................................................................................................. $1,405, plus 36% of the excess over $5,500.

(b) CONFORMING AMENDMENTS.Ð

(1) Section 531 is amended by striking ``28 percent'' and inserting ``36 percent''.

(2) Section 541 is amended by striking ``28 percent'' and inserting ``36 percent''.

(3)(A) Subsection (f) of section 1 is amendedÐ

(i) by striking ``1990'' in paragraph (1) and inserting ``1993'', and
(ii) by striking ``1989'' in paragraph (3)(B) and inserting ``1992''.

(B) Subsection (f) of section 1 is amended by adding at the end thereof the following new paragraph:

``(7) SPECIAL RULE FOR CERTAIN BRACKETS .Ð
(A) CALENDAR YEAR 1994 .ÐIn prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).''
(B) Later calendar years.—In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be determined under paragraph (3) by substituting `1993' for `1992'.

(C) Subparagraph (C) of section 41(e)(5) is amended by striking ``1989'' each place it appears and inserting ``1992''.

(D) Subparagraph (B) of section 63(c)(4) is amended by striking ``1989'' and inserting ``1992''.

(E) Subparagraph (B) of section 68(b)(2) is amended by striking ``1989'' and inserting ``1992''.

(F) Subparagraph (B) of section 132(f)(6) is amended by striking ``, determined by substituting'' and all that follows down through the period at the end thereof and inserting a period.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking ``1989'' and inserting ``1992''.

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking ``1989'' and inserting ``1992''.


SEC. 14202. SURTAX ON HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.Ð

(1) Subsection (a) of section 1 (as amended by section 14201) is amended by striking the last item in the table contained therein and inserting the following:

<table>
<thead>
<tr>
<th>Income Range</th>
<th>Surtax Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over $140,000 but not over $250,000</td>
<td>$35,928.50, plus 36% of the excess over $140,000.</td>
</tr>
<tr>
<td>Over $250,000</td>
<td>$75,528.50, plus 39.6% of the excess over $250,000.</td>
</tr>
</tbody>
</table>

(2) Subsection (b) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

<table>
<thead>
<tr>
<th>Income Range</th>
<th>Surtax Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over $127,500 but not over $250,000</td>
<td>$33,385, plus 36% of the excess over $127,500.</td>
</tr>
<tr>
<td>Over $250,000</td>
<td>$77,485, plus 39.6% of the excess over $250,000.</td>
</tr>
</tbody>
</table>

(3) Subsection (c) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

<table>
<thead>
<tr>
<th>Income Range</th>
<th>Surtax Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over $115,000 but not over $250,000</td>
<td>$31,172, plus 36% of the excess over $115,000.</td>
</tr>
<tr>
<td>Over $250,000</td>
<td>$79,772, plus 39.6% of the excess over $250,000.</td>
</tr>
</tbody>
</table>

(4) Subsection (d) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:
Over $70,000 but not over $125,000. $17,964.25, plus 36% of the excess over $70,000.
Over $125,000 ................................... $37,764.25, plus 39.6% of the excess over $125,000.''

(5) Subsection (e) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:
Over $5,500 but not over $7,500 .. $1,405, plus 36% of the excess over $5,500.
Over $7,500 ................................... $2,125, plus 39.6% of the excess over $7,500.''

(b) TECHNICAL AMENDMENT.ÐSections 531 and 541 (as amended by section 1420) are each amended by striking ``36 percent'' and inserting ``39.6 percent''.

(c) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 14203. MODIFICATIONS TO ALTERNATIVE MINIMUM TAX RATES AND EXEMPTION AMOUNTS.

(a) INCREASE IN RATE.ÐParagraph (1) of section 55(b) (defining tentative minimum tax) is amended to read as follows:
``(1) AMOUNT OF TENTATIVE TAX .Ð
``(A) NONCORPORATE TAXPAYERS .Ð
``(i) IN GENERAL .ÐIn the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum ofÐ
(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus
(II) 28 percent of so much of the taxable excess as exceeds $175,000. The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

(ii) TAXABLE EXCESS. For purposes of clause (i), the term `taxable excess' means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(iii) MARRIED INDIVIDUAL FILING SEPARATE RETURN. In the case of a married individual filing a separate return, clause (i) shall be applied by substituting `$87,500' for `$175,000' each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.
(B) CORPORATIONS. Ð In the case of a corporation, the tentative minimum tax for the taxable year is

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(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by
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(ii) the alternative minimum foreign tax credit for the taxable year.''
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(b) INCREASE IN EXEMPTION AMOUNTS. Ð Paragraph (1) of section 55(d) (defining exemption amount) is amended

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(1) by striking ``$40,000'' in subparagraph (A) and inserting ``$45,000'',
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(2) by striking ``$30,000'' in subparagraph (B) and inserting ``$33,750'', and
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```
(3) by striking ``$20,000'' in subparagraph (C) and inserting ``$22,500''.
```

(c) CONFORMING AMENDMENTS. Ð

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(1) The last sentence of section 55(d)(3) is amended by striking ``$155,000 or (ii) $20,000'' and inserting ``$165,000 or (ii) $22,500''.
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(2) (A) Subparagraph (A) of section 897(a)(2) is amended by striking ``the amount determined under section 55(b)(1)(A) shall not be less than 21
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22
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percent of'' and inserting ``the taxable excess for
purposes of section 55(b)(1)(A) shall not be less
than''.

(B) The heading for paragraph (2) of section
897(a) is amended by striking `` 21-PERCENT''.

d) EFFECTIVE DATE.ÐThe amendments made by
this section shall apply to taxable years beginning after

SEC. 14204. OVERALL LIMITATION ON ITEMIZED DEDUC-
TIONS FOR HIGH-INCOME TAXPAYERS MADE
PERMANENT.

Subsection (f) of section 68 (relating to overall limita-
tion on itemized deductions) is hereby repealed.

SEC. 14205. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-
INCOME TAXPAYERS MADE PERMANENT.

Section 151(d)(3) (relating to phaseout of personal
exemption) is amended by striking subparagraph (E).

SEC. 14206. PROVISIONS TO PREVENT CONVERSION OF OR-
DINARY INCOME TO CAPITAL GAIN.

(a) INTEREST EMBEDDED IN FINANCIAL TRANS-
ACTIONS.Ð

(1) IN GENERAL.ÐPart IV of subchapter P of
chapter 1 (relating to special rules for determining
capital gains and losses) is amended by adding at
the end thereof the following new section:
SEC. 1258. RECHARACTERIZATION OF GAIN FROM CERTAIN FINANCIAL TRANSACTIONS.

(a) GENERAL RULE.ÐIn the case of any gain—

(1) which (but for this section) would be treated as gain from the sale or exchange of a capital asset, and

(2) which is recognized on the disposition of any property which was held as part of a conversion transaction,

such gain (to the extent such gain does not exceed the applicable imputed income amount) shall be treated as ordinary income.

(b) APPLICABLE IMPUTED INCOME AMOUNT.ÐFor purposes of subsection (a), the term `applicable imputed income amount' means, with respect to any disposition referred to in subsection (a), an amount equal to—

(1) the amount of interest which would have accrued on the taxpayer's net investment in the conversion transaction for the period ending on the date of such disposition (or, if earlier, the date on which the requirements of subsection (c) ceased to be satisfied) at a rate equal to 120 percent of the applicable rate, reduced by

(2) the amount treated as ordinary income under subsection (a) with respect to any prior disposition.
The Secretary shall by regulations provide for such reductions in the applicable imputed income amount as may be appropriate by reason of amounts capitalized under section 263(g), ordinary income received, or otherwise.

``(c) Conversion Transaction.ÐFor purposes of this section, the term `conversion transaction' means any of the following where substantially all of the taxpayer's expected return from the transaction is attributable to the time value of the taxpayer's net investment in such transaction:

``(1) The holding of any property (whether or not actively traded), and the entering into a contract to sell such property (or substantially identical property) at a price determined in accordance with such contract, but only if such property was acquired and such contract was entered into on a substantially contemporaneous basis.

``(2) Any applicable straddle.

``(3) Any other transaction which is marketed or sold as producing capital gains.

``(4) Any other transaction specified in regulations prescribed by the Secretary.
(d) Definitions and Special Rules. For purposes of this section—

(1) Applicable Straddle. The term ‘applicable straddle’ means any straddle (within the meaning of section 1092(c)); except that the term ‘personal property’ shall include stock.

(2) Applicable Rate. The term ‘applicable rate’ means—

(A) the applicable Federal rate determined under section 1274(d) (compounded semiannually) as if the conversion transaction were a debt instrument, or

(B) if the term of the conversion transaction is indefinite, the Federal short-term rates in effect under section 6621(b) during the period of the conversion transaction (compounded daily).

(3) Treatment of Property with Built-In Loss. —

(A) In General. If any property with a built-in loss becomes part of a conversion transaction—

(i) for purposes of applying this sub-title to such property for periods after such property becomes part of such transaction,
the adjusted basis of such property shall be its fair market value as of the time it became part of such transaction, except that 

``(ii) upon the disposition of such property in a transaction in which gain or loss is recognized, such built-in loss shall be recognized and shall have a character determined without regard to this section.

``(B) BUILT-IN LOSS.ÐFor purposes of subparagraph (A), the term `built-in loss' means the excess (if any) of the adjusted basis of any property over its fair market value (determined as of the date on which such property became part of such transaction).

``(4) PROPERTY TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.ÐIn determining the taxpayer's net investment in any conversion transaction, there shall be included the fair market value of any property which becomes part of such transaction (determined as of the date on which such property became part of such transaction).''

(2) CLERICAL AMENDMENT.ÐThe table of sections for part IV of subchapter P of chapter 1 is
amended by adding at the end thereof the following new item:

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Sec. 1258. Recharacterization of gain from certain financial transactions.
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(3) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to conversion transactions entered into after April 30, 1993.

(b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET DISCOUNT RULES.Ð

(1) MARKET DISCOUNT BONDS ISSUED ON OR BEFORE JULY 18, 1984.ÐThe following provisions are hereby repealed:

(A) Section 1276(e).

(B) Section 1277(d).

(2) TAX-EXEMPT OBLIGATIONS.Ð

(A) IN GENERAL.ÐParagraph (1) of section 1278(a) (defining market discount bond) is amended—

(i) by striking clause (ii) of subparagraph (B) and redesignating subclauses (iii) and (iv) of such subparagraph as clauses (ii) and (iii), respectively,

(ii) by redesignating subparagraph (C) as subparagraph (D), and

(iii) by inserting after subparagraph (B) the following new subparagraph:

...
(C) SECTION 1277 NOT APPLICABLE TO TAX-EXEMPT OBLIGATIONS. Ð For purposes of section 1277, the term `market discount bond' shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).''

(B) CONFORMING AMENDMENT. Ð Sections 1276(a)(4) and 1278(b)(1) are each amended by striking ``sections 871(a)'' and inserting ``sections 103, 871(a),''.

(3) EFFECTIVE DATE. Ð The amendments made by this section shall apply to obligations purchased (within the meaning of section 1272(d)(1) of the Internal Revenue Code of 1986) after April 30, 1993.

(c) Treatment of Stripped Preferred Stock. Ð

(1) In General. Ð Section 305 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

``(e) Treatment of Purchaser of Stripped Preferred Stock. Ð

``(1) In General. Ð If any person purchases after April 30, 1993 any stripped preferred stock, then such person, while holding such stock, shall include in gross income amounts equal to the amounts..."
which would have been so includible if such stripped preferred stock were a bond issued on the purchase date and having original issue discount equal to the excess, if any, of 

``(A) the redemption price for such stock, over 
``(B) the price at which such person purchased such stock.

The preceding sentence shall also apply in the case of any person whose basis in such stock is determined by reference to the basis in the hands of such purchaser.

``(2) BASIS ADJUSTMENTS. Appropriate adjustments to basis shall be made for amounts includible in gross income under paragraph (1).

``(3) TAX TREATMENT OF PERSON STRIPPING STOCK. If any person strips the rights to 1 or more dividends from any stock described in paragraph (5)(B) and after April 30, 1993 disposes of such dividend rights, for purposes of paragraph (1), such person shall be treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to such person's adjusted basis in such stripped preferred stock.
(4) A MOUNTS TREATED AS ORDINARY INCOME. Any amount included in gross income under paragraph (1) shall be treated as ordinary income.

(5) STRIPPED PREFERRED STOCK. For purposes of this subsection—

(A) IN GENERAL. The term `stripped preferred stock' means any stock described in subparagraph (B) if there has been a separation in ownership between such stock and any dividend on such stock which has not become payable.

(B) DESCRIPTION OF STOCK. Stock is described in this subsection if such stock—

(i) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and

(ii) has a fixed redemption price.

(6) PURCHASE. For purposes of this subsection, the term `purchase' means—

(A) any acquisition of stock, where

(B) the basis of such stock is not determined in whole or in part by the reference to the adjusted basis of such stock in the hands of the person from whom acquired.
Paragraph (2) of section 167(e) is amended to read as follows:

```
(2) COORDINATION WITH OTHER PROVISIONS.

(A) SECTION 273. This subsection shall not apply to any term interest to which section 273 applies.

(B) SECTION 305(e). This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies.
```

(3) EFFECTIVE DATE. The amendments made by this subsection shall take effect on April 30, 1993.

(d) TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST. (1) IN GENERAL. Subparagraph (B) of section 163(d)(4) (defining investment income) is amended to read as follows:

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(B) INVESTMENT INCOME. The term `investment income' means the sum of
```
(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

(ii) the excess (if any) of—

(I) the net gain attributable to the disposition of property held for investment, over

(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause.''

(2) COORDINATION WITH SPECIAL CAPITAL GAINS RATE. Ð Subsection (h) of section 1 is amended by adding at the end thereof the following new sentence:

``For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).''
(e) Treatment of Certain Appreciated Inventory. -

(1) Paragraph (1) of section 751(d) is amended to read as follows:

``(1) Substantial Appreciation. - Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

(A) In General. - Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

(B) Certain Property Excluded. - For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this section relating to inventory items.''

(2) Effective Date. - The amendment made by paragraph (1) shall apply to sales, exchanges, and distributions after April 30, 1993.
SEC. 14207. REPEAL OF LIMITATION ON AMOUNT OF WAGES SUBJECT TO HEALTH INSURANCE EMPLOYMENT TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) Paragraph (1) of section 3121(a) (defining wages) is amended—

(A) by inserting ``in the case of the taxes imposed by sections 3101(a) and 3111(a)'' after ``(1)'',

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

(C) by striking ``such applicable contribution base'' and inserting ``such contribution and benefit base''.

(2) Section 3121 is amended by striking subsection (x).

(b) SELF-EMPLOYMENT TAX.—

(1) Subsection (b) of section 1402 is amended—

(A) by striking ``that part of the net'' in paragraph (1) and inserting ``in the case of the
part of the net'', (B) by striking ``applicable contribution base (as determined under subsection (k))'' in paragraph (1) and inserting ``contribution and benefit base (as determined under section 230 of the Social Security Act)'', (C) by inserting ``and'' after ``section 3121(b),'', and (D) by striking ``and (C) includes'' and all that follows through ``3111(b)''.

(2) Section 1402 is amended by striking sub-section (k).

(c) RAILROAD RETIREMENT TAX.Ð (1) Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

``(iii) HOSPITAL INSURANCE TAXES .Ð Clause (i) shall not apply toÐ``(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

``(II) so much of the rate applicable under section 3211(a)(1) as does
not exceed the rate of tax in effect under section 1402(b).

(2) Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

``(i) Tier 1 Taxes. Except as provided in clause (ii), the term `applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.''

(d) Technical Amendments.

(1) Paragraph (1) of section 6413(c) is amended by striking ``section 3101 or section 3201'' and inserting ``section 3101(a) or section 3201(a) (to the extent the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))''.

(2) Subparagraphs (B) and (C) of section 6413(c)(2) are each amended by striking ``section 3101'' each place it appears and inserting ``section 3101(a)''.

(3) Subsection (c) of section 6413 is amended by striking paragraph (3).

(4) Sections 3122 and 3125 of such Code are each amended by striking ``applicable contribution
``Over $2,500,000 but not over $3,000,000.
$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000 ............................ $1,290,800, plus 55% of the excess over $3,000,000.''

(b) CONFORMING AMENDMENTS.Ð

(1) Subsection (c) of section 2001 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (2) of section 2001(c), as redesignated by paragraph (1), is amended by striking ``($18,340,000 in the case of decedents dying, and gifts made, after 1992)''.

(3) The last sentence of section 2101(b) is amended by striking ``section 2001(c)(3)'' and inserting ``section 2001(c)(2)''.

(c) EFFECTIVE DATE.ÐThe amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1992.
SEC. 14209. REDUCTION IN DEDUCTIBLE PORTION OF BUSINESS MEALS AND ENTERTAINMENT.

(a) GENERAL RULE.—Paragraph (1) of section 274(n) (relating to only 80 percent of meal and entertainment expenses allowed as deduction) is amended by striking ``80 percent'' and inserting ``50 percent''.

(b) CONFORMING AMENDMENT.—The subsection heading for section 274(n) is amended by striking ``80'' and inserting ``50''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14210. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

``(3) DENIAL OF DEDUCTION FOR CLUB DUES.—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose. The preceding sentence shall not apply in the case of an airline or hotel club.''

(b) EXCEPTION FOR EMPLOYEE RECREATIONAL EXPENSES NOT TO APPLY. Paragraph (4) of section 274(e) is amended by adding at the end thereof the following: ``This paragraph shall not apply for purposes of subsection (a)(3).''

(c) EFFECTIVE DATE. The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 14211. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE. Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

``(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION. In the case of any publicly held corporation, no deduction shall be allowed under this chapter for applicable employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

``
``(2) PUBLICLY HELD CORPORATION.ÐFor purposes of this subsection, the term `publicly held corporation' means any corporation issuing any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934.

``(3) COVERED EMPLOYEE.ÐFor purposes of this subsection, the term `covered employee' means any employee of the taxpayer ifÐ
toring.

``(A) as of the close of the taxable year, such employee is the chief executive officer of the taxpayer or an individual acting in such a capacity, or
``(B) the total compensation for the taxable year of such employee is required to be reported to shareholders under the Securities Exchange Act of 1934 by reason of such employee being among the 4 highest compensated officers for the taxable year (other than the chief executive officer).

``(4) APPLICABLE EMPLOYEE REMUNERATION.ÐFor purposes of this subsectionÐ
toring.

``(A) IN GENERAL.ÐExcept as otherwise provided in this paragraph, the term `applicable employee remuneration' means, with respect to
any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

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(B) EXCEPTION FOR REMUNERATION PAYABLE ON COMMISSION BASIS.ÐThe term `applicable employee remuneration' shall not include any remuneration payable on a commission basis solely on account of income generated directly by the individual performance of the individual to whom such remuneration is payable.
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(C) OTHER PERFORMANCE-BASED COMPENSATION.ÐThe term `applicable employee remuneration' shall not include any remuneration payable solely on account of the attainment of one or more performance goals but only if
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(i) the performance goals are determined by a compensation committee of the board of directors of the taxpayer which is comprised solely of 2 or more independent directors,
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(ii) the material terms under which the remuneration is to be paid, including
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the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of such remuneration, and

``(iii) before any payment of such remuneration, the compensation committee referred to in clause (i) certifies that the performance goals and any other material terms were in fact satisfied.

``(D) E XCEPTION FOR EXISTING BINDING CONTRACTS.ÐThe term `applicable employee remuneration' shall not include any remuneration payable under a written binding contract which was in effect on February 17, 1993, and which was not modified thereafter in any material respect before such remuneration is paid.

``(E) R EMUNERATION.ÐFor purposes of this paragraph, the term `remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not includeÐ

``(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof, and
(ii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under this chapter. For purposes of clause (i), section 3121(a)(5) shall be applied without regard to section 3121(v)(1).

(F) COORDINATION WITH DISALLOWED GOLDEN PARACHUTE PAYMENTS. The dollar limitation contained in paragraph (1) shall be reduced (but not below zero) by the amount (if any) which would have been included in the applicable employee remuneration of the covered employee for the taxable year but for being disallowed under section 280G.

(b) EFFECTIVE DATE. The amendment made by subsection (a) shall apply to amounts which would otherwise be deductible for taxable years beginning on or after January 1, 1994.
SEC. 14212. REDUCTION IN COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED RETIREMENT PLANS.

(a) In General.—Sections 401(a)(17), 404(l), and 505(b)(7) are each amended—

(1) by striking ``$200,000'' in the first sentence and inserting ``$150,000'', and

(2) by striking the second sentence and inserting ``In the case of years beginning after 1994, the Secretary shall adjust the $150,000 amount at the same time and in the same manner as under section 415(d), except that the base period for purposes of section 415(d)(1)(A) shall be the calendar quarter beginning October 1, 1994.''

(b) Simplified Employee Pensions.—

(1) In General.—Paragraphs (3)(C) and (6)(D)(ii) of section 408(k) are each amended by striking ``$200,000'' and inserting ``$150,000''.

(2) Cost-of-Living.—Paragraph (8) of section 408(k) is amended to read as follows:

``(8) Cost-of-Living Adjustment. The Secretary shall adjust the $300 amount in paragraph (2)(C) at the same time and in the same manner as under section 415(d) and shall adjust the $150,000 amount in paragraphs (3)(C) and (6)(D)(ii) at the...''
(a) REPEAL OF DEDUCTION FOR QUALIFIED RESIDENCE SALE, ETC., EXPENSES. Ð

(1) IN GENERAL. Ð Paragraph (1) of section 217(b) (defining moving expenses) is amended by inserting ``or'' at the end of subparagraph (C), by striking `, or'' at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(2) CONFORMING AMENDMENTS. Ð

(A) Subsection (b) of section 217 is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(B) Paragraph (2) of section 217(b) (as redesignated by subparagraph (A)) is amended Ð
(i) by striking the last sentence of subparagraph (A), and (ii) by striking ``, and by'' in subparagraph (B) and all that follows down through the period at the end of subparagraph (B) and inserting a period.  
(C) Paragraph (1) of section 217(h) is amended by striking subparagraphs (B) and (C) and inserting the following:  
``(B) subsection (b)(2)(A) shall be applied by substituting `$4,500' for `$1,500', and``(C) subsection (b)(2)(B) shall be applied as if the last sentence of such subsection read as follows: `In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting ``$2,250'' for ``$4,500''.''  
(D) Section 217 is amended by striking subsection (e).  
(b) D EDUCTION DISALLOWED FOR MEAL EXPENSES.ÐParagraph (1) of section 217(b) is amended—
(1) by striking ``meals and lodging'' in subparagraphs (B), (C) and (D) and inserting ``lodging'', and
by adding at the end thereof the following new sentence: 
``Such term shall not include any expenses for meals.''.

(c) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to expenses incurred after December 31, 1993.

SEC. 14214. SIMPLIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR BASED ON LAST YEAR'S TAX.

(a) IN GENERAL.ÐParagraph (1) of section 6654(d) (relating to amount of required estimated tax installments) is amended by striking subparagraphs (C), (D), (E), and (F) and by inserting the following new subparagraph:

``(C) LIMITATION ON USE OF PRECEDING YEAR'S TAX.Ð (i) IN GENERAL.ÐIf the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting `110 percent' for `100 percent'.

(ii) SEPARATE RETURNS.ÐIn the case of a married individual (within the...
meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting `$75,000' for `$150,000'.

``(iii) SPECIAL RULE.ÐIn the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).''

(b) CONFORMING AMENDMENTS.Ð

(1) Subparagraph (A) of section 6654(j)(3) is amended by striking ``and subsection (d)(1)(C)(iii) shall not apply'',

(2) Paragraph (4) of section 6654(l) is amended by striking ``paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)'' and inserting ``subsection (d)(2)(B)(i)''.

c) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14215. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) IN GENERAL.ÐSubsections (a) (1) and (2) of section 86 (relating to social security and tier 1 railroad retirement benefits).
(b) EFFECTIVE DATE.ÐThe amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

(c) ADDITIONAL RECEIPTS RETAINED IN GENERAL FUND.Ð

(1) Subsection (e) of section 121 of the Social Security Amendments of 1983 is amended by adding at the end the following new paragraph:

``(5) CERTAIN INCREASED RECEIPTS RETAINED IN GENERAL FUND.ÐIn determining the amount appropriated to any payor fund under paragraph (1), there shall be excluded any increase in tax liability to the extent such increase is attributable to the amendments made to section 86 of the Internal Revenue Code of 1986 by the Revenue Reconciliation Act of 1993.''

(2) Paragraph (4) of subsection (e) of such section 121 is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C) and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

``(A) the total aggregate increase in tax liability under chapter 1 of the Internal Revenue..."
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Code of 1986 which is attributable to the application of sections 86 and 871(a)(3) of such Code.,

PART II—PROVISIONS AFFECTING BUSINESSES

SEC. 14221. INCREASE IN TOP MARGINAL RATE UNDER SECTION 11.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended—

(1) by striking ``and'' at the end of subparagraph (B),

(2) by striking subparagraph (C) and inserting the following: 

``(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

``(D) 35 percent of so much of the taxable income as exceeds $10,000,000.'', and

(3) by adding at the end thereof the following new sentence: In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000.''

Paragraph (2) of section 11(b) is amended by striking ``34 percent'' and inserting ``35 percent''.

(c) Conforming Amendments.

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking ``66 percent'' and inserting ``65 percent''.

(2) Subsection (a) of section 1201 is amended by striking ``34 percent'' each place it appears and inserting ``35 percent''.

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking ``34 percent'' and inserting ``35 percent''.

(d) Effectiveness Date.

The amendments made by this section shall apply to taxable years beginning on or after January 1, 1993; except that the amendment made by subsection (c)(3) shall take effect on the date of the enactment of this Act.

SEC. 14222. Denial of Deduction for Lobbying Expenses.

(a) Disallowance of Deduction.

Section 162(e) (relating to appearances, etc., with respect to legislation) is amended to read as follows:

``(e) Denial of Deduction for Certain Lobbying and Political Expenditures."

(1) IN GENERAL.ÐNo deduction shall be allowed under subsection (a) for any amount paid or incurred—

(A) in connection with influencing legislation,

(B) for participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office, or

(C) in connection with any attempt to influence the general public, or segments thereof, with respect to elections.

(2) APPLICATION TO DUES.Ð

(A) IN GENERAL.ÐNo deduction shall be allowed under subsection (a) for the portion of dues or other similar amounts (paid by the taxpayer with respect to an organization) which is allocable to the expenditures described in paragraph (1).

(B) ALLOCATION.Ð

(i) IN GENERAL.ÐFor purposes of subparagraph (A), expenditures described in paragraph (1) shall be treated as paid out of dues or other similar amounts.

(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.ÐFor...
purposes of this paragraph, if expenditures described in paragraph (1) exceed the dues or other similar amounts for any calendar year, such excess shall be treated as expenditures described in paragraph (1) which are paid or incurred by the organization during the following calendar year.

``(3) Influencing Legislation .—For purposes of this subsection—

``(A) In General .—The term `influencing legislation' means—

``(i) any attempt to influence the general public, or segments thereof, with respect to legislation, and

``(ii) any attempt to influence any legislation through communication with any member or employee of the legislative body, or with any government official or employee who may participate in the formulation of the legislation.

``(B) Exception for Certain Technical Advice .—The term `influencing legislation' shall not include the providing of technical advice or assistance to a governmental body or to a committee or other subdivision thereof in
response to a specific written request by such governmental entity to the taxpayer which specifies the nature of the advice or assistance requested.

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(C) LEGISLATION.ÐThe term `legislation' has the meaning given such term by section 4911(e)(2).

(4) EXCEPTION FOR CERTAIN TAXPAYERS .Ð In the case of any taxpayer engaged in the trade or business of conducting activities described in paragraph (1), paragraph (1) shall not apply to expenditures of the taxpayer in conducting such activities on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

(5) CROSS REFERENCE .Ð `For reporting requirements related to this subsection, see section 6050O.'
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(b) REPORTING REQUIREMENTS.Ð (1) IN GENERAL .Ð Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:
SEC. 6050O. RETURNS RELATING TO LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

(a) REQUIREMENT OF REPORTING.—Each organization referred to in section 162(e)(2) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the names and addresses of persons paying dues to the organization, the amount of the dues paid by such person, and the portion of such dues which is nondeductible under section 162(e)(2).

(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Any organization required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name and address of the organization,

and

(2) the dues paid by the person during the calendar year and the portion of such dues which is nondeductible under section 162(e)(2).

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the persons on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall...
be in such form as the Secretary may prescribe by regulation.

``(c) WAIVER.ÐThe Secretary may waive the reporting requirements of this section with respect to any organization or class of organizations if the Secretary determines that such reporting is not necessary to carry out the purposes of section 162(e).

``(d) DUES.ÐFor purposes of this section, the term `dues' includes other similar amounts.''

(2) PENALTIES.Ð
(A) RETURNS.ÐSubparagraph (A) of section 6724(d)(1) (defining information return) is amended by striking ``or'' at the end of clause (xi), by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma, by redesignating the clause (xii) relating to section 338(h)(10) as clause (xiii), by striking the period at the end of clause (xiii) (as so redesignated) and inserting `, or'', and by adding at the end the following new clause:
``(xiv) section 6050O(a) (relating to information on nondeductible lobbying expenditures).''
(B) PAYEE STATEMENTS.ÐParagraph (2) of section 6724(d) (defining payee statement) is amended by striking ``or'' at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting `, or'', and by adding at the end the following new subparagraph:

``(T) section 6050O(b) (relating to returns on nondeductible lobbying expenditures).''

(C) EXCESSIVE UNDERREPORTING.ÐSection 6721 (relating to failure to file correct information returns) is amended by adding at the end the following new subsection:

``(f) PENALTY IN CASE OF EXCESSIVE UNDERREPORTING ON NONDEDUCTIBLE DUES.ÐIf the aggregate amount of nondeductible dues which is reported on the return required to be filed under section 6050O(a) for any calendar year is less than 75 percent of the aggregate amount required to be so reportedÐ

``(1) subsections (b), (c), and (d) shall not apply, and

``(2) the penalty imposed under subsection (a) shall be equal to the product of

``(A) the amount required to be reported which was not so reported, and
(B) the highest rate of tax imposed by
section 11 for taxable years beginning in such
calendar year.''

(3) C ONFORMING AMENDMENT .ÐThe table of
sections for subpart B of part III of subchapter A
is amended by adding at the end the
following new item:
``Sec. 6050O. Returns relating to lobbying expenditures of certain
organizations.''
(c) E FFECTIVE DATE.ÐThe amendments made by
this section shall apply to amounts paid or incurred after
December 31, 1993.

SEC. 14223. MARK TO MARKET ACCOUNTING METHOD FOR
SECURITIES DEALERS.

(a) G ENERAL RULE.ÐSubpart D of part II of sub-
chapter E of chapter 1 (relating to inventories) is amend-
ed by adding at the end thereof the following new section:
``SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR
DEALERS IN SECURITIES.
``(a) G ENERAL RULE.ÐNotwithstanding any other
provision of this subpart, the following rules shall apply
to securities held by a dealer in securities:
``(1) Any security which is inventory in the
hands of the dealer shall be included in inventory at
its fair market value.
``(2) In the case of any security which is not in inventory in the hands of the dealer and which is held at the close of any taxable year—

``(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

``(B) any gain or loss shall be taken into account for such taxable year. Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

``(b) EXCEPTIONS.Ð

``(1) IN GENERAL.ÐSubsection (a) shall not apply to—

``(A) any security held for investment,

``(B)(i) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and (ii) any obligation to acquire a security described in clause
(i) if such obligation is entered into in the ordinary course of such trade or business and is not held for sale, and

``(C) any security which is a hedge with respect to—

``(i) a security to which subsection (a) does not apply, or
``(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

``(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

``(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to
any changes in value of the security occurring after
the cessation.

``(4) SPECIAL RULE FOR PROPERTY HELD FOR
INVESTMENT.ÐTo the extent provided in regula-
tions, subparagraph (A) of paragraph (1) shall not
apply to any security described in subparagraph (D)
or (E) of subsection (c)(2) which is held by a dealer
in such securities.

``(c) DEFINITIONS.ÐFor purposes of this sectionÐ
``(1) DEALER IN SECURITIES DEFINED.ÐThe
term `dealer in securities' means a taxpayer whoÐ
``(A) regularly purchases securities from or
sells securities to customers in the ordinary
course of a trade or business; or
``(B) regularly offers to enter into, assume,
offset, assign or otherwise terminate positions
in securities with customers in the ordinary
course of a trade or business.
``(2) SECURITY DEFINED.ÐThe term `security'
means anyÐ
``(A) share of stock in a corporation;
``(B) partnership or beneficial ownership
interest in a widely held or publicly traded part-
nership or trust;
(C) note, bond, debenture, or other evidence of indebtedness;

(D) interest rate, currency, or equity national principal contract;

(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

(F) position which—

(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

(ii) is a hedge with respect to such a security, and

(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.
(3) Hedge. ÐThe term `hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

(d) Special Rules. ÐFor purposes of this section—

(1) Coordination with Certain Rules. ÐThe rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

(2) Improper Identification. ÐIf a taxpayer—

(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,
the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

``(3) CHARACTER OF GAIN OR LOSS .Ð
``(A) I N GENERAL .ÐExcept as provided in subparagraph (B) or section 1236(b)Ð
``(i) I N GENERAL .ÐAny gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.
``(ii) S PECIAL RULE FOR DISPOSITION.ÐIfÐ
``(I) gain or loss is recognized with respect to a security before the close of the taxable year, and
``(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.
(B) EXCEPTION.ÐSubparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

(i) the security is described in subsection (b)(1)(C) (without regard to subsection (b)(2)),
(ii) the security is held by a person other than in connection with its activities as a dealer in securities, or
(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

(e) REGULATORY AUTHORITY.ÐThe Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and
(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability.''

(b) CONFORMING AMENDMENTS.Ð
(1) Paragraph (1) of section 988(d) is amended—
(A) by striking ''section 1256'' and inserting ''section 475 or 1256'', and
(B) by striking ''1092 and 1256'' and inserting ''475, 1092, and 1256''.

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

``Sec. 475. Mark to market accounting method for dealers in securities.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—
(A) such change shall be treated as initiated by the taxpayer,
(B) such change shall be treated as made with the consent of the Secretary, and
(C) except as provided in paragraph (3), the net amount of the adjustments required to be taken into account by the taxpayer under
section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(3) SPECIAL RULE FOR FLOOR SPECIALISTS AND MARKET MAKERS—

(A) IN GENERAL.—If—

(i) a taxpayer used the last-in first-out (LIFO) method of accounting with respect to any qualified securities for its last taxable year ending before December 31, 1993, and

(ii) any portion of the net amount described in paragraph (2)(C) is attributable to the use of such method of accounting,

then paragraph (2)(C) shall be applied by taking such portion into account ratably over the 20-taxable year period beginning with the first taxable year ending on or after December 31, 1993 (or, if shorter, the period of taxable years equal to the greater of 5 years or the number of taxable years before such first taxable year for which the taxpayer (or any predecessor) used such method of accounting).
(B) Qualified Security. For purposes of this paragraph, the term "qualified security" means any security acquired—
(i) by a floor specialist (as defined in section 1236(d)(2) of the Internal Revenue Code of 1986) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or
(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—
(I) the security is included on the National Association of Securities Dealers Automated Quotation System,
(II) the taxpayer is registered as a market maker in such security with the National Association of Securities Dealers, and
(III) as of the last day of the taxable year preceding the taxpayer's first taxable year ending on or after December 31, 1993, the taxpayer (or any predecessor) has been actively...
and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date).

SEC. 14224. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.ÐFor purposes of chapter 1 of the Internal Revenue Code of 1986Ð

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.
(b) FSLIC Assistance. ÐFor purposes of this section, the term ``FSLIC assistance'' means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE. Ð

(1) IN GENERAL. ÐExcept as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending on or after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or charge-off.
sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.ÐThe provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 14225. MODIFICATION OF CORPORATE ESTIMATED TAX RULES.

(a) INCREASE IN REQUIRED INSTALLMENT BASED ON CURRENT YEAR TAX.Ð

(1) IN GENERAL.ÐClause (i) of section 6655(d)(1)(B) (relating to amount of required installment) is amended by striking ``91 percent'' each place it appears and inserting ``100 percent''.

(2) CONFORMING AMENDMENTS.Ð

(A) Subsection (d) of section 6655 is amended—

(i) by striking paragraph (3), and

(ii) by striking ``91 PERCENT'' in the paragraph heading of paragraph (2) and inserting ``100 PERCENT''.


(B) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following:

``In the case of the following re- The applicable required installments: percentage is:
1st ............................................................................................ 25
2nd ........................................................................................... 50
3rd ............................................................................................ 75
4th ............................................................................................ 100.''

(C) Clause (i) of section 6655(e)(3)(A) is amended by striking ``91 percent'' and inserting ``100 percent''.

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.Ð (1) Clause (i) of section 6655(e)(2)(A) is amended—
(A) by striking ``or for the first 5 months'' in subclause (II),
(B) by striking ``or for the first 8 months'' in subclause (III), and
(C) by striking ``or for the first 11 months'' in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:
``(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS .Ð
(i) If the taxpayer makes an election under this clause—

(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting 2 months for 3 months,

(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting 4 months for 3 months,

(III) subclause (III) of subparagraph (A)(i) shall be applied by substituting 7 months for 6 months,

and

(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting 10 months for 9 months.

(ii) If the taxpayer makes an election under this clause—

(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting 5 months for 3 months,

(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting 8 months for 6 months,
(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting `11 months' for `9 months'.

(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year.''

(3) The last sentence of section 6655(f)(3)(A) is amended by striking ``and subsection (e)(2)(A)'' and inserting ``and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)''.

c) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 14226. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.ÐSubsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended—

(1) by striking ``as provided in paragraph (3)'' in paragraph (1) and inserting ``as otherwise provided in this section'';

(2) by adding at the end thereof the following new paragraph:
(4) LIMITATIONS ON CREDIT.

(A) CREDIT FOR ACTIVE BUSINESS INCOME. The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

(B) CREDIT FOR INVESTMENT INCOME.

(i) IN GENERAL. If

(II) the QPSII assets of the possession corporation for any taxable year exceed

(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

(ii) AMOUNT OF REDUCTION. The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year.
year (determined without regard to this subparagraph) as—

``(I) the excess determined under clause (i), bears to

``(II) the QPSII assets of the possession corporation for such tax-

``(C) CROSS REFERENCE .—For definitions and special rules applicable to this paragraph, see subsection (i).''

(b) DEFINITIONS AND SPECIAL RULES. —Section 936 is amended by adding at the end thereof the following new subsection:

``(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

``(1) QUALIFIED POSSESSION WAGES .—For purposes of this section—

``(A) IN GENERAL .—The term `qualified possession wages' means wages paid or incurred by the possession corporation during the tax-

``(B) IN GENERAL .—The term `qualified possession wages' means wages paid or incurred by the possession corporation during the tax-

``(C) CROSS REFERENCE .—For definitions and special rules applicable to this paragraph, see subsection (i)'''
(B) LIMITATION ON AMOUNT OF WAGES

(i) IN GENERAL.ÐThe amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.ÐIf

(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,
Secretary) of the limitation which would otherwise be in effect under clause (i).

``(C) Treatment of Certain Employees.ÐThe term `qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

``(D) Wages.Ð``(i) In General.ÐExcept as provided in clause (ii), the term `wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term `United States' included all possessions of the United States.
(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.ÐIn any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term `wages' has the meaning given to such term by section 51(h)(2).

(2) QPSII ASSETS.ÐFor purposes of this sectionÐ

(A) IN GENERAL .ÐThe QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

(B) QUALIFIED INVESTMENT ASSETS .Ð The term `qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.ÐFor purposes of this sectionÐ
(A) IN GENERAL. The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

(B) QUALIFIED POSSESSION INVESTMENTS. The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

(4) RELOCATED BUSINESSES. (A) IN GENERAL. In determining—

(i) the possession corporation's qualified possession wages for any taxable year, and

(ii) the possession corporation's qualified tangible business investment for such taxable year,
there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

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(B) DISQUALIFIED RELOCATED BUSINESS. — For purposes of subparagraph (A), the term `disqualified relocated business' means any trade or business commenced by the possession corporation after May 13, 1993, or any addition after such date to an existing trade or business of such possession corporation unless:

(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

(ii) there is no reason to believe that such commencement or addition was done with the intention of closing down operations of an existing business located in the United States.
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(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS. —
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(A) IN GENERAL. — Any affiliated group may elect to treat all possession corporations
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which would be members of such group but for section 1504(b)(4) as a corporation for purposes of this section. The credit determined under this section with respect to such corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

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(B) Election.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.
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(B) Treatment of Certain Taxes.—Notwithstanding subsection (c), if—
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(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and
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(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c),
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such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

``(7) P OSSESSION CORPORATION .ÐThe term `possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect.

``(8) T RANSITIONAL RULE .ÐIf any possession corporation elects the benefits of this paragraph for any taxable year beginning in 1994 or 1995Ð``(A) subsection (a)(4) shall not apply to such taxable year, and
``(B) the credit determined under subsection (a)(1) for such taxable year shall be the following percentage of the credit which would otherwise have been determined under such subsection:
``(i) 80 percent in the case of a taxable year beginning in 1994.
(ii) 60 percent in the case of a taxable year beginning in 1995.

A possession corporation which elects the benefits of this paragraph shall be entitled to the benefits of paragraph (6) for taxes allocable to taxable income the tax on which is not offset by reason of this paragraph.''

(c) MINIMUM TAX TREATMENT.Ð

(1) IN GENERAL.ÐClause (ii) of section 56(g)(4)(C) (relating to treatment of special rule for certain dividends) is amended by striking ``sections 936 and 921'' and inserting ``sections 936 (including subsection (a)(4) thereof) and 921''.

(2) TREATMENT OF FOREIGN TAXES.ÐClause (iii) of section 56(g)(4)(C) is amended by adding at the end thereof the following subclauses:

``(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.ÐIn determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income re-
ferred to in a subparagraph of section 1904(d)(1).

``(V) C OORDINATION WITH LIMITATION ON 936 CREDIT.ÐAny ref-
erence in this clause to a dividend re-
ceived from a corporation eligible for
the credit provided by section 936
shall be treated as a reference to the
portion of any such dividend for which
the dividends received deduction is
disallowed under clause (i) after the
application of clause (ii)(I).''

(d) C ONFORMING AMENDMENT.ÐParagraph (4) of
section 904(b) is amended by inserting before the period
at the end thereof the following: ``(without regard to sub-
section (a)(4) thereof)''.

(e) E FFECTIVE DATE.ÐThe amendments made by
this section shall apply to taxable years beginning after
December 31, 1993.

SEC. 14227. MODIFICATION TO LIMITATION ON DEDUCTION
FOR CERTAIN INTEREST.

(a) G ENERAL RULE.ÐParagraph (3) of section
163(j) (defining disqualified interest) is amended to read
as follows:
'(3) DISQUALIFIED INTEREST.ÐFor purposes of this subsection, the term `disqualified interest' meansÐ
``(A) any interest paid or accrued by the taxpayer (directly or indirectly) to a related person if no tax is imposed by this subtitle with respect to such interest, and
``(B) any interest paid or accrued by the taxpayer with respect to any indebtedness to a person who is not a related person ifÐ
``(i) there is a disqualified guarantee of such indebtedness, and
``(ii) no gross basis tax is imposed by this subtitle with respect to such interest.''
(b) DEFINITIONS.ÐParagraph (6) of section 163(j) is amended by adding at the end thereof the following new subparagraphs:
``(D) DISQUALIFIED GUARANTEE.Ð``(i) IN GENERAL.ÐExcept as provided in clause (ii), the term `disqualified guarantee' means any guarantee by a related person which isÐ
``(I) an organization exempt from taxation under this subtitle, or
``(II) a foreign person.
(ii) EXCEPTIONS.ÐThe term `disqualified guarantee' shall not include a guaranteeÐ

``(I) in any circumstances identified by the Secretary by regulation, where the interest on the indebtedness would have been subject to a net basis tax if the interest had been paid to the guarantor, or

``(II) if the taxpayer owns a controlling interest in the guarantor.

For purposes of subclause (II), except as provided in regulations, the term `a controlling interest' means direct or indirect ownership of at least 80 percent of the total voting power and value of all classes of stock of a corporation, or 80 percent of the profit and capital interests in any other entity. For purposes of the preceding sentence, the rules of paragraphs (1) and (5) of section 267(c) shall apply; except that such rules shall also apply to interest in entities other than corporations.

(iii) GUARANTEE.ÐExcept as provided in regulations, the term `guarantee'
includes any arrangement under which a person (directly or indirectly through an entity or otherwise) assures, on a conditional or unconditional basis, the payment of another person's obligation under any indebtedness.

``(E) GROSS BASIS AND NET BASIS TAXATION.Ð

``(i) GROSS BASIS TAX .ÐThe term `gross basis tax' means any tax imposed by this subtitle which is determined by reference to the gross amount of any item of income without any reduction for any deduction allowed by this subtitle.

``(ii) NET BASIS TAX .ÐThe term `net basis tax' means any tax imposed by this subtitle which is not a gross basis tax.''

(c) CONFORMING AMENDMENT.ÐSubparagraph (B) of section 163(j)(5) is amended by striking ``to a related person''.

d) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to interest paid or accrued in taxable years beginning after December 31, 1993.
PART III—FOREIGN TAX PROVISIONS

Subpart A—Current Taxation of Certain Earnings of Controlled Foreign Corporations

SEC. 14231. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) GENERAL RULE.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; and", and by adding at the end thereof the following new subparagraph:

"(C) the amount determined under section 956A with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(3))."

(b) AMOUNT OF INCLUSION.—Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 956 the following new section:

"SEC. 956A. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(i) the earnings and profits of such corporation as of the beginning of such taxable year,

"(ii) the earnings and profits of such corporation as of the beginning of the taxable year immediately preceding such taxable year,

"(iii) the earnings and profits of such corporation as of the close of the taxable year immediately preceding such taxable year, and

"(iv) the earnings and profits of such corporation as of the beginning of the taxable year immediately preceding such taxable year.

"(b) LIMITATION.—The amount determined under this subsection with respect to any United States shareholder for any taxable year is—

"(1) the amount determined under this section with respect to such shareholder for such taxable year,

"(2) the amount determined under section 956 with respect to such shareholder for such taxable year,

"(3) the amount determined under section 956A with respect to such shareholder for such taxable year,

"(4) the amount determined under section 956B with respect to such shareholder for such taxable year,

"(5) the amount determined under section 956C with respect to such shareholder for such taxable year,

"(6) the amount determined under section 956D with respect to such shareholder for such taxable year,

"(7) the amount determined under section 956E with respect to such shareholder for such taxable year,

"(8) the amount determined under section 956F with respect to such shareholder for such taxable year,

"(9) the amount determined under section 956G with respect to such shareholder for such taxable year,

"(10) the amount determined under section 956H with respect to such shareholder for such taxable year,

"(11) the amount determined under section 956I with respect to such shareholder for such taxable year,

"(12) the amount determined under section 956J with respect to such shareholder for such taxable year,

"(13) the amount determined under section 956K with respect to such shareholder for such taxable year,

"(14) the amount determined under section 956L with respect to such shareholder for such taxable year,

"(15) the amount determined under section 956M with respect to such shareholder for such taxable year,

"(16) the amount determined under section 956N with respect to such shareholder for such taxable year,

"(17) the amount determined under section 956O with respect to such shareholder for such taxable year,

"(18) the amount determined under section 956P with respect to such shareholder for such taxable year,

"(19) the amount determined under section 956Q with respect to such shareholder for such taxable year,

"(20) the amount determined under section 956R with respect to such shareholder for such taxable year,

"(21) the amount determined under section 956S with respect to such shareholder for such taxable year,

"(22) the amount determined under section 956T with respect to such shareholder for such taxable year,

"(23) the amount determined under section 956U with respect to such shareholder for such taxable year,

"(24) the amount determined under section 956V with respect to such shareholder for such taxable year,
(A) such shareholder's pro rata share of the amount of the controlled foreign corporation's excess passive assets for such taxable year, over

(B) the amount of earnings and profits described in section 959(c)(1)(B) with respect to such shareholder, or

(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation determined after the application of section 951(a)(1)(B).

(b) APPLICABLE EARNINGS.ÐFor purposes of this section, the term `applicable earnings' means, with respect to any controlled foreign corporation, the amounts referred to in sections 316(a)(1) and 316(a)(2) (but reduced by distributions made during the taxable year), reduced by the earnings and profits described in section 959(c)(1).

(c) EXCESS PASSIVE ASSETS.ÐFor purposes of this sectionÐ

(1) IN GENERAL.ÐThe excess passive assets of any controlled foreign corporation for any taxable year is the excess (if any) of

(A) the average of the amounts of passive assets held by such corporation as of the close of each quarter of such taxable year, over
(B) 25 percent of the average of the amounts of total assets held by such corporation as of the close of each quarter of such taxable year.

For purposes of the preceding sentence, the amount taken into account with respect to any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

(2) PASSIVE ASSET—

(A) IN GENERAL—Except as otherwise provided in this section, the term `passive asset' means any asset held by the controlled foreign corporation which produces passive income (as defined in section 1296(b)) or is held for the production of such income.

(B) COORDINATION WITH SECTION 956—The term `passive asset' shall not include any United States property (as defined in section 956).

(3) LOOK-THRU RULES MADE APPLICABLE—For purposes of this subsection, the rules of section 1296(c) shall apply.

(4) LEASING RULES MADE APPLICABLE—For purposes of this subsection, the rules of section 1297(d) shall apply.
(d) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION DURING TAXABLE YEAR. Ð If any foreign corporation ceases to be a controlled foreign corporation during any taxable year Ð

(1) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation, and

(2) the amount of such corporation's excess passive assets for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

(3) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

(e) TRANSITION RULE. Ð In the case of any taxable year of a controlled foreign corporation beginning after September 30, 1993, and before October 1, 1997, the amount determined under subsection (a) shall be the ap...
applicable percentage (determined under the following table) of the amount which would otherwise be determined under such subsection:

```
In the case of a taxable year beginning during the 1-year period The applicable percentage is:
October 1, 1993 ....................................................................... 20
October 1, 1994 ....................................................................... 25
October 1, 1995 ....................................................................... 35
October 1, 1996 ....................................................................... 50.
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(f) REGULATIONS.ÐThe Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the avoidance of the provisions of this section through reorganizations or otherwise.''

(c) PREVIOUSLY TAXED INCOME RULES.Ð

(1) IN GENERAL.ÐSubsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by striking ``or'' at the end of paragraph (1), by adding ``or'' at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

```
(3) such amounts would, but for this subsection, be included under section 951(a)(1)(C) in the gross income of,
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(2) ALLOCATION RULES.Ð

(A) Subsection (a) of section 959 is amended by adding at the end thereof the following new sentence: "The rules of subsection"
(c) shall apply for purposes of paragraph (1) of this subsection and the rules of subsection (f) shall apply for purposes of paragraphs (2) and (3) of this subsection.

(B) Section 959 is amended by adding at the end thereof the following new subsection:

``(f) A LLOCATION RULES FOR CERTAIN INCLUDINGS.Ð
``(1) I N GENERAL .ÐFor purposes of this section, amounts that would be included under subparagraph (B) or (C) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).
``(2) T REATMENT OF DISTRIBUTIONS .ÐIn applying this section, actual distributions shall be taken into account before amounts that would be included under subparagraphs (B) and (C) of section 951(a)(1) (determined without regard to this section).''

(C) Paragraph (1) of section 959(c) is amended to read as follows:

``(1) first to the aggregate ofÐ
(A) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2) of this section), and

(B) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(C) (or which would have been included except for subsection (a)(3) of this section), with any distribution being allocated between earnings and profits described in subparagraph (A) and earnings and profits described in subparagraph (B) proportionately on the basis of the respective amounts of such earnings and profits.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a) and (b) of section 959 are each amended by striking ``earnings and profits for a taxable year'' and inserting ``earnings and profits''.

(B) Paragraph (2) of section 959(c) is amended to read as follows:

``(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included...''
under subparagraph (B) or (C) of section 951(a)(1) because of the exclusions in paragraphs (2) and (3) of subsection (a) of this section), and''

(C) Subsection (b) of section 989 is amended by striking ``section 951(a)(1)(B)'' and inserting ``subparagraph (B) or (C) of section 951(a)(1)''.

(d) Modifications to Passive Foreign Investment Company Rules.Ð

(1) Adjusted Basis Used in Certain Determinations.ÐSubsection (a) of section 1296 is amended by striking the material following paragraph (2) and inserting the following:

``In the case of a controlled foreign corporation (or any other foreign corporation if such corporation so elects), the determination under paragraph (2) shall be based on the adjusted bases (as determined for purposes of computing earnings and profits) of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.''

(2) Treatment of Certain Subpart F Clauses.ÐSubsection (b) of section 1297 is amended by adding at the end thereof the following new paragraph:
(9) Treatment of Certain Subpart F in Clauses.

Any amount included in gross income under subparagraph (B) or (C) of section 951(a)(1) shall be treated as a distribution received with respect to the stock.

(3) Treatment of Certain Dealers in Securities.

Subsection (b) of section 1296 is amended by adding at the end thereof the following new paragraph:

```
(A) In General. In the case of any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)), the term `passive income' does not include any income derived in the active conduct of a securities business by such corporation if such corporation is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act. To the extent provided in regulations, such term shall not include any income derived in the active conduct of a securities business by such corporation if such corporation is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act.
```
ties business by a controlled foreign corporation
which is not so registered.
``(B) A PPLICATION OF LOOK-THRU
RULES.ÐFor purposes of paragraph (2)(C),
rules similar to the rules of subparagraph (A)
shall apply in determining whether any income
of a related person (whether or not a corpora-
tion) is passive income.
``(C) L IMITATION.ÐThe preceding provi-
sions of this paragraph shall only apply in the
case of persons who are United States share-
holders (as defined in section 951(b)) in the
controlled foreign corporation.''
(4) LEASING RULES .ÑSection 1297 is amended
by redesignating subsection (d) as subsection (e) and
by inserting after subsection (c) the following new
subsection:
``(d) T REATMENT OF CERTAIN LEASED PROP-
ERTY.ÐFor purposes of this part:
``(1) I N GENERAL .ÐAny tangible personal
property with respect to which a foreign corporation
is the lessee under a lease with a term of at least
12 months shall be treated as an asset actually held
by such corporation.
``(2) DETERMINATION OF ADJUSTED BASIS .Ð
(A) IN GENERAL.—The adjusted basis of any asset to which paragraph (1) applies shall be the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A) shall be determined in the manner provided in regulations prescribed by the Secretary—

(i) as of the beginning of the lease term, and

(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

(I) by substituting the lease term for the term of the debt instrument, and

(II) without regard to paragraph (2) or (3) thereof.

(3) EXCEPTIONS.—This subsection shall not apply in any case where—
(A) the lessor is a related person (as defined in section 954(d)(3)) with respect to the foreign corporation, or

(B) a principal purpose of leasing the property was to avoid the provisions of this section.

(e) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 14232. MODIFICATION TO TAXATION OF INVESTMENT IN UNITED STATES PROPERTY.

(a) GENERAL RULE. Section 956 (relating to investment of earnings in United States property) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by striking subsection (a) and inserting the following:

```
(a) GENERAL RULE. In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—
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```
(1) the excess (if any) of—
```
(A) such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the controlled foreign corporation as of the close of each quarter of such taxable year, over "(B) the amount of earnings and profits described in section 959(c)(1)(A) with respect to such shareholder, or "(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation.

The amount taken into account under paragraph (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

(b) Adjustments for Certain Distributions; Other Special Rules.

(1) Applicable Earnings. For purposes of this section, the term `applicable earnings' has the meaning given to such term by section 956A(b).

(2) Special Rule Where Corporation Ceases to Be Controlled Foreign Corporation. Rules similar to the rules of section 956A(d) shall apply for purposes of this section.''

(b) Conforming Amendments.
(1) Subparagraph (B) of section 951(a)(1) is amended to read as follows:

```
(B) the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(2)); and
```

(2) Subsection (a) of section 951 is amended by striking paragraph (4).

(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

(d) STUDY OF INVESTMENTS BY CONTROLLED FOREIGN CORPORATIONS IN UNITED STATES PROPERTY. (1) IN GENERAL. The Secretary of the Treasury shall conduct a study of the tax treatment of investments by controlled foreign corporations in obligations of United States persons other than corporations. Such study shall include the Secretary's views as to whether the treatment of such investments should be changed, along with a discussion of the merits and consequences of any such change.
(2) REPORT.â€”Not later than December 31, 1993, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

SEC. 14233. OTHER MODIFICATIONS TO SUBPART F.

(a) SAME COUNTRY EXCEPTION NOT TO APPLY TO CERTAIN DIVIDENDS.â€”

(1) IN GENERAL.â€”Paragraph (3) of section 954(c) (relating to certain income received from related persons) is amended by adding at the end thereof the following new subparagraph:

``(C) EXCEPTION FOR CERTAIN DIVIDENDS.â€”Subparagraph (A)(i) shall not apply to any dividend with respect to any stock which is attributable to earnings and profits of the distributing corporation accumulated during any period during which the person receiving such dividend did not hold such stock.''

(2) EFFECTIVE DATE.â€”The amendment made by paragraph (1) shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States
shareholders in which or with which such taxable
1 years of controlled foreign corporations end.
2 (b) SIMPLIFICATION OF SECTION 960(b).Ð
3 (1) IN GENERAL .ÐSubsection (b) of section
4 960 is amendedÐ
5 (A) by redesignating paragraphs (3) and
6 (4) as paragraphs (4) and (5), respectively, and
7 (B) by striking paragraphs (1) and (2) and
8 inserting the following new paragraphs:
9 (1) INCREASE IN SECTION 904 LIMITATION .Ð
10 In the case of any taxpayer whoÐ
11 (A) either (i) chose to have the benefits
12 of subpart A of this part for a taxable year be-
13 gin after September 30, 1993, in which he
14 was required under section 951(a) to include
15 any amount in his gross income, or (ii) did not
16 pay or accrue for such taxable year any income,
17 war profits, or excess profits taxes to any for-
18 eign country or to any possession of the United
19 States,
20 (B) chooses to have the benefits of sub-
21 part A of this part for any taxable year in
22 which he receives 1 or more distributions or
23 amounts which are excludable from gross in-
24 come under section 959(a) and which are at-
tributable to amounts included in his gross income for taxable years referred to in subparagraph (A), and
``(C) for the taxable year in which such distributions or amounts are received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distributions or amounts, the limitation under section 904 for the taxable year in which such distributions or amounts are received shall be increased by the lesser of the amount of such taxes paid, or deemed paid, or accrued with respect to such distributions or amounts or the amount in the excess limitation account as of the beginning of such taxable year.
``(2) EXCESS LIMITATION ACCOUNT .Ð
``(A) ESTABLISHMENT OF ACCOUNT .Ð
Each taxpayer meeting the requirements of paragraph (1)(A) shall establish an excess limitation account. The opening balance of such account shall be zero.
``(B) INCREASES IN ACCOUNT .Ð For each taxable year beginning after September 30,
1993, the taxpayer shall increase the amount in the excess limitation account by the excess (if any) of—

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(i) the amount by which the limitation under section 904(a) for such taxable year was increased by reason of the total amount of the inclusions in gross income under section 951(a) for such taxable year, over
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(ii) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for such taxable year and which would not have been allowable but for the inclusions in gross income described in clause (i).
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Proper reductions in the amount added to the account under the preceding sentence for any taxable year shall be made for any increase in the credit allowable under section 901 for such taxable year by reason of a carryback if such increase would not have been allowable but for
"(C) DECREASES IN ACCOUNT.ÐFor each taxable year beginning after September 30, 1993, for which the limitation under section 904 was increased under paragraph (1), the taxpayer shall reduce the amount in the excess limitation account by the amount of such increase.

(3) DISTRIBUTIONS OF INCOME PREVIOUSLY TAXED IN YEARS BEGINNING BEFORE OCTOBER 1, 1993.ÐIf the taxpayer receives a distribution or amount in a taxable year beginning after September 30, 1993, which is excluded from gross income under section 959(a) and is attributable to any amount included in gross income under section 951(a) for a taxable year beginning before October 1, 1993, the limitation under section 904 for the taxable year in which such amount or distribution is received shall be increased by the amount determined under this subsection as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1993."
Subpart B—Allocation of Research and Experimental Expenditures

SEC. 14234. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Subparagraph (B) of section 864(f)(1) (relating to allocation of research and experimental expenditures) is amended by striking ``64 percent'' each place it appears and inserting ``50 percent''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 864 is amended by striking paragraph (5) and inserting the following:

``(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including regulations relating to the determination of whether any expenses are attributable to activities conducted in the United States or outside the United States and regulations providing such adjustments to the provisions of this subsection as may be appropriate in the case of cost-sharing arrangements and contract research.''

(2) Subparagraph (D) of section 864(f)(4) is amended by striking "subparagraph (C)" and inserting "subparagraph (B) or (C)".

(c) EFFECTIVE DATE. ÐThe amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act; except that such amendments shall not apply in the case of any taxable year to which Revenue Procedure 92±56 applies or would apply if the taxpayer elected the benefits of such Revenue Procedure.

Subpart C Ð Other Provisions

SEC. 14235. REPEAL OF CERTAIN EXCEPTIONS FOR WORKING CAPITAL.

(a) PROVISIONS RELATING TO OIL AND GAS INCOME.

(1) AMENDMENTS TO SECTION 907. Ð(2) Paragraph (2) of section 907(c) is amended by adding at the end thereof the following new flush sentence: "Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".
Such term does not include any dividend or interest income which is passive income (as defined in section 2904(d)(2)(A)).

(2) Separate Application of Foreign Tax Credit. Clause (iii) of section 904(d)(2)(A) is amended by inserting “and” at the end of subclause (II), by striking “, and” at the end of subclause (III) and inserting a period, and by striking subclause (IV).

(3) Treatment Under Subpart F. (A) Paragraph (1) of section 954(g) is amended by adding at the end thereof the following new flush sentence: “Such term shall not include any foreign personal holding company income (as defined in subsection (c)).”.

(B) Paragraph (8) of section 954(b) is amended by striking “(1),”.

(b) Treatment of Shipping Income. Subsection (f) of section 954 is amended by adding at the end thereof the following new sentence: “Such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).”.

(c) Effective Date. The amendments made by this section shall apply to taxable years beginning after December 31, 1992.
SEC. 14236. MODIFICATIONS OF ACCURACY-RELATED PENALTIES.

(a) THRESHOLD REQUIREMENT.—Clause (ii) of section 6662(e)(1)(B) (relating to substantial valuation misstatement under chapter 1) is amended to read as follows:

``(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts.''

(b) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—Subparagraph (B) of section 6662(e)(3) is amended to read as follows:

``(B) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

``(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if

``(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations premised on

..."
scribed under section 482 and that the taxpayer's use of such method was reasonable, 

``(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and 

``(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

``(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method ifÐ 

``(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to deter
mine such price, and such other pricing method was likely to result in a price that would clearly reflect income,
``(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and
``(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a
trade or business within the United States.''

(b) COORDINATION WITH REASONABLE CAUSE EXCEPTION.ÐParagraph (3) of section 6662(e) is amended by adding at the end thereof the following new subparagraph:

``(D) COORDINATION WITH REASONABLE CAUSE EXCEPTION.ÐFor purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion.''

(c) CONFORMING AMENDMENT.ÐClause (iii) of section 6662(h)(2)(A) is amended to read as follows:

``(iii) in paragraph (1)(B)(ii)Ð

``(I) `$20,000,000' for `$5,000,000', and

``(II) `20 percent' for `10 percent'.''

d) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to taxable years beginning after December 31, 1993.
SEC. 14237. DENIAL OF PORTFOLIO INTEREST EXEMPTION FOR CONTINGENT INTEREST.

(a) GENERAL RULE. Ð

(1) Subsection (h) of section 871 (relating to repeal of tax on interest of nonresident alien individual received from certain portfolio debt investments) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

``(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST. Ð For purposes of this subsection Ð

(A) IN GENERAL. Ð Except as otherwise provided in this paragraph, the term `portfolio interest' shall not include Ð

(i) any interest if the amount of such interest is determined by reference to Ð

(I) any receipts, sales or other cash flow of the debtor or a related person,

(II) any income or profits of the debtor or a related person,

(III) any change in value of any property of the debtor or a related person, or
``(IV) any dividend, partnership distributions, or similar payments made by the debtor or a related person, or
``(ii) any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

``(B) RELATED PERSON.ÐThe term `related person' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

``(C) EXCEPTIONS.ÐSubparagraph (A)(i) shall not apply to
``(i) any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,
``(ii) any amount of interest solely by reason of the fact that the interest is paid
with respect to nonrecourse or limited recourse indebtedness,

```
(iii) any amount of interest all or substantially all of which is determined by reference to any other amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

(iv) any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to reduce the risk of interest rate or currency fluctuations with respect to such interest,

(v) any amount of interest determined by reference to—

(I) changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

(II) the yield on property described in subclause (I), other than a debt instrument that pays interest only by reason of the value of such property,
```
scribed in subparagraph (A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

``(III) changes in any index of the value of property described in subclause (I) or of the yield on property described in subclause (II), and

``(vi) any other type of interest identified by the Secretary by regulation.

``(D) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.ÐSubparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term—

``(i) which was issued on or before April 7, 1993, or

``(ii) which was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued.''

(2) Subsection (c) of section 881 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:
(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST. For purposes of this subsection, the term `portfolio interest' shall not include any interest which is treated as not being portfolio interest under the rules of section 871(h)(4).

(b) CONFORMING AMENDMENTS. (1) Clause (ii) of section 871(h)(2)(B) is amended by striking ``paragraph (4)'' and inserting ``paragraph (5)''.

(2) Clause (ii) of section 881(c)(2)(B) is amended by striking ``section 871(h)(4)'' and inserting ``section 871(h)(5)''.

(3) Paragraph (6) of section 881(c) (as redesignated by subsection (a)) is amended by striking ``section 871(h)(5)'' each place it appears and inserting ``section 871(h)(6)''.

(4) Paragraph (9) of section 1441(c) is amended by striking ``section 871(h)(3)'' and inserting ``section 871(h)(3) or (4)''.

(5) Subsection (a) of section 1442 is amended— (A) by striking ``871(h)(3)'' and inserting ``871(h)(3) or (4)'', and...
(B) by striking ``881(c)(3)'' and inserting 1``881(c)(3) or (4)''.

(c) EFFECTIVE DATE.ÐThe amendments made by this section shall apply to interest received after December 31, 1993.

SEC. 14238. REGULATIONS DEALING WITH CONDUIT ARRANGEMENTS.

Section 7701 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

``(l) REGULATIONS RELATING TO CONDUIT ARRANGEMENTS.ÐThe Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title.''

PART IV—ENERGY TAX PROVISIONS

Subpart A—Energy Tax Based on Btu Content

SEC. 14241. IMPOSITION OF ENERGY TAX BASED ON BTU CONTENT.

(a) IN GENERAL.ÐChapter 36 (relating to other exercise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting
before subchapter B (as so redesignated) the following new subchapter:

```
SUBCHAPTER A—ENERGY TAXES

Part I. Imposition of tax on refined petroleum products.

Part II. Imposition of taxes on natural gas, coal, and electricity.

Part III. Tax rates.

Part IV. Use taxes; floor stocks taxes; administrative provisions; definitions and special rules.

Part V. Tax on imported products with high embedded energy costs.

PART I—IMPOSITION OF TAX ON REFINED PETROLEUM PRODUCTS

Sec. 4441. Taxable refined petroleum products.

Sec. 4442. Tax-free transfers and uses; refunds for certain sales and uses.

SEC. 4441. TAXABLE REFINED PETROLEUM PRODUCTS.

(a) IMPOSITION OF TAX. —

(1) IN GENERAL. — There is hereby imposed a tax on any taxable refined petroleum product—

(A) removed from any refinery in the United States,

(B) removed from any terminal in the United States,

(C) entered into the United States for consumption, use, or warehousing, and

(D) sold to any person who is not registered under section 4453(d).

No tax shall be imposed by subparagraph (D) if there was a prior taxable removal or entry under subparagraph (A), (B), or (C).
```
(2) EXCEPTION FOR BULK TRANSFERS TO REGISTERED REFINERIES OR TERMINALS. Ð The tax imposed by paragraph (1) shall not apply to any removal or entry of any taxable refined petroleum product transferred in bulk to a refinery or terminal if the person removing or entering such product and the operator of such refinery or terminal are registered under section 4453(d).

(b) RATE OF TAX. Ð

(1) IN GENERAL. Ð The amount of the tax imposed by subsection (a) on each barrel of any taxable refined petroleum product shall be the sum of Ð

(A) the base rate, and

(B) the supplemental rate, multiplied by the applicable per unit Btu factor for such product.

(2) ONLY BASE RATE APPLIES TO QUALIFIED HEATING OIL, DIESEL FUEL USED ON FARMS, AND LIQUEFIED PETROLEUM GASES. Ð

(A) IN GENERAL. Ð Subparagraph (B) of paragraph (1) shall not apply to Ð

(i) qualified heating oil,

(ii) qualified farm diesel fuel, and

(iii) any liquefied petroleum gas.
(B) QUALIFIED HEATING OIL. For purposes of subparagraph (A), the term `qualified heating oil' means No. 2 distillate fuel oil (including any kerosene in a mixture with such oil) which—

(i) is indelibly dyed (or dyed and marked) in accordance with regulations that the Secretary shall prescribe, and

(ii) is delivered (or is to be delivered) to any building to heat the building.

(C) QUALIFIED FARM DIESEL FUEL. For purposes of subparagraph (A), the term `qualified farm diesel fuel' means any diesel fuel which—

(i) is indelibly dyed (or dyed and marked) in accordance with regulations that the Secretary shall prescribe, and

(ii) is used (or to be used) on a farm for farming purposes (determined under section 6420(c)).

(c) LIABILITY FOR TAX. The determination of who is liable for the tax imposed by subsection (a) shall be made under the rules applicable in determining liability for the tax imposed by section 4081. Section 4103 shall
apply to the tax imposed by subsection (a) in the same manner as it applies to the tax imposed by section 4081. 

```
(d) TAXABLE REFINED PETROLEUM PRODUCT. Ð For purposes of this subchapter, the term `taxable refined petroleum product' means Ð 

```
(1) aviation gasoline, 

```
(2) motor gasoline (including blending components of gasoline), 

```
(3) kerosene-type jet fuel, 

```
(4) naphtha-type jet fuel, 

```
(5) distillate fuel oil, 

```
(6) kerosene, 

```
(7) residual fuel oil, 

```
(8) petroleum coke, 

```
(9) butane, 

```
(10) propane, 

```
(11) ethanol, 

```
(12) methanol, and 

```
(13) to the extent provided in regulations prescribed by the Secretary, any other refined petroleum product. 

```
(e) APPLICABLE PER UNIT BTU FACTOR. Ð For purposes of this subchapter Ð 

```
(1) IN GENERAL. Ð 

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The applicable per unit Btu factor is the following amount per barrel:

- Aviation gasoline ............................................ 5.048
- Motor gasoline (including blending components of gasoline) ........................................... 5.267
- Kerosene-type jet fuel .................................... 5.670
- Naphtha-type jet fuel ..................................... 5.355
- Distillate fuel oil ............................................ 5.852
- Kerosene ........................................................ 5.670
- Residual fuel oil ............................................. 6.486
- Petroleum coke .............................................. 6.024
- Ethanol .......................................................... 3.500
- Methanol ........................................................ 3.500
- Butane ........................................................... 4.326
- Propane .......................................................... 3.836

(2) MIXTURES. Any mixture which includes a taxable refined petroleum product shall be treated as specified in paragraph (1) and—

(A) if more than 1 such product is included in such mixture, the applicable per unit Btu factor shall be the weighted average of the applicable per unit Btu factors for the taxable refined petroleum products included in the mixture, and

(B) if any substance is included in the mixture which is not a taxable refined petroleum product, the applicable per unit Btu factor for the portion of such mixture's volume which is attributable to such substance shall be zero.

(3) CROSS REFERENCE. For authority to adjust per unit Btu amounts, see section 4453(e).
(f) OTHER DEFINITIONS.—For purposes of this subchapter—

(1) REFINERY.—The term `refinery' means any facility—

(A) at which crude oil or any petroleum product is refined,

(B) which is a natural gas processing or fractionation plant, or

(C) at which ethanol or methanol is produced for use as a fuel.

(2) BLENDING COMPONENTS.—The term `blending components' does not include ethanol or methanol.

(3) ETHANOL AND METHANOL.—The terms `ethanol' and `methanol' include ether derivatives of ethanol and methanol, respectively.

(4) BARREL.—The term `barrel' means 42 United States gallons determined with such temperature adjustments as the Secretary may prescribe. In the case of a taxable refined petroleum product which is not a liquid, the term `barrel' means a volume determined under regulations prescribed by the Secretary on the basis of an equivalence to a barrel of oil.
(g) REFUNDS IN CERTAIN CASES. Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable refined petroleum product establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such product, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

SEC. 4442. TAX-FREE TRANSFERS AND USES; REFUNDS FOR CERTAIN SALES AND USES.

(a) TAX-FREE SALES, ETC. (1) IN GENERAL. No tax shall be imposed by section 4441—
(A) on any taxable refined petroleum product which is used in an exempt use by the person otherwise liable for such tax, or
(B) by reason of a removal, entry, or sale of such product for an exempt use by the person receiving the product.

(2) EXEMPT USE. For purposes of this subsection, the term `exempt use' means—
(A) export,
(B) any use in the generation of electricity, 

(C) any qualified feedstock use, and 

(D) any use in the manufacture or production of synthetic natural gas or any other synthetic fuel specified in regulations prescribed by the Secretary.

(3) QUALIFIED FEEDSTOCK USE. FOR PURPOSES OF THIS SUBSECTION—

(A) IN GENERAL. IN THE CASE OF ANY QUALIFIED FEEDSTOCK USE, ONLY THE EXEMPT PERCENTAGE OF ANY TAXABLE REFINED PETROLEUM PRODUCT SHALL BE EXEMPT FROM TAX UNDER PARAGRAPH (1).

(B) QUALIFIED FEEDSTOCK USE. THE TERM ‘QUALIFIED FEEDSTOCK USE’ MEANS USE OF ANY TAXABLE REFINED PETROLEUM PRODUCT IN THE MANUFACTURE OR PRODUCTION OF ANY SUBSTANCE.

(C) EXEMPT PERCENTAGE. FOR PURPOSES OF SUBPARAGRAPH (A), THE TERM ‘EXEMPT PERCENTAGE’ MEANS THE PERCENTAGE (DETERMINED ON THE BASIS OF CHEMICAL STRUCTURE) OF THE TAXABLE REFINED PETROLEUM PRODUCT WHICH IS INCORPORATED INTO THE SUBSTANCE MANUFACTURED OR PRODUCED.
(4) REGISTRATION REQUIREMENTS. Ð To the extent provided by the Secretary, paragraph (1) shall not apply to any taxable event unless—

(A) such persons with respect to such event as the Secretary may specify are registered under section 4453(d), and

(B) in the case of a sale, the purchaser's name and address, and the purchaser's registration number for purposes of this subchapter, are provided to the seller.

(5) REFUNDS OF PRODUCTS PURCHASED TAX-PAID. Ð If tax was imposed under section 4441 with respect to any taxable refined petroleum product and such product is used by any person in an exempt use, the Secretary shall pay to such person an amount equal to the tax so imposed (or, in the case of a qualified feedstock use, the exempt percentage of the tax so imposed).

(6) CROSS REFERENCE. Ð For tax on fuel used to produce steam at facility which also generates electricity, see section 4451(e).

(b) REFUNDS TO ULTIMATE VENDORS IN CERTAIN CASES. Ð Under regulations prescribed by the Secretary—

(1) HEATING OIL. Ð If the supplemental rate of tax was imposed under section 4441 with respect to any No. 2 distillate fuel oil (including any ker....
(2) INTERNATIONAL TRANSPORTATION.

(A) IN GENERAL.
If tax was imposed under section 4441 with respect to any taxable refined petroleum product and such product is sold for use or used by the purchaser for international commercial transportation, the Secretary shall pay to the ultimate vendor of such product an amount equal to the tax so imposed.

(B) INTERNATIONAL TRANSPORTATION.
For purposes of subparagraph (A), the term `international commercial transportation' means transportation in the trade or business of transporting persons or property for hire—

(i) by any vessel actually engaged in foreign trade or trade between the United States and any of its possessions, or
(ii) by aircraft from a point within the United States to a point outside the United States and outside the 225-mile zone (as defined in section 4262(c)(2)).

(3) VENDOR REQUIREMENTS. A payment may be made under this subsection to a vendor only if the vendor establishes that such vendor—

(A)(i) has not included the tax in the price of the product, and

(ii) has not collected the tax from the purchaser of such product, or

(B) has agreed to repay the tax to the purchaser.

(c) PRODUCTION OF CALCINED COKE. If tax was imposed under section 4441 with respect to any petroleum product and such product is used by any person to produce calcined coke, the Secretary shall pay to such person an amount equal to the sum of the base rate and the supplemental rate for each million Btu's of the actual Btu content of the coke produced.

(d) CROSS REFERENCE. For refunds of gasoline and diesel fuel used on farms, see sections 6420(a) and 6427(m).

PART II—IMPOSITION OF TAXES ON NATURAL GAS, COAL, AND ELECTRICITY

Sec. 4444. Natural gas.
Sec. 4444. NATURAL GAS.

(a) IMPOSITION OF TAX. – There is hereby imposed a tax on natural gas

(A) removed from any pipeline in the United States,

(B) entered into the United States for consumption, use, or warehousing, and

(C) entered into any pipeline the operator of which is not registered under section 4453(d).

(2) EXCEPTION FOR TRANSFERS TO REGISTERED PIPELINES.

(A) PIPELINE TO PIPELINE TRANSFERS. – The tax imposed by paragraph (1) shall not apply to any removal from a pipeline to another pipeline if the operators of both pipelines are registered under section 4453(d).

(B) ENTRY INTO UNITED STATES TO PIPELINE TRANSFERS. – The tax imposed by paragraph (1) shall not apply to any entry into the United States if

(i) pursuant to such entry the natural gas is entered into any pipeline,
(ii) the operator of such pipeline is registered under section 4453(d).

(b) RATE OF TAX.Ñ

(1) IN GENERAL.ÑThe amount of the tax imposed by subsection (a) on each MCF of natural gas shall be the base rate multiplied by the applicable per unit Btu factor.

(2) AUTHORITY TO USE ACTUAL Btu CONTENT.ÑTo the extent provided in regulations prescribed by the Secretary, the amount of the tax imposed by subsection (a) shall be the base rate for each million Btu's of the actual Btu content of the natural gas.

(c) LIABILITY FOR, AND COLLECTION OF, TAX.Ñ

(1) IN GENERAL.ÑThe tax imposed by subsection (a)(1)(A)Ñ

(A) shall be paid by the person receiving the natural gas, and

(B) shall be collected by the operator of the pipeline.

(2) IMPORTATION.ÑThe tax imposed by subsection (a)(1)(B) shall be paid by the person entering the natural gas into the United States for consumption, use, or warehousing.
ENTRY INTO UNREGISTERED PIPELINES

The tax imposed by subsection (a)(1)(C) shall be paid by the person entering the natural gas.

COLLECTION OF TAX

(A) IN GENERAL. In the case of natural gas removed from a local distribution system, the operator shall also be liable for any tax imposed by subsection (a) which is not collected from the person receiving the natural gas.

(B) EXCEPTION FOR LARGE USERS FROM LOCAL DISTRIBUTION SYSTEMS. Subparagraph (A) shall not apply to natural gas received by any person during any month from a local distribution system if the value (exclusive of taxes) of the natural gas received by such person from such system during the 12-month period ending before such month exceeded $3,500,000.

DEFINITIONS

For purposes of this subchapter:

(1) APPLICABLE PER UNIT BTU FACTOR. (A) IN GENERAL. The applicable per unit Btu factor with respect to natural gas is 1.031 per MCF.

(B) CROSS REFERENCE. For authority to adjust per unit Btu amounts, see section 4453(e).
(2) PIPELINE. — The term `pipeline' includes a local distribution system. To the extent provided in regulations prescribed by the Secretary, such term includes a gathering system.

(3) NATURAL GAS. — The term `natural gas' includes synthetic natural gas produced from coal or from any petroleum product.

(4) MCF. — The term `MCF' means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

e) EXEMPTION FROM TAX FOR CERTAIN USES. —

   (1) IN GENERAL. — No tax shall be imposed by subparagraph (A) or (B) of subsection (a)(1) 
   (A) on any natural gas which is used in an exempt natural gas use by the person otherwise liable for such tax, or 
   (B) by reason of a removal or entry of natural gas for an exempt natural gas use by the person receiving the natural gas.

   (2) EXEMPT NATURAL GAS USE. — For purposes of this subsection, the term `exempt natural gas use' means—

      (A) use in the generation of electricity, 
      (B) any qualified feedstock use,
(C) use in enhanced heavy oil recovery.

(3) QUALIFIED FEEDSTOCK USE.ÐFor purposes of this subsection—

(A) IN GENERAL.ÐIn the case of any qualified feedstock use, only the exempt percentage of the natural gas shall be exempt from tax under paragraph (1).

(B) QUALIFIED FEEDSTOCK USE; EXEMPT PERCENTAGE.ÐThe terms `qualified feedstock use' and `exempt percentage' have the respective meanings given such terms by section 4442(a)(3) determined by substituting `natural gas' for `taxable refined petroleum product' each place it appears.

(4) ENHANCED HEAVY OIL RECOVERY.ÐFor purposes of this subsection—

(A) IN GENERAL.ÐNatural gas shall be treated as used in enhanced heavy oil recovery if such gas is used in an enhanced oil recovery project in the United States for the recovery of oil having a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

(B) ENHANCED OIL RECOVERY PROJECT.ÐFor purposes of subparagraph (A),
the term `enhanced oil recovery project' means any project which involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered.

``(5) REGISTRATION REQUIREMENTS .ÐTo the extent provided by the Secretary, paragraph (1) shall not apply to any taxable event unless the requirements of section 4442(a)(4) are met with respect to such event.

``(6) REFUNDS OF NATURAL GAS PURCHASED TAX-PAID.ÐIf tax was imposed by this section with respect to any natural gas and such gas is used by any person in an exempt natural gas use, the Secretary shall pay to such person an amount equal to the tax so imposed (or, in the case of a qualified feedstock use, the exempt percentage of the tax so imposed).

``(7) CROSS REFERENCE .Ð For tax on fuel used to produce steam at facility which also generates electricity, see section 4451(e).

``(f) METHANE RECOVERED FROM BIOMASS OR COAL MINING.Ð
(1) IN GENERAL.ÐIf Ð

(A) methane is recovered from biomass or in conjunction with room and pillar or long wall coal mining operations, and

(B) such methane is entered into any natural gas pipeline,

the Secretary shall pay to the person so entering such methane an amount equal to the amount of tax which would be imposed under this section on such methane if such entry were a taxable event under such section.

(2) RECAPTURE OF CREDIT FOR METHANE RECOVERED FROM COAL MINING IN CERTAIN CASES.Ð

(A) IN GENERAL.ÐIf Ð

(i) the Secretary has made a payment under paragraph (1) to any person with respect to methane recovered from coal mining operations before the date the actual mining commences, and

(ii)(I) such person disposes of his interest in such coal mining operations, or

(II) the actual mining commences more than 10 years after the date such methane was first recovered,
then the tax under chapter 1 of such person for the taxable year in which such disposition occurs (or, in a case to which clause (ii)(II) applies, such 10th year ends) shall be increased by the aggregate of such payments to such person plus interest at the underpayment rate under section 6621 for the periods beginning on the dates such payments were made.

``(B) NO FURTHER PAYMENTS UNTIL MINING COMMENCES.ÐIf there is an increase in tax under subparagraph (A) with respect to any payments for methane recovered from any site, no further payments shall be made under this subsection with respect to methane recovered from such site until actual mining commences at such site.

``(C) NO CREDITS AGAINST TAX, ETC.ÐAny increase in tax under this paragraph shall not be taken into account in determining the amount of any credit allowable under part IV of subchapter A of chapter 1 or in determining the amount of the tax imposed by section 55.

``(D) CHANGES IN FORM OF BUSINESS REGARDED.ÐA person shall not be treated as disposing of an interest in coal mining oper...
lations by reason of a mere change in the form of conducting the trade or business so long as the coal mining operations are retained in such trade or business.

``(g) REFUNDS IN CERTAIN CASES.ÐA rule similar to the rule of section 4441(g) shall apply to the tax imposed by this section.

``SEC. 4445. COAL.

``(a) GENERAL RULE.ÐThere is hereby imposed a tax on coal received at any facility in the United States for use as a fuel at such facility.

``(b) RATE OF TAX.ÐThe amount of the tax imposed by subsection (a) shall be the base rate for each million Btu's of the actual Btu content of the coal. For purposes of the preceding sentence, the actual Btu content of any coal shall be determined under procedures prescribed by the Secretary.

``(c) LIABILITY FOR TAX.Ð

``(1) IN GENERAL.ÐExcept as otherwise provided in this subsection, the tax imposed by subsection (a) shall be paid by the operator of the facility.

``(2) COAL RECEIVED AT SMALL FACILITIES.Ð If the ultimate vendor of coal received at a facility
receives a certificate from the operator of such facility (or otherwise determines) that such facility received less than 1,000 tons of coal during the preceding calendar year, the tax imposed by subsection (a) shall be paid by the ultimate vendor.

``(3) RESIDENTIAL PROPERTY .Ð

``(A) IN GENERAL .ÐIn the case of coal received at a residential property, the tax imposed by subsection (a) shall be paid by the ultimate vendor.

``(B) RESIDENTIAL PROPERTY .ÐFor purposes of this paragraph, the term `residential property' means any building which contains 1 or more dwelling units used for residential purposes other than on a transient basis.

``(d) EXEMPTION FROM TAX FOR CERTAIN USES.Ð

``(1) IN GENERAL .ÐNo tax shall be imposed by subsection (a) on coal received forÐ

``(A) use in the generation of electricity,
``(B) any qualified feedstock use,
``(C) use in enhanced heavy oil recovery (as determined under section 4444(e)(4) by substituting `coal' for `natural gas'),
``(D) use in the manufacture or production of synthetic natural gas or any other synthetic


fuel specified in regulations prescribed by the Secretary, or
``(E) any use in a vessel used in inter-
``national commercial transportation (as defined in section 4442(b)(2)(B)(i)).
``(2) QUALIFIED FEEDSTOCK USE .ÐFor pur-
``oses of this subsectionÐ
``(A) IN GENERAL .ÐIn the case of any
``qualified feedstock use, only the exempt per-
``centage of the coal shall be exempt from tax
``under paragraph (1).
``(B) QUALIFIED FEEDSTOCK USE ; EX-
``empt Percentage .ÐThe terms `qualified feed-
``stock use' and `exempt percentage' have the re-
``spective meanings given such terms by section
``4442(a)(3) determined by substituting `coal' for
```taxable refined petroleum product' each place it
``appears.
``(3) CROSS REFERENCE .Ð 
``For tax on fuel used to produce steam at facility
``which also generates electricity, see section 4451(e).
``(e) PRODUCTION OF COKE FOR STEEL.ÐIf tax was
``imposed under this subchapter with respect to any coal
``and such coal is used by any person to produce coke for
``use in the reduction of iron-bearing ores in the iron and
``steel process, the Secretary shall pay to such person an
SEC. 4446. ELECTRICITY.

(a) GENERAL RULE. — There is hereby imposed a tax on—

(1) the sale of electricity to ultimate users in the United States, and

(2) the use of electricity in the United States which was not subject to tax under paragraph (1).

(b) RATE OF TAX. — The amount of the tax imposed by subsection (a) on each kilowatt hour of electricity sold or used during any month shall be the deemed Btu tax per kilowatt hour applicable for such month—

(1) to the seller in the case of the tax imposed by subsection (a)(1), and

(2) to the user in the case of the tax imposed by subsection (a)(2).

(c) LIABILITY FOR, AND COLLECTION OF, TAX. —

(1) SALES. — The tax imposed by subsection (a)(1)—

(A) shall be paid by the person to whom the electricity is sold, and

(B) shall be collected by the seller.
(2) USES. The tax imposed by subsection (a)(2) shall be paid by the person using the electricity.

(3) COLLECTION OF TAX. (A) IN GENERAL. The seller shall also be liable for the tax imposed by subsection (a)(1) which is not collected from the person to whom the electricity is sold.

(B) EXCEPTION FOR LARGE USERS. Subparagraph (A) shall not apply to electricity sold to any person during any month by the seller if the amount paid by such person for electricity (exclusive of taxes) sold by such seller during the 12-month period ending before such month exceeded $3,500,000.

(d) DEEMED BTU TAXES. For purposes of this section—

(1) IN GENERAL. The deemed BTU taxes per kilowatt hour of electricity applicable to any person for any month shall be the weighted average of—

(A) the deemed BTU taxes per kilowatt hour of electricity generated at each facility of the person during the base period, and
``(B) the deemed Btu taxes per kilowatt hour of electricity purchased by such person during the base period.

For purposes of this paragraph, the term 'base period' means, with respect to any month, the 2d month preceding such month.

``(2) DEEMED BTU TAXES PER FACILITY.ÐThe deemed Btu taxes per kilowatt hour of electricity generated at any facility during any month shall be determined by dividing

``(A) the deemed Btu taxes on fuels used at such facility to generate electricity during such month by

``(B) the aggregate kilowatt hours of electricity generated at such facility during such month.

``(3) DEEMED BTU TAXES.Ð

``(A) IN GENERAL.ÐExcept as otherwise provided in this paragraph, the term 'deemed Btu taxes' means, with respect to electricity, the aggregate taxes which would have been imposed by this subchapter on the fuels used to generate such electricityÐ

``(i) but for the exemption of such fuels from such taxes,
(ii) determined as of the month for which the rate of the tax imposed by sub-
section (a) is being determined.

(B) ELECTRICITY GENERATED BY HY-
dROPOWER OR NUCLEAR POWER.—The deemed Btu taxes per kilowatt hour of electricity generated by hydropower or nuclear power shall be equal to the base rate multiplied by a fraction the numerator of which is 10,335 and the denominator of which is 1,000,000.

(C) IMPORTED ELECTRICITY.—

(i) IN GENERAL.—Except as provided in clause (ii), the deemed Btu taxes per kilowatt hour of electricity transmitted into the United States shall be determined as if such electricity were generated by hydropower.

(ii) LOWER DEEMED BTU TAX MAY BE ESTABLISHED.—If the importer establishes to the satisfaction of the Secretary the amount which would be the deemed Btu taxes per kilowatt hour of the electricity if the electricity were generated in the United States, such amount shall be used in lieu of the amount under clause (i).
(D) ELECTRICITY GENERATED BY RENEWABLE SOURCES.—The deemed Btu taxes per kilowatt hour of electricity generated from any renewable source shall be zero. For purposes of the preceding sentence, the term ‘renewable source’ means solar energy, wind energy, any geothermal deposit, biomass, municipal solid waste, and tires.

(4) SELLERS TO SPECIFY DEEMED BTU TAXES.—

(A) IN GENERAL.—In the case of electricity which is sold other than to the ultimate user, the seller shall certify to the purchaser the deemed Btu taxes per kilowatt hour of the electricity sold.

(B) FAILURE TO CERTIFY.—If the seller fails to so certify—

(i) the tax imposed by subsection (a) shall apply to such sale at the rate specified in subparagraph (C),

(ii) the tax imposed by subsection (a) shall apply to any subsequent sale or use without regard to clause (i), and

(iii) the rate specified in subparagraph (C) shall be the deemed Btu taxes...
per kilowatt hour of such electricity for purposes of determining the tax imposed by subsection (a) on any subsequent sale or use of such electricity.

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(C) RATE.ÐThe rate specified in this subparagraph is, for each kilowatt hour, the product of
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(1) ELECTRICITY USED IN CERTAIN ELECTROLYTIC PROCESSES—

(A) IN GENERAL.—In the case of electricity used in any electrolytic process, the tax imposed by this section shall not apply to the feedstock portion of such electricity.

(B) FEEDSTOCK PORTION.—For purposes of subparagraph (A), the feedstock portion of electricity is the portion of the electrical energy which is incorporated into the manufactured product.

(2) ELECTRICITY USED TO GENERATE PUMPED STORAGE, ETC.—The tax imposed by this section shall not apply to electricity used in the United States to create any hydropower source to generate electricity. The electricity generated by such hydropower source shall be disregarded in determining the deemed Btu taxes of the electricity.

(3) USE TAX EXCEPTION.—The Secretary may provide by regulations that the tax imposed by subsection (a)(2) shall not apply in cases where the Secretary determines that such an exception is warranted, after taking into account the protection of revenues to the United States from this subchapter.
PART III—TAX RATES

Sec. 4448. Tax rates.

SEC. 4448. TAX RATES.

(a) BASE RATE.—For purposes of this subchapter—

(1) PHASE-IN RATES.—Effective during—

(A) the 1-year period beginning on July 1, 1994, the base rate is 8.9 cents, and

(B) the 1-year period beginning on July 1, 1995, the base rate is 17.9 cents.

(2) PERMANENT UNINDEXED RATE.—Effective on and after July 1, 1996, the base rate is 26.8 cents.

(3) INDEXED RATES.—

(A) IN GENERAL.—Effective during any calendar year after 1997, the base rate under paragraph (2) shall be increased by an amount equal to—

(i) 26.8 cents, multiplied by

(ii) the inflation adjustment for such calendar year.

(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A), the inflation adjustment for such calendar year.
(i) the GDP deflator for the preceding calendar year, exceeds (ii) the GDP deflator for 1996.

(C) GDP DEFOLATOR FOR CALENDAR YEAR. For purposes of subparagraph (B), the GDP deflator for any calendar year is the GDP deflator for the second calendar quarter of such year.

(D) GDP DEFLATOR. For purposes of subparagraph (C), the term “GDP deflator” means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before November 15 of the calendar year referred to in subparagraph (B)(i).

(b) SUPPLEMENTAL RATE. For purposes of this subchapter—

(1) PHASE-IN RATES. Effective during—

(A) the 1-year period beginning on July 1, 1994, the supplemental rate is 11.4 cents, and

(B) the 1-year period beginning on July 1, 1995, the supplemental rate is 22.8 cents.
(2) Permanent Unindexed Rate. Effective on and after July 1, 1996, the supplemental rate is 34.2 cents.

(3) Indexed Rates. Effective during any calendar year after 1997, the supplemental rate under paragraph (2) shall be increased by an amount equal to

(A) 34.2 cents, multiplied by

(B) the inflation adjustment for such calendar year determined under subsection (a)(3)(B).

(c) Rounding. If any increase determined under subsection (a)(3) or (b)(3) is not a multiple of 0.1 cent, such increase shall be rounded to the nearest multiple of 0.1 cent.

PART IV—USE TAXES; FLOOR STOCKS TAXES; ADMINISTRATIVE PROVISIONS; DEFINITIONS AND SPECIAL RULES

Sec. 4451. Tax on certain uses.

Sec. 4452. Floor stocks taxes.

Sec. 4453. Administrative provisions.

Sec. 4454. Definitions and special rules.

SEC. 4451. Tax on certain uses.

(a) General Rule. There is hereby imposed a tax on the use of any fossil fuel—

(1) in the manufacture or production in the United States of a fuel other than at a refinery, or
(a) TAXATION ON USE. Ð Except as otherwise provided in this subsection, the amount of tax imposed by subsection (a) shall be the amount which would be imposed under the appropriate section of part I or II if such use were a taxable event under such section.

(b) RATE OF TAX. Ð (1) IN GENERAL. Ð Except as otherwise provided in this subsection, the amount of tax imposed by subsection (a) shall be the amount which would be imposed under the appropriate section of part I or II if such use were a taxable event under such section.

(2) CRUDE OIL AND OTHER PRODUCTS NOT TAXED ON REMOVAL OR IMPORTATION. Ð The amount of the tax imposed by subsection (a) on crude oil or other product not subject to tax under part I or II shall be the base rate (increased by the supplemental rate in the case of crude oil or any petroleum product other than any liquefied petroleum gas, isopentane, and natural gasoline) for each million Btu's of the Btu content of such oil or product.

(3) AUTHORITY TO PRESCRIBE APPLICABLE PER UNIT BTU FACTORS. Ð In the case of crude oil or any other product for which an applicable per unit Btu factor is not prescribed for purposes of part I or II, the Secretary may prescribe such a factor.
tor, and, if so prescribed, such factor shall apply for purposes of paragraph (2).

``(c) LIABILITY FOR TAX.ÐThe taxes imposed by subsection (a) shall be paid by the person using the fuel.

``(d) EXCEPTIONS.Ð

``(1) IN GENERAL .ÐExcept as provided in subsection (e), the tax imposed by this section shall not apply toÐ

``(A) any use to which section 4442, section 4444(e), or subsection (d) or (e) of section 4445 applies, or

``(B) any use of methane described in section 4444(f)(1)(A).

``(2) USE ON PRODUCTION PREMISES .ÐThe tax imposed by this section shall not apply to any use of crude oil or natural gas for producing crude oil or natural gas ifÐ

``(A) in the case of crude oil, it is used before entry at the lease automatic custody transfer point (or its manual equivalent), and

``(B) in the case of natural gas, it is used before entry into an interstate or intrastate transmission pipeline.

``(3) CRUDE OIL USED AT REFINERY , ETC.Ð The tax imposed by this section shall not apply toÐ
``(A) any use of crude oil at a facility at which crude oil is refined or any use at such facility of any product produced at such facility,
``(B) any use of natural gas at a natural gas processing or fractionation plant or any use at such plant of any product produced at such plant, or
``(C) any use of ethanol at a facility at which ethanol is produced for use as a fuel.
``(4) OTHERWISE TAXABLE EVENT OCCURRING BEFORE EFFECTIVE DATE.ÐThe tax imposed by this section shall not apply to any use if no tax would be imposed by this section on such use were this subchapter in effect for all periods before July 1, 1994.
``(e) GENERATION OF STEAM AND ELECTRICITY.Ð
``(1) IN GENERAL.ÐIn the case of a facility which uses any taxable refined petroleum product, natural gas, or coal—
``(A) to generate electricity, and
``(B) to produce steam which is used or which is furnished or sold in the trade or business of the furnishing or sale of steam,
the extent such use is attributable (determined on the basis of the proportionate Btu content of the electricity and the steam) to the production of steam which is so used, furnished, or sold.

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(2) EXCEPTIONS.ÐParagraph (1) shall not apply to steam used for any purpose if tax would not be imposed under this subchapter on the fuel used to produce the steam had such fuel been used directly for such purpose.
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(f) TREATMENT OF NATURAL GAS LOST IN TRANSMISSION.ÐFor purposes of this section, natural gas lost in transmission by a pipeline shall be treated as used as a fuel for such pipeline.
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SEC. 4452. FLOOR STOCKS TAXES.
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(a) IMPOSITION OF TAX.ÐThere is hereby imposed a tax on any taxable fuel which on any tax-increase date is held in the United States by any person.
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(b) AMOUNT OF TAX.ÐThe amount of the tax imposed by subsection (a) on any taxable fuel with respect to any tax-increase date shall be equal to the excess (if any) of
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(1) the amount of tax which would be imposed under part I or II if a taxable event with respect to such fuel had occurred on such date, over
(2) the prior tax (if any) imposed by this subchapter on such fuel.

(c) LIABILITY FOR TAX. Ð The person holding the taxable fuel on any tax-increase date shall pay the tax imposed by subsection (a).

(d) EXCEPTIONS. Ð The tax imposed by subsection (a) shall not apply to

(1) any taxable fuel held before the point where it would otherwise be subject to tax under part I or II, or

(2) any taxable fuel held by any person exclusively for any use by such person to the extent a credit or refund (or other payment) of the tax imposed by this section would be allowable or payable if such tax were imposed by part I or II.

(e) CREDIT AGAINST TAX. Ð

(1) IN GENERAL. Ð Each person shall be allowed $200 as a credit against the taxes imposed by subsection (a) with respect to each tax-increase date. Such credit shall not exceed the amount of taxes imposed by subsection (a) for which such person is liable with respect to such date.

(2) CONTROLLED GROUPS. Ð For purposes of paragraph (1) Ð
``(A) all persons who are treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 taxpayer, and
``(B) the $200 amount specified in paragraph (1) shall be apportioned among such persons under regulations prescribed by the Secretary.
``(f) Definitions. — For purposes of this section —
``(1) Taxable Fuel. — The term `taxable fuel' means any taxable refined petroleum product, natural gas, or coal.
``(2) Tax-Increase Date. — The term `tax-increase date' means —
``(A) July 1, 1994,
``(B) July 1, 1995,
``(C) July 1, 1996, and
``(D) January 1 of each calendar year for which there is an increase in a rate of tax by reason of subsection (a)(3) or (b)(3) of section 4448 (relating to inflation adjustment).
``(g) Due Date. — The tax imposed by subsection (a) shall be paid on or before the close of the 7-month period beginning on the tax-increase date.
SEC. 4453. ADMINISTRATIVE PROVISIONS.

(a) RULES RELATING TO REFUNDS FOR EXEMPT AND OTHER USES.

(1) PERIOD FOR FILING CLAIMS. No payment shall be made under section 4442, 4444(f), or 4445(e) unless, within 2 years after the date that the event occurs giving rise to a right to such payment, a claim therefor is filed by the person entitled to such payment.

(2) DENIAL OF INTEREST. Except as provided in paragraph (3), no interest shall be paid on claims for payments under section 4442, 4444(f), or 4445(e).

(3) MINIMUM AMOUNTS AND PERIODS. In the case of persons who meet such requirements as the Secretary may prescribe, if

(A) a claim for payment is filed under section 4442, 4444(f), or 4445(e) for any period for which more than $1,000 is payable and which is not less than 1 week, and

(B) the Secretary has not paid such claim within 20 days after the date the claim was filed,

such claim shall be paid with interest from such date using the overpayment rate and method under section 6621. The preceding sentence shall not apply to...
nothing in section 6611(e) shall bar interest payable under this paragraph.

``(4) HEATING OIL .Ð
``(A) IN GENERAL .ÐExcept as provided in subparagraph (B), not more than 1 claim may be filed under section 4442(b)(1) by any person with respect to fuel oil sold by such person during any calendar year.
``(B) EXCEPTION.ÐIf $1,000 or more is payable under section 4442(b)(1) to any person with respect to fuel oil sold during any of the 1st 3 quarters of the calendar year, a claim may be filed under section 4442(b)(1) with respect to fuel oil sold during such quarter. No claim filed under this subparagraph shall be allowed unless filed on or before the last day of the 1st quarter following the quarter for which the claim is filed.

``(5) APPLICABLE LAWS .Ð
``(A) IN GENERAL .ÐAll provisions of law, including penalties, applicable in respect of the tax imposed by this subchapter shall, insofar as applicable and not inconsistent with this subsection and section 4442, 4444(f), or 4445(e),
apply in respect of payments provided for in such section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

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(B) EXAMINATION OF BOOKS AND WITNESSES.ÐFor the purpose of ascertaining the correctness of any claim made under section 4442, 4444(f), or 4445(e), or the correctness of any payment made in respect of such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.
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b) PAYMENT OF TAX TO PERSONS REQUIRED TO COLLECT TAX.Ð
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(1) PAYMENT WITHIN 30 DAYS.ÐIn the case of the taxes imposed by sections 4444 and 4446 which are required to be collected by another person, the person liable for such tax shall remit the tax to such other person within 30 days after the date of the taxable event.
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(2) RELIEF FROM PENALTY FOR CERTAIN FAILURES TO COLLECT TAX.ÐNo penalty shall be
imposed under this title on the failure of any person to collect the taxes referred to in paragraph (1) if—

``(A) during the 30-day period referred to in paragraph (1), such person exercises due diligence in attempting to collect such tax, and
``(B) such person notifies the Secretary, within 15 days after the close of the month in which such 30-day period ends, of the failure to collect such tax and provides such other information as the Secretary may require.
``(3) EXCEPTION FOR PERSONS WITH SECONDARY LIABILITY.—Paragraphs (1) and (2) shall not apply if the person required to collect the tax is required to pay any portion of such tax which is not paid by the person primarily liable for such tax.
``(c) INFORMATION REPORTING.—The Secretary may require—
``(1) information reporting by each remitter of tax imposed by this subchapter, and
``(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subchapter.
``(d) REGISTRATION.—
``(1) IN GENERAL.—Every person required by the Secretary to register under this subsection with...
respect to any tax imposed by this subchapter shall register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this subsection may be used only in accordance with regulations prescribed under this section.

``(2) OTHER RULES .ÐRules similar to the rules of section 4101(b) and 4222(c) shall apply for purposes of this subsection.

``(e) ADJUSTMENTS TO PER UNIT BTU FACTORS.Ð

``(1) IN GENERAL .ÐIf the Secretary determines that the applicable per unit Btu factor then in effect for any taxable refined petroleum product or natural gas does not, when multiplied by 1,000,000, properly reflect the Btu content per unit for such substance (in the circumstances where taxable events under this subchapter occur with respect to such substance), the Secretary may modify the applicable per unit Btu factor for such substance. Any such modification shall be effective as of the date prescribed by the Secretary.

``(2) MODIFICATION OF LIST OF REFINED PE -
in section 4441 for which applicable per unit Btu factors are separately determined.

SEC. 4454. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this subchapter—

(1) FOSSIL FUEL.—The term `fossil fuel' means crude oil, any petroleum product, natural gas, any natural gas product, and coal.

(2) CRUDE OIL.—The term `crude oil' includes condensates from crude oil.

(3) COAL.—The term `coal' includes lignite.

(4) UNITED STATES.—The term `United States' means the 50 States, the District of Columbia, and the foreign trade zones of the United States.

(5) PERSON.—The term `person' includes the United States, any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

(c) FRACTIONAL PART OF UNIT.—In the case of a fraction of a unit, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole unit.

(d) SPECIAL RULES RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS.—
LIKE TAX ON ARTICLES BROUGHT INTO THE UNITED STATES FROM PUERTO RICO OR THE VIRGIN ISLANDS. For purposes of this subchapter, articles brought into the United States from the Commonwealth of Puerto Rico or the Virgin Islands shall be treated as entered into the United States at the time brought into the United States.

DISPOSITION OF REVENUES. The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

NO EXEMPTION FROM TAX. No person shall be exempt from any tax imposed by this subchapter except to the extent provided in this subchapter or in any provision of law enacted after the date of the enactment of this subchapter which grants a specific exemption, by reference to this subchapter, from a tax imposed by this subchapter.

PART V—TAX ON IMPORTED HIGH-ENERGY PRODUCTS

Sec. 4456. Imposition of tax.
Sec. 4457. Definitions and special rules.
(b) A MOUNT OF TAX.ÐThe amount of the tax imposed by subsection (a) on any taxable high-energy product shall be the imputed Btu tax with respect to such product.

(c) LIABILITY FOR TAX.ÐThe tax imposed by subsection (a) shall be paid by the person entering the product for consumption, use, or warehousing.

SEC. 4457. DEFINITIONS AND SPECIAL RULES.

(a) TAXABLE HIGH-ENERGY PRODUCT.ÐFor purposes of this part—

(1) IN GENERAL.ÐThe term `taxable high-energy product' means any product which, at the time entered into the United States for consumption, use, or warehousing, is listed as a taxable high-energy product by the Secretary.

(2) DETERMINATION OF PRODUCTS ON LIST.ÐA product shall be listed under paragraph (1) if the product is produced in an industry identified (using 4-digit SIC codes) in the most recent census of manufacturing as producing products which on average have more than 2 percent of their value attributable to direct energy inputs (exclusive of the tax imposed by parts I and II) of taxable energy sources.
(3) **Taxable Energy Source.** The term ‘taxable energy source’ means any taxable refined petroleum product, natural gas, coal, and electricity.

(b) **Imputed BTU Tax.** For purposes of this part—

(1) **In General.** Except as otherwise provided in this subsection, the term ‘imputed BTU tax’ means, with respect to any taxable high-energy product, the amount of tax which would have been imposed by parts I and II on taxable energy sources directly used in the manufacture or production of the product if—

(A) such product were manufactured or produced using the predominant method of manufacture or production of such product in the United States, and

(B) such taxable energy sources had been subject to tax under such parts on the date of the entry of the product into the United States for consumption, use, or warehousing.

(2) **Tax Where Information Furnished.** If the person liable for the tax imposed by section 4456 with respect to any product furnishes to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to...
determine the imputed Btu tax with respect to such product, the imputed Btu tax determined using such information shall apply in lieu of the amount determined under paragraph (1).

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(c) REQUESTS TO CHANGE LIST.ÐIf any importer or producer of any product requests that the Secretary determine whether
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(1) such product should be listed as a taxable high-energy product under subsection (a)(1) or be removed from such listing, or
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(2) the imputed Btu tax for such product under subsection (b)(1),
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the Secretary shall make such determination within 180 days after the date the request was filed.''

(b) REFUNDS FOR FARM USE OF GASOLINE AND DIESEL FUEL.Ð

(1) GASOLINE.Ð

(A) Subsection (a) of section 6420 is amended by adding at the end thereof the following new flush sentence:

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If the supplemental rate of the tax imposed by section 4441 was imposed on such gasoline, the Secretary shall also pay (without interest) to such ultimate purchaser an amount equal to the product of such supplemental rate
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(B) Subsection (h) of section 6420 is amended by inserting ``and taxes imposed by section 4441'' after ``financing rate''.

(2) DIESEL FUEL .—

(A) Section 6427 is amended by redesignating subsections (m) through (r) as subsections (n) through (s), respectively, and by inserting after subsection (l) the following new subsection:

``(m) R EFUNDS OF SUPPLEMENTAL RATE OF BTU TAX ON FARM USE OF DIESEL FUEL.—Except as provided in subsection (k), if the supplemental rate of the tax imposed by section 4441 was imposed on diesel fuel used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of such supplemental rate and the applicable per unit Btu factor per barrel (determined under section 4441) of the diesel fuel so used.''

(B) Paragraph (1) of section 6427(i) is amended by inserting ``(m),'' after ``(l),''.

(C) Paragraph (4) of section 6427(i), as amended by subpart B, is amended—
(i) by striking "OR 4091" in the paragraph heading and inserting "4091, OR 4441", and 
(ii) by striking "subsection (l)" each place it appears and inserting "subsections (l) and (m)".

(c) Civil Penalty for Using Reduced-Rate Fuel for Taxable Use. Ð

(1) In General. Ð Part I of subchapter B of chapter 68 (relating to assessable penalties) is 
amended by adding at the end thereof the following new section:

``SEC. 6714. DYED FUEL SOLD FOR USE OR USED IN TAXABLE USE.
``
``(a) Imposition of Penalty. Ð If any dyed fuel Ð
``(1) is sold by any person for any use which 
such person knows or has reason to know is not a 
reduced-tax use of such fuel, or
``(2) is used by any person for a use other than 
such person knew, or had reason to know, that such fuel was so dyed,
then, in addition to the tax, such person shall pay a pen-
alty on such sale or use.
(b) A MOUNT OF PENALTY. — The amount of the penalty under subsection (a) on any sale or use shall be the greater of

(1) $1,000, or

(2) an amount equal to twice the excess of the aggregate taxes which should have been imposed under section 4441 on the fuel so sold or used over the prior taxes (if any) imposed on such fuel under such section which have not been credited or refunded.

(c) D EFINITIONS. — For purposes of this section

(1) D YED FUEL. — The term `dyed fuel' means

(A) qualified heating oil (as defined in section 4441(b)(2)(B)), and

(B) diesel fuel dyed in accordance with section 4441(b)(2)(C).

(2) R EDUCED-TAX USE. — The term `reduced-tax use' means, with respect to any fuel, the use for which such fuel was dyed.

(d) TECHNICAL AMENDMENTS. — The table of sections for such part I is amended by adding at the end thereof the following new item:

``Sec. 6714. Dyed fuel sold for use or used in taxable use.''

CLERICAL AMENDMENT. — The table of sections for such part I is amended by adding at the end thereof the following new item:

``Sec. 6714. Dyed fuel sold for use or used in taxable use.''

TECHNICAL AMENDMENTS. —
(1)(A) Subsection (a) of section 6675 is amended by inserting ``section 4442 (relating to refunds of petroleum tax for certain sales and uses), section 4444(f) (relating to methane recovered from biomass or coal mining), section 4445(e) (relating to coal used in production of coke for steel),'' before ``section 6420''.

(B) Subsection (b) of section 6675 is amended by inserting ``4442, 4444(f), 4445(e),'' before ``6420''.

(2) Section 6206 is amended—

(A) by inserting ``(a) F UEL TAXES.Ð'' before ``Any portion of'', and

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

``(b) B TU TAXES.ÐAny portion of a payment made under section 4442, 4444(f), or 4445(e) which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by subchapter A of chapter 36 and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing a claim under section 4442, 4444(f), or 4445(e).''
(3)(A) The section heading for section 6206 is amended by striking ``UNDER SECTIONS 6420, 6421, and 6427'' and inserting ``FOR CERTAIN FUELS TAX REFUNDS AND ENERGY TAX REFUNDS''.

(B) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking ``under sections 6420, 6421, and 6427'' and inserting ``for certain fuels tax refunds and energy tax refunds''.

(4) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking ``or'' at the end of clause (xi),

(B) by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma,

(C) by redesignating the clause (xii) relating to section 338(h)(10)(C) as clause (xiii) and by striking the period at the end thereof and inserting `, or'', and

(D) by inserting after clause (xiii), as so redesignated, the following new clause:

``(xiv) section 4453(c) (relating to information reporting with respect to energy taxes).''
(5) Sections 7210, section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by inserting "4453(a)(5)(B)," before "6420(e)(2)" each place it appears.

(6) Subparagraph (A) of section 9505(c)(3) is amended by striking "subchapter A" and inserting "subchapter B".

(7) The table of subchapters for chapter 36 is amended by striking the items relating to subchapters A and B and inserting the following:
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(1) TAX ON REMOVAL, ENTRY, OR SALE.

(A) IN GENERAL. There is hereby imposed a tax at the rate specified in paragraph
(2) on

(i) the removal of a taxable fuel from
any refinery,
(ii) the removal of a taxable fuel
from any terminal,
(iii) the entry into the United States
of any taxable fuel for consumption, use,
or warehousing, and
(iv) the sale of a taxable fuel to any
person who is not registered under section
4101 unless there was a prior taxable re-
moval or entry of such fuel under clause
(i), (ii), or (iii).

(B) EXEMPTION FOR BULK TRANSFERS
TO REGISTERED TERMINALS. The tax imposed
by this paragraph shall not apply to any re-
moval or entry of a taxable fuel transferred in
bulk to a terminal if the person removing or en-
tering the taxable fuel and the operator of such
terminal are registered under section 4101.

(2) RATES OF TAX.
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(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

(i) the Highway Trust Fund financing rate,

(ii) the Leaking Underground Storage Tank Trust Fund financing rate, and

(iii) the deficit reduction rate.

(B) RATES.—For purposes of subparagraph (A)—

(i) the Highway Trust Fund financing rate is—

(I) 11.5 cents per gallon in the case of gasoline, and

(II) 17.5 cents per gallon in the case of diesel fuel,

(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon, and

(iii) the deficit reduction rate is 2.5 cents per gallon.

(b) TREATMENT OF REMOVAL OR SUBSEQUENT SALE BY BLENDER.—

(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (a) on taxable fuel removed or sold by the blender thereof.
``(2) CREDIT FOR TAX PREVIOUSLY PAID. ÐIf Ñ
tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and
``(B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a), the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).
``(c) TAXABLE FUELS MIXED WITH ALCOHOL AT REFINERY, ETC. Ð
``(1) REDUCED RATES. Ð 
``(A) IN GENERAL. Ð Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting rates which are the applicable fraction of the otherwise applicable rates in the case of the removal or entry of any taxable fuel for use in producing at the time of such removal or entry a qualified alcohol mixture. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in
producing such a mixture after the time of such removal or entry.

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(B) APPLICABLE FRACTION. For purposes of subparagraph (A), the applicable fraction is—
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(i) in the case of a qualified alcohol mixture which contains gasoline, the fraction the numerator of which is 10 and the denominator of which is—
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(I) 9 in the case of 10 percent gasohol,
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(II) 9.23 in the case of 7.7 percent gasohol, and
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(III) 9.43 in the case of 5.7 percent gasohol, and
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(ii) in the case of a qualified alcohol mixture which does not contain gasoline,
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(2) LATER SEPARATION OF FUEL FROM QUALIFIED ALCOHOL MIXTURE. If any person separates the taxable fuel from a qualified alcohol mixture on which tax was imposed under subsection (a) at the otherwise applicable Highway Trust Fund financing rate (or its equivalent) by reason of this subsection (or with respect to which a credit or pay-
ment was allowed or made by reason of section 16427(f)(1)), such person shall be treated as the re-
finer of such taxable fuel. The amount of tax im-
posed on any removal of such fuel by such person 
shall be reduced by the amount of tax imposed (and 
not credited or refunded) on any prior removal or 
entry of such fuel.

``(3) A LCOHOL; QUALIFIED ALCOHOL MIX-
TURE.ÐFor purposes of this subsection–
``(A) A LCOHOL.ÐThe term `alcohol' in-
cludes methanol and ethanol but does not in-
clude alcohol produced from petroleum, natural 
gas, or coal (including peat). Such term does 
don't include alcohol with a proof of less than 
190 (determined without regard to any added 
denaturants).
``(B) Q UALIFIED ALCOHOL MIXTURE .Ð 
The term `qualified alcohol mixture' meansÐ 
``(i) any mixture of gasoline with alco-
hol if at least 5.7 percent of such mixture 
is alcohol, and 
``(ii) any mixture of diesel fuel with 
alcohol if at least 10 percent of such mix-
ture is alcohol.
``(4) O THERWISE APPLICABLE RATES FOR GAS-OLINE MIXTURES. ÐFor purposes of this sub-
``(A) I N GENERAL. ÐIn the case of the 
``(i) 6.1 cents a gallon for 10 percent 
``(ii) 7.342 cents a gallon for 7.7 per-
``(iii) 8.422 cents a gallon for 5.7 per-
In the case of a mixture none of the alcohol in 
clauses (i), (ii), and 
``(B) 10 PERCENT GASOHOL. ÐThe term 
``(C) 7.7 PERCENT GASOHOL. ÐThe term
(D) 5.7 PERCENT GASOHOL. The term `5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.

(5) Otherwise applicable rates for diesel fuel mixtures. For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate for diesel fuel in a qualified alcohol mixture is 12.1 cents per gallon (11.5 cents per gallon in the case of a qualified alcohol mixture none of the alcohol in which consists of ethanol).


(d) Termination. (1) Highway Trust Fund financing rate. On and after October 1, 1999, the Highway Trust Fund financing rate under subsection (a)(2) shall not apply.

(2) Leaking underground storage tank trust fund financing rate. The Leaking Underground Storage Tank Trust Fund financing rate is 1.6 cents per gallon.
1. **DERGROUND STORAGE TANK TRUST FUND FINANCING RATE**

   Under subsection (a)(2) shall not apply after December 31, 1995.

2. **DEFICIT REDUCTION RATE**

   On and after October 1, 1995, the deficit reduction rate under subsection (a)(2) shall not apply.

3. **REFUNDS IN CERTAIN CASES**

   Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

4. **SEC. 4082. EXEMPTIONS FOR DIESEL FUEL**

   **(a) IN GENERAL**
   - The tax imposed by section 4081 shall not apply to diesel fuel—
     1. which the Secretary determines is destined for a nontaxable use,
     2. which is indelibly dyed in accordance with regulations which the Secretary shall prescribe, and
     3. which meets such marking requirements (if any) as may be prescribed by the Secretary in regulations.
(b) NONTAXABLE USE. — For purposes of this section, the term `nontaxable use' means—

(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof,

(2) any use in a train, and

(3) any use described in section 6427(b)(1).

(c) REGULATIONS. — The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

(d) CROSS REFERENCE. — For tax on train, motorboat, and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

SEC. 4083. DEFINITIONS AND SPECIAL RULE.

(a) TAXABLE FUEL. — For purposes of this subpart—

(1) IN GENERAL. — The term `taxable fuel' means—

(A) gasoline, and

(B) diesel fuel.

(2) GASOLINE. — The term `gasoline' includes, to the extent prescribed in regulations—

(A) gasoline blend stocks,
(B) products commonly used as additives in gasoline. For purposes of subparagraph (A), the term `gasoline blend stock' means any petroleum product component of gasoline.

``(3) DIESEL FUEL.ÐThe term `diesel fuel' means any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat.

``(b) CERTAIN USES DEFINED AS REMOVAL.ÐIf any person uses taxable fuel (other than in the production of gasoline, diesel fuel, or special fuels referred to in section 4041), such use shall for the purposes of this chapter be considered a removal.

``SEC. 4084. CROSS REFERENCES.

``(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.
``(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.
``(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

Subpart BÐAviation Fuel

Sec. 4091. Imposition of tax.

Sec. 4092. Exemptions.

Sec. 4093. Definitions.
SEC. 4091. IMPOSITION OF TAX.

(a) IN GENERAL.ÐThere is hereby imposed a tax on the sale of aviation fuel by the producer or the importer thereof or by any producer of aviation fuel.

(b) RATE OF TAX.Ð

(1) IN GENERAL.ÐThe rate of the tax imposed by subsection (a) shall be the sum of

(A) the Airport and Airway Trust Fund financing rate, and

(B) the Leaking Underground Storage Tank Trust Fund financing rate.

(2) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.ÐFor purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 17.5 cents per gallon.

(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.ÐFor purposes of paragraph (1), the Leaking Underground Storage Tank Fund financing rate is 0.1 cent per gallon.

(4) TERMINATION OF RATES.Ð

(A) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1996.

(B) The Leaking Underground Storage Tank Fund financing rate shall not apply during
``(c) REDUCED RATE OF TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.Ð

``(1) IN GENERAL .ÐThe Airport and Airway Trust Fund financing rate shall beÐ

``(A) 4.1 cents per gallon in the case of the sale of any mixture of aviation fuel ifÐ

``(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and
``(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and
``(B) 4.56 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1.9 cent per gallon.

``(2) LATER SEPARATION .ÐIf any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under section 4081(c)(3), the tax collected on the aviation fuel shall be refunded by the Secretary. The Secretary shall not refund the tax collected on the alcohol, except that the tax collection rate prescribed under subparagraph (A) shall be 4.1 cents per gallon on the portion of such mixture that consists of alcohol.
subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 4.1 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel.

``(3) TERMINATION.ÐParagraph (1) shall not apply to any sale after September 30, 2000.
``

``(d) LOWER RATES OF TAX ON ALCOHOL MIXTURES NOT MADE FROM ETHANOL.ÐIn the case of a mixture described in subsection (c)(1)(A)(i) none of the alcohol in which is ethanolÐ
``

``(1) subsections (c)(1)(A) and (c)(2) shall each be applied by substituting rates which are 0.6 cents less than the rates contained therein, and
``

``(2) subsection (c)(1)(B) shall be applied by substituting rates which are 10\^9 of the rates determined under paragraph (1).
``

SEC. 4092. EXEMPTIONS.
``

``(a) NONTAXABLE USES.ÐThe Airport and Airway Trust Fund financing rate under section 4091 shall not
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apply to aviation fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)(B)).

``(b) S ALES TO PRODUCER.ÐUnder regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply to aviation fuel sold to a producer of such fuel.

``(c) S UPPLIES FOR VESSELS AND AIRCRAFT.ÐUnder regulations prescribed by the Secretary, the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)).

SEC. 4093. DEFINITIONS.

``(a) AVIATION FUEL.ÐFor purposes of this subpart, the term `aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

``(b) PRODUCER.ÐFor purposes of this subpart—

``(1) C ERTAIN PERSONS TREATED AS PRODUCERS.Ð

``(A) I N GENERAL .ÐThe term `producer' includes any person described in subparagraph (B) and registered under section 4101 with respect to the tax imposed by section 4091.

``(B) O THER PRODUCERS.ÐThe term `producer' includes a producer of aviation fuel, as defined in section 4101, who is not a person described in subparagraph (A).
(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

(i) a refiner, blender, or wholesale distributor of aviation fuel, or

(ii) a dealer selling aviation fuel exclusively to producers of aviation fuel.

(C) REDUCED RATE PURCHASERS TREATED AS PRODUCERS.—Any person to whom aviation fuel is sold at a reduced rate under this subpart shall be treated as the producer of such fuel.

(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term `wholesale distributor' includes any person who sells aviation fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term `wholesale distributor' from paragraph (1)) is a producer or importer.''

(b) CIVIL PENALTY FOR USING REDUCED-RATE FUEL FOR TAXABLE USE.—

(1) Paragraph (1) of section 6714(c), as added by subpart A, is amended by striking ``and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B), and by inserting `in addition to any other penalty provided by law' after the period.
(2) Paragraph (2) of section 6714(b), as added by subpart A, is amended by striking ``section 4441'' and inserting ``sections 4081 and 4441'' and by striking ``such section'' and inserting ``such sections''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.Ð

(1) Subsection (c) of section 40 is amended by striking ``, section 4081(c), or section 4091(c)'' and inserting ``or section 4081(c)''.

(2) Subsection (a) of section 4101 is amended by striking ``4081'' and inserting ``4041(a)(1), 4081,''.

(3) Section 4102 is amended by striking ``gasoline'' and inserting ``any taxable fuel (as defined in section 4083)''.

(4) Paragraph (1) of section 4041(a) is amended to read as follows:

``(1) TAX ON DIESEL FUEL IN CERTAIN CASES.Ð
(A) IN GENERAL.—There is hereby imposed a tax on any liquid other than gasoline (as defined in section 4083) —

(i) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat for use as a fuel in such vehicle, train, or boat, or

(ii) used by any person as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat unless there was a taxable sale of such fuel under clause (i).

(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of diesel fuel if there was a taxable sale of such fuel under section 4081 and the tax thereon was not credited or refunded.

(C) RATE OF TAX.—

(i) IN GENERAL.—Except otherwise provided in this subparagraph, the rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate on diesel fuel and the
deficit reduction rate in effect under section 4081 at the time of such sale or use.

```
(ii) HIGHWAY RATE NOT TO APPLY
The Highway Trust Fund financing rate shall not apply to any sale for use, or use, of fuel in a train.
```

```
(iii) CERTAIN BUS USES.
If the limitation in section 6427(b)(2)(A) applies to fuel sold for use or used in an automobile bus, the Highway Trust Fund financing rate shall be 3 cents per gallon and the deficit reduction rate shall not apply.''
```

(5) Paragraph (2) of section 4041(a) is amended by striking ``or paragraph (1) of this subsection'' and by inserting ``on gasoline'' after ``Highway Trust Fund financing rate''.

(6) Paragraph (2) of section 4041(c) is amended by striking ``any product taxable under section 4081'' and inserting ``gasoline (as defined in section 4083)''.

(7) Paragraph (2) of section 4041(d) is amended—

(A) by striking ``(other than a product taxable under section 4081)'' and inserting ``(other
(B) by striking "section 4091" and inserting "section 4081".

(8) Paragraph (3) of section 4041(d) is amended by striking "(other than any product taxable under section 4081)" and inserting "(other than gasoline (as defined in section 4083))".

(9) Subparagraph (A) of section 4041(k)(1) is amended by striking "sections 4081(c) and 4091(c), as the case may be" and inserting "section 4081(c)".

(10) Subparagraph (B) of section 4041(m)(1) is amended by striking "section 4091(d)(1)" and inserting "section 4091(c)(1)".

(11) Section 6206 is amended by striking "4041 or 4091" and inserting "4041, 4081, or 4091".

(12) Paragraph (1) of section 6302(f) is amended by inserting "on gasoline" after "section 4081" and after "such tax".

(13) Paragraph (1) of section 6412(a) is amended by striking "gasoline" each place it appears (including the heading) and inserting "taxable fuel".
(A) Subparagraph (A) of section 6416(a)(4) is amended by striking ``product'' each place it appears and inserting ``gasoline''.

(B) Subparagraph (B) of section 6416(a)(4) is amended by striking all that follows ``substituting'' and inserting ```any gasoline taxable under section 4081' for `aviation fuel' therein.''

(15) Sections 6420(c)(5) and 6421(e)(1) are each amended by striking ``section 4082(b)'' and inserting ``section 4083(a)''.

(16) Subsection (b) of section 6427 is amendedÐ(1) by striking ``if any fuel'' in paragraph (1) and inserting ``if any diesel fuel (as defined in section 4083(a))'', and (2) by striking ``4091'' each place it appears and inserting ``4081''.

(17)(A) Paragraph (1) of section 6427(f) is amended by striking ``4091(c)(1)(A), or 4091(d)(1)(A)'' and inserting ``or 4091(c)(1)(A)''.

(B) Paragraph (2) of section 6427(f) is amended to read as follows:

``(2) DEFINITIONS.ÐFor purposes of paragraph (1)Ð
(A) REGULAR TAX RATE. Ð The term `regular tax rate' means Ð

(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

(B) INCENTIVE TAX RATE. Ð The term `incentive tax rate' means Ð

(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof.

(18) Subsection (h) of section 6427 is amended by striking ``section 4082(b)'' and inserting ``section 4083(a)(2)''.

(19) Paragraph (3) of section 6427(i) is amended Ð
(A) by striking "GASOHOL" in the heading and inserting "ALCOHOL MIXTURE", and
(B) by striking "gasoline used to produce gasohol (as defined in section 4081(c)(1))" in subparagraph (A) and inserting "gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))".

(20) The heading of paragraph (4) of section 6427(i) is amended by inserting "4081 OR" before "4091".

(21) Subsection (l) of section 6427 is amended to read as follows:

```
(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL. Ð
```

```
(1) IN GENERAL. ÐExcept as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if Ð
```

```
(A) any diesel fuel on which tax has been imposed by section 4081, or
```

```
(B) any aviation fuel on which tax has been imposed by section 4091,
```

```
is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate...
```
aggregate amount of tax imposed on such fuel under section 4081 or 4091, as the case may be.

```
(2) NONTAXABLE USE. ÐFor purposes of this subsection, the term `nontaxable use' means
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(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS. ÐFuel used in a diesel-powered train shall be treated as a nontaxable use for purposes of this section, except that paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to the deficit reduction rate imposed by such section unless such fuel was used by a State or any political subdivision thereof."

(22) Paragraph (1) of section 9503(b) is amended—

(A) by striking ``gasoline),'' in subparagraph (E) and inserting ``gasoline and diesel fuel), and'',

(B) by striking subparagraph (F), and

(C) by redesignating subparagraph (G) as subparagraph (F).

(23)(A) Subparagraph (B) of section 9503(b)(4) is amended by striking ``, 4081, and 4091'' and inserting ``and 4081''.

(B) Subparagraph (C) of section 9503(b)(4), as amended by subtitle A, is amended by striking ``4091'' and inserting ``4081''.
(24) Subparagraph (D) of section 9503(c)(6) is amended by striking ``, 4081, and 4091'' and inserting ``and 4081''.

(25) Paragraph (2) of section 9503(e) is amended—
(A) by striking ``, 4081, and 4091'' and inserting ``and 4081'', and
(B) by striking ``, 4081, or 4091'' and inserting ``or 4081''.

(26) Subsection (b) of section 9508 is amended—
(A) by inserting ``and diesel fuel'' after ``gasoline'' in paragraph (2),
(B) by striking ``diesel fuel and'' in paragraph (3), and
(C) by striking ``4091'' in the last sentence, as added by subtitle A, and inserting ``4081''.

(27) The table of subparts for part III of subchapter A of chapter 32 is amended by striking the items relating to subparts A and B and inserting the following new items:
``Subpart A. Gasoline and diesel fuel.
``Subpart B. Aviation fuel.''

(d) EFFECTIVE DATE.ÐThe amendments made by this section shall take effect on April 1, 1994.
SEC. 14243. FLOOR STOCKS TAX.

(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on April 1, 1994, if—

(1) no tax was imposed on such fuel under section 4041(a) or 4091 of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act, and

(2) tax would have been imposed by section 4081 of such Code, as amended by this Act, on any prior removal, entry, or sale of such fuel had such section 4081 applied to all prior removals, entries, and sales of such fuel.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

(c) LIABILITY AND PAYMENT OF TAX.—

(1) LIABILITY FOR TAX.—A person holding the diesel fuel on April 1, 1994, to which the tax imposed by this section applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.
TIME FOR PAYMENT.ÐThe tax imposed by this section shall be paid on or before January 31, 1995.

(d) DEFINITIONS.ÐFor purposes of this sectionÐ

(1) DIESEL FUEL.ÐThe term "diesel fuel" has the meaning given such term by section 4083(a) of such Code.

(2) SECRETARY.ÐThe term "Secretary" means the Secretary of the Treasury or his delegate.

(e) EXCEPTIONS.Ð

(1) PERSONS ENTITLED TO CREDIT OR REFUND.ÐThe tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

(2) COMPLIANCE WITH DYEING REQUIRED.ÐParagraph (1) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dyeing and marking such fuel.

(f) OTHER LAWS APPLICABLE.ÐAll provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes.
Clause (i) of section 4081(a)(2)(B), as amended by subpart B, is amended—

(1) by striking "11.5 cents" and inserting "14 cents'', and

(2) by striking "17.5 cents'' and inserting "20 cents''.

(a) In general.—Clause (i) of section 4081(c)(4), as so amended, is amended to read as follows:

``(A) In general.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

``(i) 8.6 cents a gallon for 10 percent gasohol,

``(ii) 9.842 cents a gallon for 7.7 percent gasohol, and

``(iii) 10.215 cents a gallon for 6 percent gasohol.

(b) Conforming amendments.—
(iii) 10.922 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting `8.0 cents' for `8.6 cents', `9.38 cents' for `9.842 cents', and `10.58 cents' for `10.922'.

(2) Paragraph (5) of section 4081(c), as so amended, is amended—

(A) by striking ``12.1 cents'' and inserting ``14.6 cents'', and

(B) by striking ``11.5 cents'' and inserting ``14.0''.

(3) Subparagraph (A) of section 4041(m)(1) is amended to read as follows:

``(A) under subsection (a)(2) the Highway Trust Fund financing shall be 7 cents per gallon, and''.

(4) Paragraph (4) of section 6427(l), as amended by subpart B, is amended—

(A) by striking ``the deficit reduction rate'' and inserting ``2.5 cents per gallon of the Highway Trust Fund financing rate'', and
(5) Subsection (b) of section 9503 is amended by adding at the end thereof the following new paragraph:

```
(6) RETENTION OF CERTAIN TAXES IN GENERAL FUND. —

(A) IN GENERAL. — There shall not be taken into account under paragraphs (1) and (2) —

(i) the tax imposed by section 4081 on diesel fuel used in any train, and

(ii) so much of the following taxes as are attributable to 2.5 cents of the Highway Trust Fund financing rate:

(I) Motorboat fuel taxes (as defined in subsection (c)(4)(D)).

(II) Small-engine fuel taxes (as defined in subsection (c)(5)(B)).

(III) Nonhighway recreational fuel taxes (as defined in subsection (c)(6)(D)).

(B) TRANSFERS FROM HIGHWAY TRUST FUND. — For purposes of determining the
amount paid from the Highway Trust Fund under paragraphs (4), (5), and (6) of subsection (c), the Highway Trust Fund financing rates shall be treated as being 2.5 cents less than the otherwise applicable rates.''

(c) INCREASE IN DEPOSITS IN MASS TRANSIT ACCOUNT. Paragraph (2) of section 9503(e) is amended by striking ``1.5 cents'' and inserting ``2 cents''.

(d) REPEAL OF EXPIRED PROVISIONS. (1) Subparagraph (A) of section 4081(a)(2) (relating to rate of tax), as amended by subpart B, is amended—

(A) by adding ``and'' at the end of clause (i),

(B) by striking ``, and'' at the end of clause (ii) and inserting a period, and

(C) by striking clause (iii).

(2) Subparagraph (B) of section 4081(a)(2), as so amended, is amended—

(A) by adding ``and'' at the end of clause (i),

(B) by striking ``, and'' at the end of clause (ii) and inserting a period, and

(C) by striking clause (iii).
(3) Subsection (d) of section 4081, as so amended, is amended by striking paragraph (3).

(4) Paragraphs (1) and (2) of section 4041(a) (as so amended), and paragraph (3) of section 4041(c), are each amended by striking “the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate” and by inserting “the Highway Trust Fund financing rate”.

(5) Clause (ii) of section 4041(a)(1)(C), as so amended, is amended—

(A) by striking “The Highway Trust Fund financing rate” and inserting “So much of the Highway Trust Fund financing rate as exceeds 2.5 cents per gallon”,

(B) by striking “HIGHWAY RATE” in the heading and inserting “PORTION OF HIGHWAY RATE”.

(6) Clause (iii) of section 4041(a)(1)(C), as so amended, is amended by striking “and the deficit reduction rate shall not apply”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1995, but the amendment made by subsection (c) shall apply only to amounts attributable to taxes imposed on or after such date.
PART V—COMPLIANCE PROVISIONS

SEC. 14251. REPORTING REQUIRED FOR CERTAIN PAYMENTS TO CORPORATIONS.

(a) SECTION 6041. Section 6041 (relating to information at source) is amended by adding at the end thereof the following new subsection:

``(f) SPECIAL RULES FOR PAYMENTS FOR SERVICES. No payment for the performance of services shall be exempt from the requirements of this section merely because it is a payment to a corporation.''

(b) SECTION 6041A(a). Subsection (a) of section 6041A is amended by adding at the end thereof the following new sentence: "A payment shall not be exempt from the requirements of this subsection merely because it is a payment to a corporation.''

(c) EFFECTIVE DATE. The amendments made by this section shall apply to payments made after December 31, 1993.

SEC. 14252. MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT AND RETURN-PREPARER PENALTIES.

(a) REASONABLE BASIS REQUIRED. (1) SUBSTANTIAL UNDERSTATEMENT PENALTY. Clause (ii) of section 6662(d)(2)(B) (relating to reduction for understatement due to position
of taxpayer or disclosed item) is amended to read as follows:

```
(ii) any item if—
(I) the relevant facts affecting
the item's tax treatment are ade-
quately disclosed in the return or in a
statement attached to the return, and
(II) there is a reasonable basis
for the tax treatment of such item by
the taxpayer.''
```

(2) RETURN PREPARER PENALTY.—Paragraph
(3) of section 6694(a) (relating to understatement
of taxpayer's liability by income tax return preparer) is
amended to read as follows:

```
(3) the requirements of subclauses (I) and (II)
of section 6662(d)(2)(B)(ii) are not satisfied with
respect to such position,''.
```

(b) SPECIAL TAX SHELTER RULE.—Subclause (II)
of section 6662(d)(2)(C)(i) (relating to special rules for
tax shelters) is amended by inserting before the period at
the end thereof the following: ``and the reasonably antici-
pated after-tax benefits from the taxpayer's investment in
such shelter do not significantly exceed the reasonably an-
ticipated pre-tax economic profit or loss from such invest-
ment''.

Paragraph (c) Reasonable Cause Exception. Paragraph 1(1) of section 6664(c) is revised by striking "this part" and inserting "section 6662".

(d) Effective Date. The amendments made by this section shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.

SEC. 14253. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

(a) In General. Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

``SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

``(a) In General. Any applicable financial entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth:

``(1) the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,
``(2) the date of the discharge and the amount of the indebtedness discharged, and
``(3) such other information as the Secretary may prescribe.
``(b) EXCEPTION.ÐSubsection (a) shall not apply to any discharge of less than $600.
``(c) DEFINITIONS AND SPECIAL RULES.ÐFor purposes of this sectionÐ
``(1) APPLICABLE FINANCIAL ENTITY.ÐThe term `applicable financial entity' meansÐ
``(A) any financial institution described in section 581 or 591(a) and any credit union,
``(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration, and any successor or subunit of any of the foregoing, and
``(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination by a Federal or State agency which regulates entities referred to in subparagraph (A).
``(2) Governmental Units.—In the case of an entity described in paragraph (1)(B), any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

``(d) Statements to be Furnished to Persons with Respect to Whom Information Is Required to Be Furnished.—Every applicable financial entity required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing

``(1) the name and address of the entity required to make such return, and
``(2) the information required to be shown on the return with respect to such person.
The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.''

(b) Penalties.—

(1) Returns.—Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (viii) through (xv) as clauses (ix) through (xvi), respectively, and by inserting after clause (vii) the following new clause:
(viii) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),''.

(2) STATEMENTS. Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (P) through (S) as subparagraphs (Q) through (T), respectively, and by inserting after subparagraph (O) the following new subparagraph:

``(P) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),''.

(c) CLERICAL AMENDMENT. The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

``Sec. 6050P. Returns relating to the cancellation of indebtedness by certain financial entities.''

(d) EFFECTIVE DATE. The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

PART VI—TREATMENT OF INTANGIBLES

SEC. 14261. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE. Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals...
and corporations) is amended by adding at the end thereof
the following new section:
``SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN
OTHER INTANGIBLES.
``(a) GENERAL RULE.ÐA taxpayer shall be entitled

to an amortization deduction with respect to any amortiz-
able section 197 intangible. The amount of such deduction
shall be determined by amortizing the adjusted basis (for
purposes of determining gain) of such intangible ratably
over the 14-year period beginning with the month in which
such intangible was acquired.
``(b) NO OTHER DEPRECIATION OR AMORTIZATION
DEDUCTION ALLOWABLE.ÐExcept as provided in sub-
section (a), no depreciation or amortization deduction
shall be allowable with respect to any amortizable section
197 intangible.
``(c) AMORTIZABLE SECTION 197 INTANGIBLE.ÐFor
purposes of this sectionÐ
``(1) IN GENERAL .ÐExcept as otherwise pro-
vided in this section, the term `amortizable section
197 intangible' means any section 197 intangibleÐ
(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

```
(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term `amortizable section 197 intangible' shall not include any section 197 intangible—

```
```

```
(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and
```
```

```
(B) which is created by the taxpayer. This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.
```

```
(3) ANTI-CHURNING RULES.—For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).
```

```
(d) SECTION 197 INTANGIBLE.—For purposes of this section—
```
```

```
(I) IN GENERAL.—Except as otherwise provided in this section, the term `section 197 intangible' means—
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```
(A) goodwill,
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(B) going concern value,
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(C) any of the following intangible items:
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```
(i) workforce in place including its composition and terms and conditions

(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

(iv) any customer-based intangible,

(v) any supplier-based intangible, and

(vi) any other similar item,

(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly)
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of an interest in a trade or business or substantial portion thereof, and
``(F) any franchise, trademark, or trade name.
``(2) CUSTOMER-BASED INTANGIBLE .Ð
``(A) I N GENERAL .ÐThe term `customer-based intangible' meansÐ
``(i) composition of market,
``(ii) market share, and
``(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.
``(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.ÐIn the case of a financial institution, the term `customer-based intangible' includes deposit base and similar items.
``(3) S UPPLIER-BASED INTANGIBLE .ÐThe term `supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.
(e) EXCEPTIONS. – For purposes of this section, the term `section 197 intangible' shall not include any of the following:

(1) FINANCIAL INTERESTS. – Any interest—
   (A) in a corporation, partnership, trust, or estate, or
   (B) under an existing futures contract, foreign currency contract, notional principal contract, or other similar financial contract.

(2) LAND. – Any interest in land.

(3) COMPUTER SOFTWARE. –
   (A) IN GENERAL. – Any—
      (i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and
      (ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.
   (B) COMPUTER SOFTWARE DEFINED. – For purposes of subparagraph (A), the term `computer software' means any program de—
signed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

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(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY Ð Any of the following not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade business or substantial portion thereof:
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(A) Any interest in a film, sound recording, video tape, book, or similar property.
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(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.
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(C) Any interest in a patent or copyright.
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(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right Ð
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(i) has a fixed duration of less than 14 years,
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...
``(ii) is fixed as to amount and, without regard to this section, would be recov-
``erable under a method similar to the unit-
``of-production method.

``(5) INTERESTS UNDER LEASES AND DEBT IN-
``STRUMENTS.ÐAny interest underÐ
``(A) an existing lease of tangible property,
``(B) except as provided in subsection
``(d)(2)(B), any existing indebtedness.

``(6) TREATMENT OF SPORTS FRANCHISES.ÐA
``franchise to engage in professional football, basket-
``ball, baseball, or other professional sport, and any
``item acquired in connection with such a franchise.

``(7) CERTAIN TRANSACTION COSTS.ÐAny fees
``for professional services, and any transaction costs,
``incurred by parties to a transaction with respect to
``which any portion of the gain or loss is not recog-
``nized under part III of subchapter C.

``(f) SPECIAL RULES.Ð
``(1) TREATMENT OF CERTAIN DISPOSITIONS,
``ETC.ÐIf there is a disposition of any amortizable
``section 197 intangible acquired in a transaction or
``series of related transactions (or any such intangible
``becomes worthless) and one or more other amortiz-
(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and
``(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.
``(2) TREATMENT OF CERTAIN TRANSFERS .Ð
``(A) IN GENERAL .ÐIn the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.
``(B) TRANSACTIONS COVERED .ÐThe transactions described in this subparagraph are—
``(i) any transaction described in sections 332, 351, 361, 721, 731, 1031, or 1033, and
``(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

``(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.ÐAny amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

``(4) TREATMENT OF FRANCHISES, ETC.Ð
``(A) Franchise.ÐThe term `franchise' has the meaning given to such term by section 1253(b)(1).
``(B) Treatment of Renewals.ÐAny renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.
Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of

(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a...
character subject to the allowance for depreciation provided in section 167.

``(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.ÐThis section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

``(9) ANTI-CHURNING RULES.ÐFor purposes of this sectionÐ

``(A) IN GENERAL.ÐThe term `amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if

``(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

``(ii) the intangible was acquired from a person who held such intangible at any time on or before such date of enactment, if

``(B) EXCEPTIONS.ÐThe term `amortizable section 197 intangible' shall not include any section 197 intangible which is acquired by the taxpayer after the date of the enactment of this section, if

``(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

``(ii) the intangible was acquired from a person who held such intangible at any time on or before such date of enactment,
time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

``(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary. For purposes of this subparagraph, deductions allowable under section 1253(d) shall be treated as deductions allowable for amortization.

``(B) EXCEPTION WHERE GAIN RECOGNIZED.ÐIf

``(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and
``(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

``(I) to recognize gain on the disposition of the intangible, and

``(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title, then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

``(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

``(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the `related person') is related to any person if—

``(I) the related person bears a relationship to such person specified
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in section 267(b) or section 707(b)(1),

or

``(II) the related person and such
person are engaged in trades or busi-
nesses under common control (within

the meaning of subparagraphs (A)

and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying

section 267(b) or 707(b)(1), `20 percent'
shall be substituted for `50 percent'.

``(ii) T IME FOR MAKING DETERMINA-

TION.ÐA person shall be treated as related

to another person if such relationship ex-

ists immediately before or immediately

after the acquisition of the intangible in-

tolved.

``(D) A CQUISITIONS BY REASON OF

DEATH.ÐSubparagraph (A) shall not apply to

the acquisition of any property by the taxpayer

if the basis of the property in the hands of the

taxpayer is determined under section 1014(a).

``(E) S PECIAL RULE FOR PARTNER-

SHIPS.ÐWith respect to any increase in the

basis of partnership property under section 732,

734, or 743, determinations under this para-

...
A graph shall be made at the partner level and each partner shall be treated as having owned and used such partner’s proportionate share of the partnership assets.

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(F) ANTI-ABUSE RULES.ÐThe term `amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

(g) REGULATIONS.ÐThe Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise.''
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(1) COMPUTER SOFTWARE. Ð (A) IN GENERAL. Ð If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

(B) COMPUTER SOFTWARE. Ð For purposes of this section, the term ‘computer software’ has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible.

(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY. Ð If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary.''

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY. Ð Subsection (c) of section 167 is amended to read as follows:

``(c) BASIS FOR DEPRECIATION. Ð (1) IN GENERAL. Ð The basis on which exhaustion, wear and tear, and obsolescence are to be al-
(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.

(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease.

(c) AMENDMENTS TO SECTION 1253. Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

(2) OTHER PAYMENTS. Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

(3) RENEWALS, ETC. For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal...
(d) Amendment to Section 848. Ð Subsection (g) of section 848 is amended by striking ``this section'' and inserting ``this section or section 197''.

(e) Amendments to Section 1060. Ð

(1) Paragraph (1) of section 1060(b) is amended by striking ``goodwill or going concern value'' and inserting ``section 197 intangibles''.

(2) Paragraph (1) of section 1060(d) is amended by striking ``goodwill or going concern value (or similar items)'' and inserting ``section 197 intangibles''.

(f) Technical and Conforming Amendments. Ð

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

``(g) CROSS REFERENCES. Ð
``(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.
``(2) For amortization of goodwill and certain other intangibles, see section 197.''

(2) Subsection (f) of section 642 is amended by striking ``section 169'' and inserting ``sections 169 and 197''.

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking ``193, or 1253(d) (2) or (3)'' and inserting ``or 193''.

(5) Paragraph (3) of section 1245(a) is amended by striking ``section 185 or 1253(d) (2) or (3)''.

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

``Sec. 197. Amortization of goodwill and certain other intangibles.''

(g) EFFECTIVE DATE.Ð

(1) IN GENERAL.ÐExcept as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.Ð

(A) IN GENERAL.ÐIf an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,
(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.ÐAn election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once madeÐ

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B)
of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTIVE BINDING CONTRACT EXCEPTION.

(A) IN GENERAL. The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION. An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary,
(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

(h) ANNUAL REPORTS. The Secretary of the Treasury shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation and effects of the amendments made by this section, including the effects of such amendments on merger and acquisition activities. The first such annual report shall be submitted on or before December 31, 1994.

(i) A NNUAL REPORTS ON OUTSTANDING CASES. The Secretary of the Treasury shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the volume of cases still outstanding that involve disputes regarding the amortization of intangibles, progress made in resolving such cases, efforts made to coordinate settlement proceedings, and factors inhibiting the resolution of such cases. The report shall also address the impact of the amendments made by this section on the volume of disputes regarding the amortization of intangibles. The first such annual report shall be submitted on or before December 31, 1994.
SEC. 14262. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.ÐSubsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

``(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).ÐParagraph (2) shall apply only ifÐ''

``(A) capital is not a material income-producing factor for the partnership, and

``(B) the retiring or deceased partner was a general partner in the partnership.''

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.Ð

(1) IN GENERAL.ÐSubsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking ``sections 731, 736, and 741'' each place they appear and inserting ``, sections 731 and 741 (but not for purposes of section 736)'', and

(B) by striking ``section 731, 736, or 741'' each place it appears and inserting ``section 731 or 741''.

(2) TECHNICAL AMENDMENTS.Ð
(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE. Ð

(1) IN GENERAL. Ð The amendments made by this section shall apply in the case of partners retiring or dying on or after January 5, 1993.

(2) BINDING CONTRACT EXCEPTION. Ð The amendments made by this section shall not apply to any partner retiring on or after January 5, 1993, if a written contract to purchase such partner's interest in the partnership was binding on January 4, 1993, and at all times thereafter before such purchase.

PART VII—MISCELLANEOUS PROVISIONS

SEC. 14271. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT. Ð Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:
(8) SUBSTANTIATION REQUIREMENT FOR CREDIT CONTRIBUTIONS.

(A) GENERAL RULE. No deduction shall be allowed under subsection (a) for any contribution of $750 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

(B) CONTENT OF ACKNOWLEDGMENT. An acknowledgment meets the requirements of this subparagraph if it provides information sufficient to substantiate the amount of the deductible contribution. If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services.

(C) CONTEMPORANEOUS. For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of:

1. The due date (without regard to any extension) for the filing of the taxpayer's income tax return for the taxable year to which the contribution relates,
2. The 90th day after the date of the contribution.

In any case in which an acknowledgment required under this subparagraph is not contemporaneous, the taxpayer may nevertheless deduct the contribution if the taxpayer demonstrates to the satisfaction of the Secretary of the Treasury or the Secretary's designee that the donee organization received the acknowledgment as soon as practicable after the later date described in subparagraph (A)(2).
(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or
(ii) the due date (including extensions) for filing such return.

(D) Substantiation Not Required for Contributions Reported by the Donee Organization. Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

(E) Regulations. The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.

(b) Effective Date. The provisions of this section shall apply to contributions made on or after January 1, 1994.
SEC. 14272. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT. Ð Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

``SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT. Ð If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution, the organization shall, in connection with the solicitation or receipt of the contribution Ð

``(1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

``(2) provide the donor with a good faith estimate of the value of such goods or services.

(b) QUID PRO QUO CONTRIBUTION. Ð For purposes of this section, the term `quid pro quo contribution' means a payment made partly as a contribution and partly in
consideration for goods or services provided to the payor by the donee organization.''

(b) P ENALTY FOR FAILURE TO DISCLOSE.ÐPart I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

``SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

``(a) I MPOSITION OF PENALTY.ÐIf an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

``(b) R EASONABLE CAUSE EXCEPTION.ÐNo penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''

(c) CLERICAL AMENDMENTS.Ð

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new item:
Sec. 6115. Disclosure related to quid pro quo contributions.

Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions.

(d) EFFECTIVE DATE. The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

Sec. 14273. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE. Subsection (e) of section 6611 is amended to read as follows:

(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS. If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND. If—
``(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

``(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

``(3) IRS INITIATED ADJUSTMENTS .—If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment.''

(b) EFFECTIVE DATES. —

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1994.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.
(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.

SEC. 14274. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.ÐSection 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

``(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.ÐNo deduction shall be allowed under this chapter (other than section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless

``(A) the spouse, dependent, or other individual is an employee of the taxpayer,

``(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

``(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual.''


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(b) EFFECTIVE DATE. The amendment made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 14275. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402 (g)-1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent. The preceding sentence shall apply to payments made after December 31, 1993.

Subtitle C—Empowerment Zones and Enterprise Communities, Etc.

PART I—EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SEC. 14301. DESIGNATION AND TREATMENT OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL. Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:
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(2) EMPOWERMENT ZONES. – The appropriate
Secretaries may designate in the aggregate 10 nomi-
nated areas as empowerment zones under this sec-
tion, subject to the availability of eligible nominated
areas. Of that number, not more than 6 may be des-
ignated in urban areas, not more than 3 may be des-
ignated in rural areas, and not more than 1 may be
designated by the Secretary of the Interior in an In-
dian reservation. If 6 empowerment zones are des-
ignated in urban areas, no less than 1 shall be des-
ignated in an urban area the most populous city of
which has a population of 500,000 or less. The Sec-
retary of Housing and Urban Development shall des-
ignate empowerment zones located in urban areas in
such a manner that the aggregate population of all
such zones does not exceed 750,000.

(c) PERIOD DESIGNATIONS MAY BE MADE. – A des-
ignation may be made under this section only after 1993
and before 1996.

(d) PERIOD FOR WHICH DESIGNATION IS IN EF-
FECT. –

(1) IN GENERAL. – Any designation under this
section shall remain in effect during the period be-
ning on the date of the designation and ending
on the earliest of –
``(A) the close of the 10th calendar year beginning on or after such date of designation,
``(B) the termination date designated by the State and local governments as provided for in their nomination, or
``(C) the date the appropriate Secretary revokes the designation.

(2) REVOCATION OF DESIGNATION. Ð 
``(A) IN GENERAL. Ð The appropriate Secretary, in consultation with the Enterprise Board, may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which it is locatedÐ 
``(i) has modified the boundaries of the area, or
``(ii) is not complying substantially with, or fails to make progress in achieving the benchmarks set forth in, the strategic plan under subsection (f)(2).
``(B) APPLICABLE PROCEDURES. Ð A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.
(e) LIMITATIONS ON DESIGNATIONS.ÐAn area may be designated under subsection (a) only if–

(1) the area is nominated by 1 or more local governments and the State or States in which it is located for designation under this section,

(2) such State or States and the local governments have the authority–

(A) to nominate the area for designation under this section, and

(B) to provide the assurances described in paragraph (3),

(3) such State or States and the local governments provide written assurances satisfactory to the appropriate Secretary that the strategic plan described in the application under subsection (f)(2) for such area will be implemented,

(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

(5) such State or States and local governments certify that no portion of the area nominated is already included in an empowerment zone or in an enterprise community or in an area otherwise nominated to be designated under this section.
(f) Application.—An application for designation as an empowerment zone or as an enterprise community shall—

(1) demonstrate that the nominated area satisfies the eligibility criteria described in section 1392,

(2) include a strategic plan for accomplishing the purposes of this subchapter that—

(A) describes the coordinated economic, human, community, and physical development plan and related activities proposed for the nominated area,

(B) describes the process by which the affected community is a full partner in the process of developing and implementing the plan and the extent to which local institutions and organizations have contributed to the planning process,

(C) identifies the amount of State, local, and private resources that will be available in the nominated area and the private/public partnerships to be used, which may include participation by, and cooperation with, universities, medical centers, and other private and public entities,
``(D) identifies the funding requested under any Federal program in support of the proposed economic, human, community, and physical development and related activities,

``(E) identifies baselines, methods, and benchmarks for measuring the success of carrying out the strategic plan, including the extent to which poor persons and families will be empowered to become economically self-sufficient, and

``(F) does not include any action to assist any establishment in relocating from one area outside the nominated area to the nominated area, except that assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary is permitted if—

``(i) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and

``(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is
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being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operation, and

``(3) include such other information as may be required by the appropriate Secretary or the Enterprise Board.
``

SEC. 1392. ELIGIBILITY CRITERIA.
``(a) IN GENERAL.ÐA nominated area shall be eligible for designation under section 1391 only if it meets the following criteria:
``(1) POPULATION.ÐThe nominated area has a maximum population of
``(A) in the case of an urban area, the lesser of
``(i) 200,000, or
``(ii) the greater of 50,000 or 10 percent of the population of the most populous city located within the nominated area, and
``(B) in the case of a rural area, 30,000.
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(2) DISTRESS.ÐThe nominated area is one of pervasive poverty, unemployment, and general distress.

(3) SIZE.ÐThe nominated areaÐ

(A) does not exceed 20 square miles if an urban area or 1,000 square miles if a rural area or an Indian reservation,

(B) has a boundary which is continuous, or, except in the case of a rural area located in more than 1 State, consists of not more than 3 noncontiguous parcels,

(C)(i) in the case of an urban area, is located entirely within no more than 2 contiguous States, and

(ii) in the case of a rural area, is located entirely within no more than 3 contiguous States, and

(D) does not include any portion of a central business district (as such term is used for purposes of the most recent Census of Retail Trade) unless the poverty rate for each population census tract in such district is not less than 35 percent (30 percent in the case of an enterprise community).

(4) POVERTY RATE.ÐThe poverty rate—
(A) for each population census tract with-
in the nominated area is not less than 20 per-
cent, (B) for at least 90 percent of the popu-
lation census tracts within the nominated area
is not less than 25 percent, and (C) for at least 50 percent of the popu-
lation census tracts within the nominated area
is not less than 35 percent.

(b) SPECIAL RULES RELATING TO DETERMINATION
OF POVERTY RATE. Ð For purposes of subsection (a)(4) Ð

(1) TREATMENT OF CENSUS TRACTS WITH
SMALL POPULATIONS. Ð

(A) TRACTS WITH NO POPULATION. Ð In
the case of a population census tract with no
population Ð

(i) such tract shall be treated as hav-
ing a poverty rate which meets the require-
ments of subparagraphs (A) and (B) of
subsection (a)(4), but

(ii) such tract shall be treated as
having a zero poverty rate for purposes of
applying subparagraph (C) thereof.

(B) TRACTS WITH POPULATIONS OF LESS
THAN 2,000. Ð A population census tract with a
population of less than 2,000 shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4) if more than 75 percent of such tract is zoned for commercial or industrial use.

``(2) DISCRETION TO ADJUST REQUIREMENTS.ÐWhere necessary to carry out the purposes of this subchapter, the appropriate Secretary may reduce by 5 percentage points one of the following thresholds for not more than 10 percent of the population census tracts (or, if fewer, 5 population census tracts) in the nominated area:

``(A) The 20 percent threshold in subsection (a)(4)(A).
``(B) The 25 percent threshold in subsection (a)(4)(B).
``(C) The 35 percent threshold in subsection (a)(4)(C).

If the appropriate Secretary elects to reduce the threshold under subparagraph (C) for an enterprise community, such Secretary may (in lieu of applying the preceding sentence) reduce by 10 percentage points the threshold under subparagraph (C) for 3 population census tracts.
(3) Each noncontiguous area must satisfy poverty rate rule. A nominated area may not include a noncontiguous parcel unless such parcel separately meets (subject to paragraphs (1) and (2)) the criteria set forth in subsection (a)(4).

(4) Areas not within Census tracts. In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates.

(c) Factors to consider. From among the nominated areas eligible for designation under section 1391 by the appropriate Secretary, such appropriate Secretary shall make designations of empowerment zones and enterprise communities on the basis of—

(1) the effectiveness of the strategic plan submitted pursuant to section 1391(f)(2) and the assurances made pursuant to section 1391(e)(3), and

(2) criteria specified by the Enterprise Board.

SEC. 1393. DEFINITIONS AND SPECIAL RULES.

(a) In general. For purposes of this subchapter—

(1) Appropriate Secretary. The term `appropriate Secretary' means—
(A) the Secretary of Housing and Urban Development in the case of any nominated area which is located in an urban area,

(B) the Secretary of Agriculture in the case of any nominated area which is located in a rural area, and

(C) the Secretary of the Interior in the case of any nominated area which is located in an Indian reservation.

(2) Enterprise Board. The term `Enterprise Board' means any board hereafter established and designated for purposes of this subchapter as the `Enterprise Board'.

(3) Rural Area. The term `rural area' means any area which is

(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

(4) Urban Area. The term `urban area' means an area which is not a rural area.

(5) Indian Reservation.
(A) In general. The term `Indian reservation' means a reservation as defined in—

(i) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or


(B) Governments. In the case of an area in an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

(C) Local Government. The term `local government' means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

(7) Nominated Area. The term `nominated area' means an area which is nominated by 1 or more local governments and the State or States in—
which it is located for designation under section 1391.

``(8) Governments. If more than 1 State or local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

``(9) Special Rule. An area shall be treated as nominated by a State and a local government if it is nominated by such other entity as may be specified by the Enterprise Board.

``(10) Use of Census Data. Population and poverty rate shall be determined by the most recent decennial census data available.

(b) Empowerment Zone; Enterprise Community. For purposes of this title, the terms `empowerment zone' and `enterprise community' mean areas designated as such under section 1391.

PART II—INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Sec. 1394. Incentives.

SEC. 1394. INCENTIVES.

(a) Increase in Low Income Housing Credit. For purposes of section 42(d)(5)(C), a building shall be treated as located in a qualified census tract if—
(1) such building is located in a census tract 1
having a poverty rate of at least 30 percent (deter-
mined in accordance with section 1393(a)(10)), and

(2) such building is located in an
empowerment zone or an enterprise.

(b) TAX EXEMPT ENTERPRISE ZONE FACILITY

(1) IN GENERAL .ÐFor purposes of part IV of
subchapter B of chapter 1 (relating to tax exemption
requirements for State and local bonds), the term
`exempt facility bond' includes any bond issued as
part of an issue 95 percent or more of the net pro-
ceeds (as defined in section 150(a)(3)) of which are
used to provide any enterprise zone facility.

(2) ENTERPRISE ZONE FACILITY .ÐFor pur-
poses of this subsectionÐ

(A) IN GENERAL .ÐThe term `enterprise
zone facility' means any qualified zone property
the principal user of which is an enterprise zone
business (as defined in section 1397D), and any
land which is functionally related and subordi-
nate to such property.

(B) QUALIFIED ZONE PROPERTY .ÐThe

term `qualified zone property' has the meaning
given such term by section 1397B(c); except that—

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(i) section 1397B(c)(3) shall not apply, and
(ii) the references to empowerment zones shall be treated as including ref-
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(3) LIMITATION ON AMOUNT OF BONDS.Ð
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(A) IN GENERAL.ÐParagraph (1) shall not apply to any issue if the aggregate amount of outstanding enterprise zone facility bonds allocable to any enterprise zone business (taking into account such issue) exceeds—
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(i) $3,000,000 with respect to any 1
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empowerment zone or enterprise commu-
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nity, or
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(ii) $20,000,000 with respect to all
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empowerment zones and enterprise com-
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munities.
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(B) AGGREGATE ENTERPRISE ZONE FAC-
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cILITY BOND BENEFIT.ÐFor purposes of sub-
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paragraph (A), the aggregate amount of outstanding enterprise zone facility bonds allocable to any business shall be determined under rules similar to the rules of section 144(a)(10), tak-
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"(4) Aquisition of Land and Existing Property Permitted. The requirements of sections 147(c)(1)(A) and 147(d) shall not apply to any bond described in paragraph (1).

"(5) Partial Exemption from Volume Cap. Only for purposes of section 146, the term ‘private activity bond’ shall not include 50 percent of any bond issued as part of an issue described in paragraph (1).

"(6) Penalty for Ceasing to Meet Requirements. (A) Failures Corrected. An issue which fails to meet 1 or more of the requirements of paragraphs (1) and (2) shall be treated as meeting such requirements if—

(i) the issuer and any principal user in good faith attempted to meet such requirements, and

(ii) any failure to meet such requirements is corrected within a reasonable period after such failure is first discovered.

(B) Loss of Deductions Where Facility Ceases to Be Qualified. No deduction...
shall be allowed under this chapter for interest on any financing provided from any bond to which paragraph (1) applies with respect to any facility to the extent such interest accrues during the period beginning on the first day of the calendar year which includes the date on which—

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(i) substantially all of the facility with respect to which the financing was provided ceases to be used in an empowerment zone or enterprise community,
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(ii) the principal user of such facility ceases to be an enterprise zone business (as defined in section 1397D, but treating references to empowerment zones as including references to enterprise communities).
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(C) EXCEPTION IF ZONE CEASES.â—‌Subparagraphs (A) and (B) shall not apply solely by reason of the termination or revocation of a designation as an empowerment zone or an enterprise community.
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(D) EXCEPTION FOR BANKRUPTCY.Ð

Subparagraphs (A) and (B) shall not apply to any cessation resulting from bankruptcy.

(c) ENTERPRISE ZONE FACILITY BONDS NOT SUBJECT TO INTEREST DEDUCTION LIMITATIONS ON FINANCIAL INSTITUTIONS.ÐAny tax-exempt bond described in subsection (b)(1)Ð

(1) shall be treated as acquired before August 8, 1986, for purposes of sections 265(b) and 291(e)(1)(B), and

(2) shall not be taken into account in determining whether any issuer is a qualified small issuer for purposes of section 265(b).

(d) ADDITIONAL LOW-INCOME HOUSING CREDIT AMOUNT.Ð

(1) IN GENERAL.ÐEach State which includes any empowerment zone or enterprise community shall receive an additional State housing credit ceiling amount for purposes of section 42 of $818,000 for each such zone or community.

(2) ADDITIONAL AMOUNT MUST BE ALLOCATED TO BUILDINGS IN DESIGNATED AREAS.Ð

(A) IN GENERAL.ÐThe portion of the additional amount received under paragraph (1) by reason of any empowerment zone or enterprise community.
prise community which may be applied to increase the State housing credit ceiling for any calendar year shall not exceed the lesser of

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(i) the unused portion of such additional amount with respect to such zone or community, or
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(ii) the aggregate housing credit dollar amount allocated from such ceiling for such year to buildings located in such zone or community.
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(B) UNUSED PORTION. For purposes of subparagraph (A), the unused portion for any calendar year of the additional amount received under paragraph (1) is the amount equal to the excess of

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(i) the additional amount received under paragraph (1) by the State by reason of the zone or community, over
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(ii) the aggregate of the increases in the State housing credit ceiling by reason of such amount for all prior calendar years.
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(3) AVAILABILITY OF ADDITIONAL AMOUNT. None of the additional amount received under paragraph (1) may be applied after 1996.
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(4) A REAS LOCATED IN MORE THAN 1 STATE. Ð In the case of an empowerment zone or enterprise community which is located in more than 1 State, the $818,000 amount shall be allocated among such States in proportion to the population of such zone or community which is within each such State.

(5) ZONES LOCATED IN CONSTITUTIONAL HOME RULE CITIES. Ð If any empowerment zone or enterprise community is located in a constitutional home rule city (as defined in section 42(h)(4)(E)), the additional amount received under paragraph (1) shall be allocated to such city and shall not be taken into account in determining such city's share of the State housing credit ceiling under section 42(h)(4)(E).

PART III Ð ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES

SUBPART A. Empowerment zone employment credit.

SUBPART B. Zone resident empowerment savings credit.

SUBPART C. Depreciation and other incentives.

Subpart A Ð Empowerment Zone Employment Credit

Sec. 1396. Empowerment zone employment credit.

Sec. 1397. Other definitions and special rules.

SEC. 1396. EMPOWERMENT ZONE EMPLOYMENT CREDIT.

(a) A MOUNT OF CREDIT. Ð For purposes of section 38, the amount of the empowerment zone employment
credit determined under this section with respect to any employer for any taxable year is the applicable percentage of the qualified zone wages paid or incurred during the calendar year which ends with or within such taxable year.

``(b) Applicable Percentage. For purposes of this section, the term `applicable percentage' means the percentage determined in accordance with the following table:

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<th>Calendar Year</th>
<th>Percentage</th>
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<td>2003</td>
<td>10</td>
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<td>2004</td>
<td>5</td>
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</tbody>
</table>

``(c) Qualified Zone Wages. (1) In general. For purposes of this section, the term `qualified zone wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee.

(2) Only first $20,000 of wages per year taken into account. With respect to each qualified zone employee, the amount of qualified zone wages which may be taken into account for a calendar year shall not exceed $20,000.

(3) Coordination with Targeted Jobs Credit.
(A) In general.—The term `qualified zone wages' shall not include wages taken into account in determining the credit under section 51.

(B) Coordination with paragraph (2).—The $20,000 amount in paragraph (2) shall be reduced for any calendar year by the amount of wages paid or incurred during such year which are taken into account in determining the credit under section 51.

(d) Qualified zone employee.—For purposes of this section—

(1) In general.—Except as otherwise provided in this subsection, the term `qualified zone employee' means, with respect to any period, any employee of an employer if—

(A) substantially all of the services performed during such period by such employee for such employer are performed within an empowerment zone in a trade or business of the employer, and

(B) the principal place of abode of such employee while performing such services is within such empowerment zone.
(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.

The term `qualified zone employee' shall not in-
clude-
``(A) any individual described in subpara-
graph (A), (B), or (C) of section 51(i)(1),
``(B) any 5-percent owner (as defined in
section 416(i)(1)(B)),
``(C) any individual employed by the em-
ployer for less than 90 days,
``(D) any individual employed by the em-
ployer at any facility described in section
144(c)(6)(B), and
``(E) any individual employed by the em-
ployer in a trade or business the principal activ-
ity of which is farming (within the meaning of
subparagraphs (A) or (B) of section
2032A(e)(5)), but only if, as of the close of the
taxable year, the sum ofÐ
``(i) the aggregate unadjusted bases
(or, if greater, the fair market value) of
the assets owned by the employer which
are used in such a trade or business, and
``(ii) the aggregate value of assets
leased by the employer which are used in
such a trade or business (as determined}
(A) IN GENERAL. Paragraph (2)(C) shall not apply to—

(i) a termination of employment of an individual who before the close of the period referred to in paragraph (2)(C) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

(ii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

(B) CHANGES IN FORM OF BUSINESS. For purposes of paragraph (2)(C), the employment relationship between the taxpayer and an employee shall not be treated as terminated—
(i) by a transaction to which section 1381(a) applies if the employee continues to be employed by the acquiring corporation, or

(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

SEC. 1397. OTHER DEFINITIONS AND SPECIAL RULES.

(a) WAGES.ÐFor purposes of this subpart

(1) I N GENERAL .ÐThe term `wages' has the same meaning as when used in section 51.

(2) C ERTAIN TRAINING AND EDUCATIONAL B ENEFITS.Ð

(A) I N GENERAL .ÐThe following amounts shall be treated as wages paid to an employee:

(i) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person not related to the employer.
(ii) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

(B) RELATED PERSON.ÐA person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), `10 percent' shall be substituted for `50 percent'.

(b) CONTROLLED GROUPS.ÐFor purposes of this subpartÐ

(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

(2) the credit (if any) determined under section 1396 with respect to each such employer shall
be its proportionate share of the wages giving rise to such credit.

(c) CERTAIN OTHER RULES MADE APPLICABLE. For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

(d) NOTICE OF AVAILABILITY OF ADVANCE PAYMENT OF EARNED INCOME CREDIT. Each employer shall take reasonable steps to notify all qualified zone employees of the availability to eligible individuals of receiving advanced payments of the credit under section 32 (relating to the earned income credit).

Subpart B—Zone Resident Empowerment Savings Credit

Sec. 1397A. Zone resident empowerment savings credit.

SEC. 1397A. ZONE RESIDENT EMPOWERMENT SAVINGS CREDIT.

(a) GENERAL RULE. For purposes of section 38, the amount of the zone resident empowerment savings credit determined under this section with respect to any employer for any taxable year is 50 percent of the qualified savings contributions for the taxable year.

(b) QUALIFIED SAVINGS CONTRIBUTIONS. For purposes of this section—
(1) IN GENERAL.—The term `qualified savings contribution' means any contribution by an employer to a defined contribution plan—

(A) which is made on behalf of an employee in connection with services performed by such employee while such employee is a qualified zone employee, and

(B) with respect to which the employee has a nonforfeitable right.

(2) LIMITATION BASED ON COMPENSATION.—

(A) IN GENERAL.—The qualified savings contributions taken into account with respect to any qualified zone employee for any taxable year shall not exceed an amount equal to 2 percent of so much of the employee's compensation (as defined in section 414(s)) as does not exceed $35,000.

(B) ZONE DESIGNATION IN EFFECT FOR PARTIAL YEAR.—If a designation of an area as an empowerment zone is in effect for less than the entire taxable year, the $35,000 amount under subparagraph (A) shall be ratably reduced to reflect the portion of the year such designation is not in effect.
(3) CERTAIN CONTRIBUTIONS EXCLUDED.—The term `qualified savings contribution' shall not include any contribution—

(A) to a plan subject to the funding requirements of section 412,

(B) to a tax credit employee stock ownership plan (as defined in section 409(a)) or to an employee stock ownership plan (as defined in section 4975(e)(7)),

(C) to a stock bonus plan, or

(D) which is an elective deferral (within the meaning of section 402(g)(3)).

(4) SIMPLIFIED EMPLOYEE PENSION.—A contribution to an individual savings plan pursuant to a simplified employee pension (as defined in section 408(k)) shall be treated as a contribution to a defined contribution plan.

(c) EMPLOYER REQUIREMENTS.—This section shall apply to an employer for any taxable year only if—

(1) the employer elects the application of this section, and

(2) the plan pursuant to which any qualified savings contribution is made provides that any contribution to such plan (whether or not a qualified savings contribution) may be withdrawn by a qualified beneficiary.
(d) Definitions. For purposes of this section—

(1) Qualified Zone Employee. The term "qualified zone employee" has the meaning given such term by section 1396(d).

(2) Defined Contribution Plan. The term 'defined contribution plan' means a defined contribution plan (as defined in section 414(i)) which is described in section 401(a) and includes a trust exempt from tax under section 501(a).

(e) Treatment of Plans. A plan shall not be treated as failing to meet any requirement of part I of subchapter D of chapter 1 by reason of permitting withdrawals required to be permitted under subsection (c)(2).
(B) the limitation under section 179(b)(1) shall be increased by the lesser of
(i) $50,000, or
(ii) the cost of qualified zone property placed in service during the taxable year, and
(C) section 179(b)(2) shall be applied by substituting `by one-half of the amount by which the cost of qualified zone property (other than real property) and other section 179 property' for `by the amount by which the cost of section 179 property'.

(b) ACCELERATED DEPRECIATION.Ð
(1) I N GENERAL .ÐFor purposes of section 168(a), with respect to qualified zone property of an enterprise zone business, the applicable recovery period shall be determined in accordance with the table contained in paragraph (2) in lieu of the table contained in section 168(c).

(2) A PPLICABLE RECOVERY PERIOD FOR QUALIFIED ZONE PROPERTY .ÐFor purposes of paragraph (1)

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<tr>
<th>In the case of:</th>
<th>Recovery period is:</th>
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<tr>
<td>3-year property</td>
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<td>5-year property</td>
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<td>10-year property</td>
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<td>15-year property</td>
<td>9 years</td>
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``(3) D EDUCTION ALLOWED IN COMPUTING
MINIMUM TAX.ÐParagraph (1) shall apply for pur-
poses of determining alternative minimum taxable
income under section 55.
``(c) QUALIFIED ZONE PROPERTY.ÐFor purposes of
this sectionÐ
``(1) I N GENERAL .ÐThe term `qualified zone
property' means any property to which section 168
applies (or would apply but for section 179) ifÐ
``(A) such property was acquired by the
taxpayer by purchase (as defined in section
179(d)(2)) after the date on which the designa-
tion of the empowerment zone took effect,
``(B) the original use of which in an
empowerment zone commences with the tax-
``(C) substantially all of the use of which
is in an empowerment zone and is in the active
conduct of a trade or business by the taxpayer
in such zone.
``(2) S PECIAL RULE FOR SUBSTANTIAL REN -
ments of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

``(3) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.ÐThe term `qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determinedÐ

``(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

``(B) after the application of section 280F(b) (relating to listed property with limited business use).

``(d) SPECIAL RULES FOR SALE-LEASEBACKS.ÐFor purposes of subsection (c)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date
such property was originally placed in service, such prop-
erty shall be treated as originally placed in service not ear-
lier than the date on which such property is used under
the leaseback.

``(e) RECAPTURE.ÐRules similar to the rules under
section 179(d)(10) shall apply with respect to any quali-
fied zone property of any business which ceases to be an
enterprise zone business.

``SEC. 1397C. ADDITIONAL EXCLUSION FROM VOLUME CAP
FOR CERTAIN ENTERPRISE ZONE FACILITY
BONDS.

``(a) IN GENERAL.ÐSection 1394(b)(5) shall be ap-
plied by substituting `75 percent' for `50 percent' in the
case of any bond described in section 1394(b)(1) issued
as part of an issue 95 percent or more of the net proceeds
(as defined in section 150(a)(3)) of which are used to pro-
provide qualified zone property the principal user of which
is any enterprise zone business if the ownership require-
ments of subsection (b) are met with respect to such
business.

``(b) OWNERSHIP REQUIREMENTS.ÐThe ownership
requirements of this subsection are met with respect to
an enterprise zone business ifÐ
(1) in the case of a sole proprietorship, the principal place of abode of the proprietor is in an empowerment zone,
(2) in the case of a corporation, more than 50 percent of the stock (by vote and value) in the corporation is owned (directly or indirectly) by individuals whose principal place of abode is in an empowerment zone, and
(3) in the case of a partnership, more than 50 percent of the capital and profits interests in the partnership is owned (directly or indirectly) by individuals whose principal place of abode is in an empowerment zone.

SEC. 1397D. ENTERPRISE ZONE BUSINESS DEFINED.
(a) IN GENERAL.ÐFor purposes of this subpart, the term `enterprise zone business' meansÐ
(1) any qualified business entity, and
(2) any qualified proprietorship.

(b) QUALIFIED BUSINESS ENTITY.ÐFor purposes of this section, the term `qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year
(1) every trade or business of such entity is the active conduct of a qualified business within an empowerment zone,
``(2) at least 80 percent of the total gross income of such entity is derived from the active conduct of such business,
``(3) substantially all of the use of the tangible property of such entity (whether owned or leased) is within an empowerment zone,
``(4) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,
``(5) substantially all of the services performed for such entity by its employees are performed in an empowerment zone,
``(6) at least 35 percent of its employees are residents of an empowerment zone,
``(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and
``(8) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property.
For purposes of this section, the term `qualified proprietorship' means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year:

1. At least 80 percent of the total gross income of such individual from such business is derived from the active conduct of such business in an empowerment zone,
2. Substantially all of the use of the tangible property of such individual in such business (whether owned or leased) is within an empowerment zone,
3. Substantially all of the intangible property of such business is used in, and exclusively related to, the active conduct of such business,
4. Substantially all of the services performed for such individual in such business by employees of such business are performed in an empowerment zone,
5. At least 35 percent of such employees are residents of an empowerment zone,
6. Less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to collectibles (as defined in section...}

...
(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

``(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to nonqualified financial property.

For purposes of this subsection, the term `employee' includes the proprietor.

``(d) QUALIFIED BUSINESS.ÐFor purposes of this sectionÐ

``(1) IN GENERAL.ÐExcept as otherwise provided in this subsection, the term `qualified business' means any trade or business.

``(2) RENTAL OF REAL PROPERTY.ÐThe rental to others of real property located in an empowerment zone shall be treated as a qualified business if and only if

``(A) the property is not residential rental property (as defined in section 168(e)(2)), and

``(B) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses.

``(3) RENTAL OF TANGIBLE PERSONAL PROPERTY.ÐThe rental to others of tangible personal property
property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone.

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(4) TREATMENT OF BUSINESS HOLDING IN - TANGIBLES.ÐThe term `qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

(5) CERTAIN BUSINESSES EXCLUDED.ÐThe term `qualified business' shall not include
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(ii) the aggregate value of assets
leased by the taxpayer which are used in
such a trade or business,

For purposes of subparagraph (B), rules similar to
the rules of section 1397(b) shall apply.

(e) NONQUALIFIED FINANCIAL PROPERTY.ÐFor
purposes of this section, the term `nonqualified financial
property' means debt, stock, partnership interests, op-
tions, futures contracts, forward contracts, warrants, no-
tional principal contracts, annuities, and other similar
property specified in regulations; except that such term
shall not includeÐ

(1) reasonable amounts of working capital
held in cash, cash equivalents, or debt instruments
with a term of 18 months or less, or

(2) debt instruments described in section
1221(4).

PART IVÐREGULATIONS

Sec. 1397E. Regulations.

SEC. 1397E. REGULATIONS.

The Secretary shall prescribe such regulations as
may be necessary or appropriate to carry out the purposes
of parts II and III, includingÐ
``(1) regulations limiting the benefit of parts II and III in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government,
``(2) regulations preventing abuse of the provisions of parts II and III, and
``(3) regulations dealing with inadvertent failures of entities to be enterprise zone businesses.''

(b) C LERICAL AMENDMENT.ÐThe table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

``Subchapter U. Designation and treatment of empowerment zones and enterprise communities.''

SEC. 14302. EXPANSION OF TARGETED JOBS CREDIT.

(a) A LLOWANCE OF CREDIT FOR HIRING EMPOWERMENT ZONE RESIDENT.ÐParagraph (1) of section 51(d) (defining members of targeted groups) is amended by striking ``or'' at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ``, or'', and by adding at the end the following new subparagraph:

``(K) an economically disadvantaged empowerment zone resident.''

(b) ECONOMICALLY DISADVANTAGED EMPOWERMENT ZONE RESIDENT.ÐSection 51(d) is amended by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively, and by inserting after paragraph (12) the following new paragraph:

``(13) ECONOMICALLY DISADVANTAGED EMPOWERMENT ZONE RESIDENT.ÐThe term `economically disadvantaged empowerment zone resident' means an individualÐ

``(A) whose principal place of abode while performing services for the employer is within an empowerment zone, and

``(B) who is certified by the designated local agency as being a member of an economically disadvantaged family (as determined under paragraph (11)).

Such term shall not include a qualified zone employee (as defined in section 1396(d) without regard to paragraph (2) thereof).''

(c) CONFORMING AMENDMENT.ÐSubparagraph (C) of section 51(d)(12) is amended by striking ``paragraph (14)'' and inserting ``paragraph (15)''.

SEC. 14303. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CERTAIN CREDITS PART OF GENERAL BUSINESS CREDIT.
(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking ``plus'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting a comma, and by adding at the end the following new paragraphs:

``(9) the empowerment zone employment credit determined under section 1396(a), plus

``(10) the zone resident empowerment savings credit determined under section 1397A.''

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

``(4) ENTERPRISE ZONE CREDITS.ÐNo portion of the unused business credit which is attributable to the credit determined under section 1396 (relating to empowerment zone employment credit) or section 1397A (relating to zone resident empowerment savings credit) may be carried to any taxable year ending before January 1, 1994.''

(b) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO EMPOWERMENT ZONE EMPLOYMENT CREDIT.Ð

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—
(A) by striking ``the amount of the credit determined for the taxable year under section 51(a)'' and inserting ``the sum of the credits determined for the taxable year under sections 51(a) and 1396(a)'', and
(B) by striking ``TARGETED JOBS CREDIT'' in the subsection heading and inserting ``EMPLOYMENT CREDITS''.

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking ``and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting `, and'', and by adding at the end the following new paragraph:
``(6) the empowerment zone employment credit determined under section 1396(a).''

(c) EMPLOYMENT AND SAVINGS CREDITS MAY OFFSET 25 PERCENT OF MINIMUM TAX.Ð

(1) IN GENERAL.ÐSection 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:
``(2) EMPOWERMENT ZONE CREDITS MAY OFFSET 25 PERCENT OF MINIMUM TAX.Ð
(A) IN GENERAL.—In the case of the empowerment zone credits—

(i) this section and section 39 shall be applied separately with respect to such credits, and

(ii) for purposes of applying paragraph (1) to such credits—

(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the empowerment zone credits).

(B) EMPOWERMENT ZONE CREDITS.—For purposes of this paragraph, the term ‘empowerment zone credits’ means the portion of the credit under subsection (a) which is attributable to the credits determined under section 1396 (relating to empowerment zone employment credit) and section 1397A (relating to zone resident empowerment savings credit).
(d) Changes relating to empowerment zone

(1) Disallowance of deduction. Section 3404 (relating to deduction for certain employer contributions) is amended by adding at the end the following new subsection:
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(m) Coordination with empowerment zone credit. No deduction shall be allowed under this section for any qualified employer contribution taken into account in computing the credit determined under section 1397A.
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(2) Penalty-free distributions.

(A) In general. Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:
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(D) Distributions from certain plans for first home purchases or educational expenses. (i) In general. Distributions to an individual from a qualified retirement plan—
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(I) which are qualified first-time homebuyer distributions (as defined in paragraph (6)),

(II) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year, or

(III) to the extent such distributions do not exceed an amount equal to the aggregate investment made by the taxpayer during the taxable year in any enterprise zone business (as defined in section 1397D) that meets the ownership requirements of section 1397C(b).

(ii) LIMITATION. Clause (i) shall not apply to the extent that the aggregate amount of the distributions described in clause (i) is greater than the excess of

(I) the qualified savings contributions (as defined in section 1397A(b)) of the taxpayer, and any earnings thereon,
(II) the aggregate amounts to which clause (i) and the last sentence of paragraph (3)(A) applied for preceding taxable years.

(B) Definitions. Section 72(t) is amended by adding at the end thereof the following new paragraphs:

``(6) Qualified First-Time Homebuyer Distributions. For purposes of paragraph (2)(D)(i)(I):

(A) In General. The term `qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse of such individual.

(B) Qualified Acquisition Costs. For purposes of this paragraph, the term `qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable..."
able settlement, financing, or other closing costs.

``(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS. ÐFor purposes of this paragraph–
``(i) FIRST-TIME HOMEBUYER. ÐThe term `first-time homebuyer' means any individual if–
``(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and
``(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

``(ii) PRINCIPAL RESIDENCE. ÐThe term `principal residence' has the same meaning as when used in section 1034.
``(iii) Date of Acquisition.—The term `date of acquisition' means the date—
``(I) on which a binding contract to acquire the principal residence to
which subparagraph (A) applies is en-
``(II) on which construction or re-
construction of such a principal resi-
dence is commenced.
``(D) Special Rule Where Delay in Ac-
quisition.—If any distribution from any quali-
fied retirement plan fails to meet the require-
ments of subparagraph (A) solely by reason of
a delay or cancellation of the purchase or con-
struction of the residence, the amount of the
distribution may be recontributed to the plan
within 120 days after the date of such distribution.
``(7) Qualiﬁed Higher Education Ex-
penses.—For purposes of paragraph
``(A) In General.—The term `qualiﬁed
higher education expenses' means tuition, fees,
books, supplies, and equipment required for the
enrollment or attendance of—
``(i) the taxpayer,
``(ii) the taxpayer's spouse, or
``(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

(B) COORDINATION WITH SAVINGS BOND PROVISIONS.ÐThe amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.''

(C) CONFORMING AMENDMENTS.Ð

(i) Subparagraph (B) of section 72(t)(2) is amended by striking ``or (C)'' and inserting ``, (C), or (D)''.

(ii) Section 401(k)(2)(B)(i) is amended by striking ``or'' at the end of subclause (III), by striking ``and'' at the end of subclause (IV) and inserting ``or'', and by inserting after subclause (IV) the following new subclause:

``(V) subject to the limitation of section 72(t)(2)(D)(ii), the date on which qualified first-time homebuyer distributions (as defined in section
distributions for qualified higher education expenses (as defined in section 72(t)(7)), or distributions for investments described in section 72(t)(2)(D)(i)(III) are made, and''.

(e) AMENDMENT OF TARGETED JOBS CREDIT.ÐSubparagraph (A) of section 51(i)(1) is amended by inserting ``, or, if the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than 50 percent of the capital and profits interests in the entity,'' after ``of the corporation''.

(f) CARRYOVERS.ÐSubsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

``(26) ENTERPRISE ZONE PROVISIONS .ÐThe acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation.''

The amendments made by this part shall take effect on the date of the enactment of this Act.

PART II—CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 14311. CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, the current year business credit shall include the credit determined under this section.

(b) DETERMINATION OF CREDIT.—The credit determined under this section for each taxable year in the credit period with respect to any qualified CDC contribution made by the taxpayer is an amount equal to 5 percent of such contribution.

(c) CREDIT PERIOD.—For purposes of this section, the credit period with respect to any qualified CDC contribution is the period of 10 taxable years beginning with the taxable year during which such contribution was made.

(d) QUALIFIED CDC CONTRIBUTION.—For purposes of this section—

(1) IN GENERAL.—The term "qualified CDC contribution" means any transfer of cash—

...
(A) which is made to a selected community development corporation during the 5-year period beginning on the date such corporation was selected for purposes of this section, (B) the amount of which is available for use by such corporation for at least 10 years, (C) which is to be used by such corporation for qualified low-income assistance within its operational area, and (D) which is designated by such corporation for purposes of this section.

(2) Limitations on amount designated. The aggregate amount of contributions to a selected community development corporation which may be designated by such corporation shall not exceed $4,000,000.

(e) Selected community development corporations. (1) In general. For purposes of this section, the term ``selected community development corporation'' means any corporation—(A) which is described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,
(B) the principal purposes of which include promoting employment of, and business opportunities for, low-income individuals who are residents of the operational area, and

(C) which is selected by the Secretary of Housing and Urban Development for purposes of this section.

(2) ONLY 10 CORPORATIONS MAY BE SELECTED.

(A) IN GENERAL. The Secretary of Housing and Urban Development may select 10 corporations for purposes of this section, subject to the availability of eligible corporations. Such selections may be made only before July 1, 1994.

At least 4 of the operational areas of the corporations selected must be rural areas (as defined by section 1393(a)(3) of such Code).

(B) PRIORITY OF DESIGNATIONS. In selecting corporations for purposes of this section, such Secretary shall give priority to corporations with a demonstrated record of performance in administering community development programs which target at least 75 percent of the jobs emanating from their investment funds to low income or unemployed individuals.
PER OPERATIONAL AREAS MUST HAVE CERTAIN CHARACTERISTICS. A corporation may be selected for purposes of this section only if its operational area meets the following criteria:

(A) The area meets the size requirements under section 1392(a)(3).

(B) The unemployment rate (as determined by the appropriate available data) is not less than the national unemployment rate.

(C) The median family income of residents of such area does not exceed 80 percent of the median gross income of residents of the jurisdiction of the local government which includes such area.

QUALIFIED LOW-INCOME ASSISTANCE. For purposes of this section, the term "qualified low-income assistance" means assistance—

(1) which is designed to provide employment of, and business opportunities for, low-income individuals who are residents of the operational area of the community development corporation, and

(2) which is approved by the Secretary of Housing and Urban Development.
Subtitle D—Other Provisions

PART I—DISCLOSURE PROVISIONS

SEC. 14401. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) General Rule. Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking ``September 30, 1997'' in the second sentence following clause (viii) and inserting ``September 30, 1998''.

(b) Effective Date. The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 14402. DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.

(a) General Rule. Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

``(13) Disclosure of return information to carry out income contingent repayment of student loans."

(A) In general. The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer, and

(iii) the adjusted gross income of such taxpayer.

(B) Restriction on use of disclosed information. Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.
For purposes of this paragraph, the term ‘applicable student loan’ means—

(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

(D) TERMINATION. This paragraph shall not apply to any request made after September 30, 1998.

(b) CONFORMING AMENDMENTS. (1) So much of paragraph (4) of section 6103(m) as precedes subparagraph (B) thereof is amended to read as follows:

(4) INDIVIDUALS WHO OWE AN OVERPAYMENT OF FEDERAL PELL GRANTS OR WHO HAVE DEFAULTED ON STUDENT LOANS ADMINISTERED BY THE DEPARTMENT OF EDUCATION.

(A) IN GENERAL. Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—
(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

(ii) who has defaulted on a loan—

(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education, for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan.''

(2) Subparagraph (B) of section 6103(m)(4) is amended—

(A) in clause (i), by striking ``under part B'' and inserting ``under part B or D''; and

(B) in clause (ii), by striking ``under part E'' and inserting ``under subpart 1 of part A, or part D or E,'';

(3) Section 6103(p) is amended—
(A) in paragraph (3)(A), by striking ``(11), (12), (m)'' and inserting ``(11), (12), or (13), (m)'';

(B) in paragraph (4)–

(i) in the matter preceding subparagraph (A), by striking out ``(10), or (11),'', and inserting ``(10), (11), or (13),'', and

(ii) in subparagraph (F)(ii), by striking ``(11), or (12),'', and inserting ``(11), (12), or (13),''.

(c) EFFECTIVE DATE.ÐThe amendments made by this section shall take effect on the date of the enactment of this Act.

(d) STUDY OF INTERNAL REVENUE SERVICE COLLECTION OF STUDENT LOANS.Ð

(1) GENERAL RULE.ÐThe Secretary of the Treasury, in consultation with the Secretary of Education, shall conduct a study of the feasibility of implementing a system for the repayment of Federal student loans through wage withholding or other means involving the Internal Revenue Service. Such study shall include an examination of—

(A) whether the Internal Revenue Service could implement such a system within its current resources and without adversely affecting
the ability of the Internal Revenue Service to collect tax revenues,
(B) the cumulative impact on voluntary compliance with the tax system of increased disclosure of tax return information and increased Internal Revenue Service involvement in nontax collection activities,
(C) the anticipated effect on the management of Federal student loan collections and on borrower repayment of such loans, and
(D) the ability of the Internal Revenue Service to effectively service student loans.

(2) RECOMMENDATIONS.ÐNot later than the date 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a report on the study conducted under paragraph (1) (together with such legislative recommendations as such Secretary may deem advisable).

SEC. 14403. USE OF RETURN INFORMATION FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) IN GENERAL.ÐSubparagraph (D) of section 6103(l)(7) (relating to the disclosure of return information...
to Federal, State, and local agencies administering certain programs) is amended—

(1) in clause (vii), by striking ``and'' at the end;

(2) in clause (viii), by striking the period at the end and inserting ``; and'';

(3) by inserting after clause (viii) the following new clause:

``(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs.''

and

(4) by adding at the end thereof the following:

``Clause (ix) shall not apply after September 30, 1998.''

(b) C ONFORMING AMENDMENT.ÐThe heading of paragraph (7) of section 6103(l) is amended by inserting after `` CODE'' the following: ``, OR CERTAIN HOUSING ASSISTANCE PROGRAMS''.
(c) EFFECTIVE DATE.ÐThe amendments made by this section shall take effect on the date of the enactment of this Act.

(d) STUDY.ÐThe Secretary of the Treasury or his delegate, in consultation with the Secretary of Housing and Urban Development, shall conduct a study onÐ

(1) whether the information provided under section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 is being used effectively by the Department of Housing and Urban Development,
(2) such Department's compliance with the requirements of section 6103(p) of such Code, and
(3) the impact on the privacy rights of applicants for and participants in housing assistance programs administered by the Department of Housing and Urban Development.

The report of such study shall be submitted before January 1, 1998, to the Congress.

PART IIÐUSER FEE PROVISIONS

SEC. 14411. FEES FOR APPLICATIONS FOR ALCOHOL LICENSING AND FORMULA REVIEWS.

(a) IN GENERAL.ÐThe Secretary of the Treasury or his delegate (hereinafter in this section referred to as the `Secretary') shall establish a program requiring the payment of user fees forÐ
(1) requests for each certificate of alcohol label approval required under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and for each request for exemption from such requirement, and

(2) requests for each formula review, and requests for each statement of process (including laboratory tests and analyses), under such Act or under chapter 51 of the Internal Revenue Code of 1986.

(b) PROGRAM CRITERIA.

(1) IN GENERAL. The fees charged under the program required by subsection (a) shall be determined such that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5,000,000.

(2) MINIMUM FEES. The fee charged under the program required by subsection (a) shall not be less than

(A) $50 for each request referred to in subsection (a)(1), and

(B) $250 for each request referred to in subsection (a)(2).

(c) APPLICATION OF SECTION. Subsection (a) shall apply to requests made on or after the 90th day after the date of the enactment of this Act.
(d) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected by the Secretary under the program required by subsection (a) (to the extent such amounts do not exceed $5,000,000) shall be deposited into the Treasury as offsetting receipts and ascribed to the alcohol compliance program of the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 14412. USE OF HARBOR MAINTENANCE TRUST FUND AMOUNTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Paragraph (3) of section 9505(c) (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

``(3) for the payment of all expenses of administration incurred by the Department of the Treasury in administering subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of $5,000,000 for any fiscal year.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 14413. INCREASE IN TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) IN GENERAL.—The table contained in section 4042(a)(2)(A) is amended to read as follows:
If the use occurs during:

<table>
<thead>
<tr>
<th>Year</th>
<th>Tax per Gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>24 cents</td>
</tr>
<tr>
<td>1995</td>
<td>40 cents</td>
</tr>
<tr>
<td>1996</td>
<td>55 cents</td>
</tr>
<tr>
<td>1997 or thereafter</td>
<td>70 cents</td>
</tr>
</tbody>
</table>

(b) EFFECTIVE DATE. The amendment made by subsection (a) shall take effect on January 1, 1994.

PART III—PUBLIC DEBT LIMIT

SEC. 14421. INCREASE IN PUBLIC DEBT LIMIT.

(a) GENERAL RULE. Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof “$4,900,000,000,000”.

(b) REPEAL OF TEMPORARY INCREASE. Effective on and after the date of the enactment of this Act, section 1 of Public Law 103±12 is hereby repealed.

PART IV—VACCINE PROVISIONS

SEC. 14431. EXCISE TAX ON CERTAIN VACCINES MADE PERMANENT.

(a) TAX. Subsection (c) of section 4131 (relating to tax on certain vaccines) is amended to read as follows:

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(c) APPLICATION OF SECTION. The tax imposed by this section shall apply—
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(1) after December 31, 1987, and before January 1, 1993, and
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(2) during periods after the date of the enactment of this subsection.
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(b) TRUST FUND. Ð Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking ``and before October 1, 1992,''.

c) STUDY. Ð The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of:

1. The estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988,
2. The rates of vaccine-related injury or death with respect to the various types of such vaccines,
3. New vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,
4. Whether additional vaccines should be included in the vaccine injury compensation program,
5. The appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than 1 year after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.
(d) FLOOR STOCKS TAX.

(1) IMPOSITION OF TAX.

On any taxable vaccine

(A) which was sold by the manufacturer, producer, or importer before the date of the enactment of this Act,

(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.

(A) LIABILITY FOR TAX.
The person holding any taxable vaccine to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.
The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.
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1. TIME FOR PAYMENT. - The tax imposed by paragraph (1) shall be paid on or before the last day of the 6th month beginning after the date of the enactment of this Act.

2. DEFINITIONS. - For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

3. OTHER LAWS APPLICABLE. - All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 4131.

SEC. 14432. CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS OF COSTS OF PEDIATRIC VACCINES.

(a) IN GENERAL. - Paragraph (1) of section 4980B(f) is amended by inserting ``the coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) is not reduced below the coverage provided by the plan as of May 1, 1993, and only if'' after ``only if''.


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(a) EFFECTIVE DATE. The amendment made by subsection (a) shall apply with respect to plan years beginning after the date of the enactment of this Act.

SEC. 14433. CHILDHOOD IMMUNIZATION TRUST FUND.

(a) IN GENERAL. Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

``SEC. 9512. CHILDHOOD IMMUNIZATION TRUST FUND.

``(a) CREATION OF TRUST FUND. There is established in the Treasury of the United States a trust fund to be known as the `Childhood Immunization Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

``(b) TRANSFERS TO TRUST FUND. There are hereby appropriated to the Childhood Immunization Trust Fund amounts equivalent to the taxes received in the Treasury under any tax hereafter specified by law for purposes of this subsection.

``(c) EXPENDITURES FROM TRUST FUND. Amounts in the Childhood Immunization Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out part A of subtitle 3 of title XXI of the Public Health Service Act.''

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(b) C LERICAL AMENDMENT. — The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

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Sec. 9512. Childhood Immunization Trust Fund.
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