101st CONGRESS

2d Session

H. R. 5835

AMENDMENT

HR 5835 EAS

In the Senate of the United States,

October 19 (legislative day, October 2), 1990.

Resolved, That the bill from the House of Representatives (H.R. 5835) entitled `An Act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991' do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

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

SEC. 2. TABLE OF CONTENTS.

TITLE I--COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This title may be cited as the `Agricultural Reconciliation Act of 1990'.

(b) TABLE OF CONTENTS- The table of contents is as follows:

Subtitle A--Commodity Programs

Subtitle A--Commodity Programs

SEC. 1101. TRIPLE BASE FOR DEFICIENCY PAYMENTS.

(a) IN GENERAL- The Secretary of Agriculture (hereafter in this title referred to as the `Secretary', unless the context otherwise requires), in making available to producers deficiency payments otherwise authorized by law for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice, shall compute the amount of such payments by multiplying--

(1) the payment rate; by

(2) the payment acres for the crop (as determined under subsection (b)); by

(3) the farm program payment yield for the crop for the farm.

(b) PAYMENT ACRES- For purposes of subsection (a)(2), payment acres for a crop shall be--

(1) the number of acres planted to the crop for harvest within the number of acres obtained by multiplying--

(A) the crop acreage base for the crop for the farm; by

(B) one minus the base reduction percentage (as determined under subsection (c)); less

(2) the quantity of reduced acreage (as determined under subsection (d)(1)).

(c) BASE REDUCTION PERCENTAGE- For purposes of subsection (b)(1)(B), the base reduction percentage shall be 15 percent for each of the 1992 and 1995 crops.

(d) REDUCED AND PERMITTED ACREAGE-

(1) REDUCED ACREAGE- For purposes of subsection (b)(2), the quantity of reduced acreage for a crop shall be the number of acres devoted to conservation uses that is determined by multiplying--

(A) the crop acreage base; by

(B) the percentage reduction required by the Secretary under an acreage limitation program announced by the Secretary.

(2) PERMITTED ACREAGE- The remaining acreage is hereafter in this section referred to as `permitted acreage'.

(e) PLANTING COMMODITIES ON PERMITTED ACREAGE- The Secretary shall permit producers on a farm to plant on permitted acreage for which the producers do not receive deficiency payments--

(1) program crops (wheat, feed grains, cotton, or rice);

(2) oilseeds (soybeans, sunflower, canola, rapeseed, safflower, flaxseed, or any other oilseeds the Secretary may designate) or industrial or experimental crops; and

(3) any other crop, except any fruit or vegetable crop (including potatoes and dry edible beans) not designated as an industrial or experimental crop by the Secretary.

(f) LOAN ELIGIBILITY- Producers on a farm who devote permitted acreage (for which the producers do not receive deficiency payments) to program crops or oilseeds described in paragraphs (1) and (2) in subsection (e) shall be eligible for loans under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) with respect to the program crop produced on such acreage.

SEC. 1102. CALCULATION OF DEFICIENCY PAYMENTS.

(a) 12-MONTH AVERAGE- For purposes of calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice, the payment rate for a crop shall be the amount by which the established price for the crop exceeds--

(1) in the case of wheat and feed grains, the higher of--

(A) the lesser of--

(i) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(ii) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel for wheat and 7 cents per bushel for feed grains; or

(B) the loan level determined for the crop; and

(2) in the case of rice, the higher of--

(A) the lesser of--

(i) the national average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(ii) the national average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 27 cents per hundredweight; or

(B) the loan level determined for the crop.

(b) ADJUSTMENT FOR BARLEY- For the purposes of determining the payment rate for deficiency payments for each of the 1991 through 1995 crops of barley, the Secretary shall include feed barley prices and malting barley prices in the computation of the national weighted average market price for barley, except that the Secretary shall exclude the portion of average malting barley prices received by producers that exceeds prices received by producers for feed barley by more than $0.50 per bushel.

SEC. 1103. ACREAGE REDUCTION PROGRAMS FOR 1991

THROUGH 1995 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE.

(a) MINIMUM PERCENTAGE REDUCTIONS- Except as provided in subsection (b), the Secretary shall announce an acreage limitation program for--

(1) each of the 1991 through 1995 crops of wheat under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by--

(A) in the case of the 1991 crop of wheat, not less than 15 percent;

(B) in the case of the 1992 crop of wheat, not less than 6 percent;

(C) in the case of the 1993 crop of wheat, not less than 5 percent;

(D) in the case of the 1994 crop of wheat, not less than 7 percent; and

(E) in the case of the 1995 crop of wheat, not less than 5 percent;

(2) each of the 1991 through 1995 crops of corn, grain sorghum, and barely under which the acreage planted to the respective feed grain for harvest on a farm would be limited to the respective feed grain crop acreage base for the farm for the crop reduced by not less than 7 1/2 percent;

(3) each of the 1991 through 1995 crops of oats under which the acreage planted to oats for harvest on a farm would be limited to the oat crop acreage base for the farm for the crop, reduced by not less than 0 percent;

(4) each of the 1992 through 1995 crops of upland cotton under which the acreage planted to upland cotton for harvest on a farm would be limited to the upland cotton crop acreage base for the farm for the crop reduced by--

(A) in the case of the 1992 crop of upland cotton, not less than 15 percent; and

(B) in the case of each of the 1993, 1994, and 1995 crops of upland cotton, not less than 20 percent; and

(5) each of the 1992 through 1995 crops of rice under which the acreage planted to rice for harvest on a farm would be limited to the rice crop acreage base for the farm for the crop reduced by--

(A) in the case of the 1992 crop of rice, not less than 18 1/2 percent;

(B) in the case of the 1993 crop of rice, not less than 15 percent;

(C) in the case of the 1994 crop of rice, not less than 14 percent; and

(D) in the case of the 1995 crop of rice, not less than 10 percent.

(b) STOCKS-TO-USE RATIO- Notwithstanding any other provision of law, subsection (a) shall not apply to a crop if the Secretary estimates for such crop that the stocks-to-use ratio will be less than--

(1) in the case of wheat, 34 percent;

(2) in the case of corn, grain sorghum, and barley, 20 percent;

(3) in the case of upland cotton, 30 percent; and

(4) in the case of rice, 16 percent.

SEC. 1104. OILSEED PRICE SUPPORT.

(a) IN GENERAL- Subject to subsection (b), in providing price support for oilseeds (soybeans, sunflower, canola, rapeseed, safflower, flaxseed, or any other oilseeds the Secretary may designate), the Secretary shall support the price of each of the 1991 through 1995 crops of--

(1) oilseeds at a level of not less than $5.50 per bushel;

(2) sunflower, canola, rapeseed, safflower, and flaxseed at a level of not less than $0.097 per pound; and

(3) other oilseeds at such level as the Secretary determines will take into account the historical price relationship between each type of oilseeds and soybeans, the prevailing loan level for soybeans, and the historical meal oil content of each type of oilseeds and soybeans.

(b) Adjustment-

(1) SOYBEANS- Notwithstanding subsection (a), if the Secretary estimates, not later than September 30 of the year previous to the year in which the crop of soybeans is harvested that the stocks-to-use ratio for any of the 1991 through 1995 crops of soybeans will be over 7.5 percent, the Secretary may establish the loan level for the crop at $5.00 per bushel.

(2) OTHER OILSEEDS- If the Secretary adjusts the loan level for a crop of soybeans under paragraph (1), the Secretary shall make a corresponding adjustment in the loan level for sunflower seeds, canola, rapeseed, safflower, flaxseed, and any other oilseed designated by the Secretary under subsection (a).

SEC. 1105. DAIRY ASSESSMENTS.

(a) IN GENERAL- The Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed for commercial use.

(b) AMOUNT- The amount of the reduction under subsection (a) in the price received by producers shall be 10 cents per hundredweight during the period beginning January 1, 1991, and ending August 31, 1995.

(c) ADMINISTRATION- The funds represented by the reduction in price, required under this section to be applied to the marketings of milk by a producer, shall be collected and remitted to the Commodity Credit Corporation, at such time and in such manner as prescribed by the Secretary, by each person making payment to a producer for milk purchased from the producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, the funds shall be remitted directly to the Corporation by the producer.

SEC. 1106. LOAN ORIGINATION FEES AND PROGRAM SERVICE FEES.

(a) SUGAR, HONEY, PEANUTS, AND TOBACCO- Effective for each of the 1991 through 1995 crops of sugar beets, sugarcane, honey, peanuts, and tobacco, the Secretary shall charge the producer a loan origination fee for a price support loan for such crops equal to 3 percent of the amount of the loan.

(b) WOOL- Effective for each of the 1991 through 1995 marketing years for wool and mohair, in connection with making price support available for such marketing years, the Secretary shall charge producers of wool and mohair a program service fee equal to not more 1 percent of the amount of the payment rate for wool and mohair for such marketing year as provided under the National Wool Act of 1954 (7 U.S.C. 1781 et seq.).

SEC. 1107. PRODUCER RESERVE PROGRAM FOR WHEAT AND

FEED GRAINS.

(a) IN GENERAL- In carrying out any producer reserve program for wheat and feed grains otherwise authorized by law, the Secretary shall formulate and administer such a producer storage program under which producers of wheat and feed grains will be able to store wheat and feed grains when the commodities are in abundant supply, extend the time period for the orderly marketing of the commodities, and provide for adequate carryover stocks to ensure a reliable supply of the commodities as provided in this section.

(b) Terms of Program-

(1) PRICE SUPPORT LOANS- In carrying out such a program, the Secretary shall provide original or extended price support loans for wheat and feed grains under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time whenever the supply of wheat and feed grains are in abundant supply, as determined by the Secretary, or whenever the price of wheat or feed grains is less than 110 percent of the loan rate established under this title for wheat and feed grains.

(2) LEVEL OF LOANS- Loans made under such a program shall not be less than the then current level of support under the wheat and feed grain programs established under this title.

(3) OTHER TERMS AND CONDITIONS- Under such a program, the Secretary shall provide for--

(A) loans with a maturity of not less than 3 years, with extensions as warranted by market conditions;

(B) a rate of interest as provided under subsection (c); and

(C) payments to producers for storage as provided in subsection (d).

(4) REGIONAL DIFFERENCES- The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in the program established under this section, taking into account regional differences in the time of harvest.

(c) INTEREST CHARGES-

(1) LEVYING OF INTEREST- The Secretary may charge interest on loans under such a program whenever the price of wheat or feed grains is equal to or exceeds the then current established price for the commodities.

(2) 90-DAY PERIOD- If interest is levied on the loans under paragraph (1), the interest may be charged for a period of 90 days after the last day on which the price of wheat or feed grains was equal to or in excess of the then current established price for the commodities.

(3) RATE OF INTEREST- The rate of interest charged participants in such a program shall not be less than the rate of interest charged by the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust the interest as the Secretary considers appropriate to effectuate the purposes of this section.

(d) Storage Payments-

(1) IN GENERAL- The Secretary shall provide storage payments to producers for storage of wheat or feed grains under such a program in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in such a program.

(2) TIMING- The Secretary shall make storage payments available to participants in such a program at the end of each quarter.

(3) DURATION- The Secretary may cease making storage payments

whenever the price of wheat or feed grains is equal to or exceeds the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of the then current established price for the commodities.

(e) EMERGENCIES- Notwithstanding any other provision of law, the Secretary may require producers to repay loans under such a program, plus accrued interest and such other charges as may be required by regulation prior to the maturity date thereof, if the Secretary determines that emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs and the Secretary reports the determination and the reasons for the determination to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days before taking the action.

(f) QUANTITY OF COMMODITIES IN PROGRAM- The Secretary may establish maximum quantities of wheat and feed grains that may receive loans and storage payments under such a program as follows:

(1) The maximum quantities may not be established at less than 300 million bushels of wheat and 600 million bushels of feed grains.

(2) The maximum quantities may not be established at more than--

(A) 30 percent of the estimated total domestic and export usage of wheat during the marketing year for the crop of wheat, as determined by the Secretary; and

(B) 15 percent of the estimated total domestic and export usage of feed grains during the marketing year for the crop, as determined by the Secretary.

(3) Notwithstanding paragraph (2), the Secretary may establish the upper limits at higher levels, not in excess of 110 percent of the levels established in paragraph (2), if the Secretary determines that the higher limits are necessary to achieve the purposes of such a program.

(g) Announcement of Program-

(1) TIME OF ANNOUNCEMENT- The Secretary shall announce the terms and conditions of such a producer storage program as far in advance of making loans as practicable.

(2) CONTENT OF ANNOUNCEMENT- In the announcement, the Secretary shall specify the quantity of wheat or feed grains to be stored under such a program that the Secretary determines appropriate to promote the orderly marketing of the commodities.

(h) RECONCENTRATION OF GRAIN- The Secretary may, with the concurrence of the owner of grain stored under such a program, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by the producer's or warehouseman's commitment.

(i) MANAGEMENT OF GRAIN- Whenever grain is stored under such a program, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodities that the Commodity Credit Corporation owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

(j) USE OF COMMODITY CERTIFICATES- Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under such a program, the Secretary may allow a producer to repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county.

SEC. 1108. PAYMENT OF INTEREST ON CERTIFICATES.

Section 107E of the Agricultural Act of 1949 (7 U.S.C. 1445b-4) is amended by adding at the end the following new subsection:

`(c)(1) Except as provided in paragraph (2), the Secretary shall pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days.

`(2) This subsection shall not apply to a commodity certificate issued under the export enhancement program or the marketing promotion program.'.

Subtitle B--Other Agricultural Programs

SEC. 1201. AUTHORIZATION LEVELS FOR REA LOANS.

(a) IN GENERAL- Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, loans may be insured in accordance with the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) from the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931) in amounts equal to the following levels:

(1) For fiscal year 1991, $896,000,000.

(2) For fiscal year 1992, $932,000,000.

(3) For fiscal year 1993, $969,000,000.

(4) For fiscal year 1994, $1,008,000,000.

(5) For fiscal year 1995, $1,048,000,000.

(b) REDUCTION- Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Administrator of the Rural Electrification Administration shall reduce the amounts otherwise made available for insured loans made from the Rural Electrification and Telephone Revolving Fund by--

(1) $224,000,000 for fiscal year 1991;

(2) $234,000,000 for fiscal year 1992;

(3) $244,000,000 for fiscal year 1993;

(4) $256,000,000 for fiscal year 1994; and

(5) $267,000,000 for fiscal year 1995.

(c) MANDATORY LEVELS- Notwithstanding any other provision of law, the Administrator shall insure loans at the levels authorized by this section for each of fiscal years 1991 through 1995.

(d) GUARANTEED LOANS- Notwithstanding any other provision of law, in carrying out the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Administrator shall increase the amounts otherwise made available to guarantee loans made by legally organized lending agencies. The loans shall be guaranteed at 99 percent of the principal amount of the loan.

SEC. 1202. AUTHORIZATION LEVELS FOR FmHA LOANS.

(a) IN GENERAL- Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, real estate and operating loans may be insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) from the Agricultural Credit Insurance Fund established under section 309 of such Act (7 U.S.C. 1929) in amounts equal to the following levels:

(1) For fiscal year 1991, $4,175,000,000, of which not less than $827,000,000 shall be for farm ownership loans under subtitle A of such Act.

(2) For fiscal year 1992, $4,343,000,000, of which not less than $861,000,000 shall be for farm ownership loans under subtitle A of such Act.

(3) For fiscal year 1993, $4,516,000,000, of which not less than $895,000,000 shall be for farm ownership loans under subtitle A of such Act.

(4) For fiscal year 1994, $4,697,000,000, of which not less than $931,000,000 shall be for farm ownership loans under subtitle A of such Act.

(5) For fiscal year 1995, $4,885,000,000, of which not less than $968,000,000 shall be for farm ownership loans under subtitle A of such Act.

(b) APPORTIONMENT OF INSURED AND GUARANTEED LOANS- Subject to subsection (c), the amounts set forth in subsection (a) shall be apportioned as follows:

(1) For fiscal year 1991--

(A) $1,019,000,000 for insured loans, of which not less than $83,000,000 shall be for farm ownership loans; and

(B) $3,156,000,000 for guaranteed loans, of which not less than $744,000,000 shall be for guarantees of farm ownership loans.

(2) For fiscal year 1992--

(A) $1,060,000,000 for insured loans, of which not less than $87,000,000 shall be for farm ownership loans; and

(B) $3,283,000,000 for guaranteed loans, of which not less than $774,000,000 shall be for guarantees of farm ownership loans.

(3) For fiscal year 1993--

(A) $1,102,000,000 for insured loans, of which not less than $90,000,000 shall be for farm ownership loans; and

(B) $3,414,000,000 for guaranteed loans, of which not less than $805,000,000 shall be for guarantees of farm ownership loans.

(4) For fiscal year 1994--

(A) $1,147,000,000 for insured loans, of which not less than $94,000,000 shall be for farm ownership loans; and

(B) $3,550,000,000 for guaranteed loans, of which not less than $837,000,000 shall be for guarantees of farm ownership loans.

(5) For fiscal year 1995--

(A) $1,192,000,000 for insured loans, of which not less than $97,000,000 shall be for farm ownership loans; and

(B) $3,693,000,000 for guaranteed loans, of which not less than $871,000,000 shall be for guarantees of farm ownership loans.

(c) TRANSFER OF FUNDS FROM INSURED TO GUARANTEED LOANS- Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Secretary shall--

(1) reduce the amounts otherwise made available for insured loans made from the Agricultural Credit Insurance Fund by--

(A) $319,000,000 for fiscal year 1991;

(B) $460,000,000 for fiscal year 1992;

(C) $602,000,000 for fiscal year 1993;

(D) $697,000,000 for fiscal year 1994; and

(E) $792,000,000 for fiscal year 1995; and

(2) use the funds made available from the reduction made in paragraph (1) in the available amount of insured loans in each of the fiscal years to guarantee loans made from the Fund.

(c) MANDATORY LEVELS- Notwithstanding any other provision of law, the Secretary shall make or insure loans at the levels authorized by this section for each of fiscal years 1991 through 1995.

SEC. 1203. APHIS INSPECTION USER FEE ON INTERNATIONAL PASSENGERS.

(a) IN GENERAL- The Secretary may prescribe and collect fees to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger.

(b) TREASURY- Any person who collects a fee under this section shall remit the fee to the Treasury of the United States prior to the date that is 31 days after the close of the calendar quarter in which the fee is collected.

(c) Agricultural Quarantine Inspection User Fee Account-

(1) ESTABLISHMENT- There is established in the Treasury of the United States a no-year fund, to be known as the `Agricultural Quarantine Inspection User Fee Account' (hereafter in this section referred to as the `Account'), for the use of the Secretary of Agriculture for quarantine or inspection services under this section.

(2) Amounts in account-

(A) DEPOSITS- All fees collected under this subsection shall be deposited in the Account.

(B) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated amounts in the Fund for use by the Secretary of Agriculture for quarantine or inspection services.

(d) ADJUSTMENT IN FEE AMOUNTS- The Secretary shall adjust the amount of the fees to be assessed under this section to reflect the cost to the Secretary in--

(1) administering this section;

(2) carrying out the activities at ports in the customs territory of the United States and preclearance and preinspection sites outside the customs territory of the United States in connection with the provision of agricultural quarantine inspection services; and

(3) maintaining a reasonable balance in the Account.

SEC. 1204. INTERNATIONAL SANCTIONS.

Notwithstanding any other provision of law, title XXIII of S. 2830 (as passed by the Senate on July 27, 1990) shall have no force and effect.

TITLE II--COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Subtitle A--Federal Deposit Insurance Premiums

Subtitle B--FHA Mortgage Insurance

Subtitle C--Mortgage Assignments

Subtitle D--Crime and Flood Insurance Programs

TITLE II--COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Subtitle A--Federal Deposit Insurance Premiums

SEC. 2001. SHORT TITLE.

This Act may be cited as the `FDIC Premium Act of 1990'.

SEC. 2002. FDIC AUTHORIZED TO INCREASE ASSESSMENT RATES AS NECESSARY TO PROTECT INSURANCE FUNDS.

(a) BANK INSURANCE FUND- Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended to read as follows:

`(C) ASSESSMENT RATE FOR BANK INSURANCE FUND MEMBERS-

`(i) IN GENERAL- The assessment rate for Bank Insurance Fund members shall be the greater of 0.15 percent or such rate as the Board of Directors, in its sole discretion, determines to be appropriate--

`(I) to maintain the reserve ratio at the designated reserve ratio; or

`(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio within a reasonable period of time.

`(ii) FACTORS TO BE CONSIDERED- In making any determination under clause (i), the Board of Directors shall consider the Bank Insurance Fund's expected operating expenses, case resolution expenditures, and income, the effect of the assessment rate on members' earnings and capital and on the safety and soundness of the financial system, and such other factors as the Board of Directors may deem appropriate.

`(iii) MINIMUM ASSESSMENT- Notwithstanding clause (i), the assessment shall not be less than $1,000 for each member in each year.'.

(b) SAVINGS ASSOCIATION INSURANCE FUND- Section 7(b)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(D)) is amended to read as follows:

`(D) ASSESSMENT RATE FOR SAVINGS ASSOCIATION INSURANCE FUND MEMBERS-

`(i) IN GENERAL- The assessment rate for Savings Association Insurance Fund members shall be the greater of 0.15 percent or such rate as the Board of Directors, in its sole discretion, determines to be appropriate--

`(I) to maintain the reserve ratio at the designated reserve ratio; or

`(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio within a reasonable period of time.

`(ii) FACTORS TO BE CONSIDERED- In making any determination under clause (i), the Board of Directors shall consider the Savings Association Insurance Fund's expected operating expenses, case resolution expenditures, and income (not including anticipated Treasury payments), the effect of the assessment rate on members' earnings and capital and on the safety and soundness of the financial system, and such other factors as the Board of Directors may deem appropriate.

`(iii) MINIMUM ASSESSMENT- Notwithstanding clause (i), the assessment shall not be less than $1,000 for each member in each year.

`(iv) TRANSITION RULE- Until December 31, 1997, the assessment rate for Savings Association Insurance Fund members shall not be less than the following:

`(I) From January 1, 1990, through December 31, 1990, 0.208 percent.

`(II) From January 1, 1991, through December 31, 1993, 0.23 percent.

`(III) From January 1, 1994, through December 31, 1997, 0.18

percent.'.

(c) CLERICAL AMENDMENTS REFLECTING $1,000 MINIMUM ASSESSMENT PROVISIONS OF CURRENT LAW- Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended--

(1) by inserting `or subparagraph (C)(iii) or (D)(iii) of subsection (b)(1)' after `subsection (c)(2)'; and

(2) in clauses (i) and (ii), by inserting `the greater of $500 or an amount' before `equal to the product of'.

SEC. 2003. FDIC AUTHORIZED TO MAKE MID-YEAR ADJUSTMENTS IN ASSESSMENT RATES.

(a) ASSESSMENT RATES- Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended to read as follows:

`(A) ASSESSMENT RATES PRESCRIBED-

`(i) AUTHORITY TO SET RATES- Subject to clause (iii), the Corporation shall set assessment rates for insured depository institutions at such times as the Corporation, in its sole discretion, determines to be appropriate.

`(ii) RATE FOR EACH FUND TO BE SET INDEPENDENTLY- The Corporation shall fix the assessment rate of Bank Insurance Fund members independently from the assessment rate for Savings Association Insurance Fund members.

`(iii) DEADLINE FOR ANNOUNCING RATE CHANGES- The Corporation shall announce any change in assessment rates-

`(I) for the semiannual period beginning on January 1 and ending on June 30, not later than the preceding November 1; and

`(II) for the semiannual period beginning on July 1 and ending on December 31, not later than the preceding May 1.'.

(b) ASSESSMENT PROCEDURES- Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)), as amended by section 2(c) of this Act, is amended--

(1) by striking `annual' each time it appears;

(2) in clause (i)(I), by inserting `during that semiannual period' after `member'; and

(3) in clause (ii)(I), by inserting `during that semiannual period' after `member'.

(c) CONFORMING AMENDMENT ON TIMING OF ASSESSMENT CREDITS- Section 7(d)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)(A)) is amended to read as follows:

`(A) The Corporation shall prescribe and publish the aggregate amount to be credited to insured depository institutions--

`(i) in the semiannual period beginning on January 1 and ending on June 30, not later than the preceding November 1; and

`(ii) in the semiannual period beginning on July 1 and ending on December 31, not later than the preceding May 1.'.

SEC. 2004. FDIC AUTHORIZED TO SET DESIGNATED RESERVE RATIO AS NECESSARY IN FACE OF SIGNIFICANT RISK OF SUBSTANTIAL LOSSES TO INSURANCE FUND.

Section 7(b)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(B)) is amended--

(1) by striking `, not exceeding 1.50 percent,' each time it appears;

(2) in clause (iii)--

(A) by inserting `and' at the end of subclause (I);

(B) by striking subclauses (II) and (III); and

(C) by redesignating subclause (IV) as subclause (II); and

(3) in clause (iv)--

(A) by inserting `and' at the end of subclause (I);

(B) by striking subclauses (II) and (III); and

(C) by redesignating subclause (IV) as subclause (II).

SEC. 2005. FDIC AUTHORIZED TO BORROW FROM FEDERAL FINANCING BANK.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended--

(1) in the heading, by striking `SEC. 14.' and inserting:

`SEC. 14. BORROWING AUTHORITY.

`(a) BORROWING FROM TREASURY- ';

(2) in subsection (a), as designated by paragraph (1)--

(A) by striking `this section' each time it appears and inserting `this subsection', and

(B) by striking `The Corporation may employ such funds' and inserting `The Corporation may employ any funds obtained under this section only'; and

(3) by adding after subsection (a), as amended by paragraph (2), the following new subsection:

`(b) BORROWING FROM FEDERAL FINANCING BANK- The Corporation is authorized to issue and sell the Corporation's obligations to the Federal Financing Bank established by the Federal Financing Bank Act of 1973. The Federal Financing Bank is authorized to purchase and sell the Corporation's obligations on terms and conditions determined by the Federal Financing Bank.'.

SEC. 2006. PRIORITY OF CERTAIN CLAIMS.

(a) IN GENERAL- Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

`(p) PRIORITY OF CERTAIN CLAIMS- (1) Subject to paragraph (2), in any proceeding brought by the Corporation related to any claim acquired under this section or section 12 or 13 against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution other than a suit, claim, or cause of action asserted by a Federal agency (other than the Corporation) or the United States.

`(2)(A) If the Corporation is notified in writing of the commencement of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution in a proceeding described in paragraph (1), a suit, claim, or cause of action of the Corporation shall not have priority under paragraph (1) unless--

`(i) not later than 180 days after the date on which the Corporation receives the notice, or if the Corporation acquires its claim after receipt of the notice, not later than 180 days after the date on which the Corporation acquires its claim, the Corporation files with the court a statement that the Corporation intends to pursue potential claims against the insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or other person employed by or providing services to the insured depository institution and is diligently pursuing its claims; and

`(ii) not later than 1 year after the date on which the Corporation receives the notice (or, if the Corporation acquires its claim after receipt of the notice, not later than 1 year after the date on which the Corporation acquires its claim), the Corporation files suit, unless the court enlarges the time for filing suit pursuant to subparagraph (B).

`(B)(i) If the Corporation requests an enlargement of time to file a suit described in subparagraph (A)(ii), the court shall extend the period for the Corporation to commence its proceeding unless the court finds that the prejudice that would result to a person's ability to prove the person's claim that would result from a grant of the requested enlargement of time would outweigh the harm to the Government that would result from a denial of the requested enlargement of time.

`(ii) In making a finding under clause (i), the court shall consider the diligence with which the Corporation is investigating its claim.

`(3) The priority of the Corporation shall apply both to the prosecution of any suit, claim, or cause of action, and to the execution of any subsequent judgment resulting from such suit, claim, or cause of action.

`(4) This subsection shall not be construed to afford the Corporation priority as to an asset that is adjudicated to be unavailable to satisfy any subsequent judgment obtained by the Corporation as a result of its suit, claim, or cause of action.'.

(b) APPLICABILITY- The amendment made by subsection (a) shall not apply to suits, claims, or causes of action of depositors, creditors, or shareholders commenced before the date of enactment of this Act.

Subtitle B--FHA Mortgage Insurance

SEC. 2101. FHA CEILING.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking `150 percent (185 percent until October 31, 1990) of the dollar amount specified' and inserting the following: `185 percent of the dollar amount specified'.

SEC. 2102. REVERSE MORTGAGE INSURANCE.

(a) LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED- Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking `1991' and inserting `1993', and by striking the second sentence and inserting the following: `The total number of mortgages insured under this section may not exceed 25,000.'.

(b) TYPES OF LOANS- Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended--

(1) in paragraph (7), by striking `and' at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

`(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount--

`(A) based upon a line of credit;

`(B) on a monthly basis over a term specified by the mortgagor;

`(C) on a monthly basis over a term specified by the mortgagor and based on a line of credit;

`(D) on a monthly basis over the tenure of the mortgagor;

`(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

`(F) on any other basis that the Secretary considers appropriate; and

`(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that for fixed rate mortgages, the Secretary may prescribe regulations limiting convertability under this paragraph.'.

(c) LIMITATION ON LIABILITY OF MORTGAGOR- Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

`(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or'.

SEC. 2103. ACTUARIAL SOUNDNESS FOR THE MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding the following new subsections at the end thereof:

`(e)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of at least 1.25 percent within 18 months of the date of enactment of this subsection, and shall ensure that at least this ratio is maintained at all times thereafter. If the Secretary determines that the Fund does not have a capital ratio of at least 1.25 percent at any time from the date of enactment of this subsection, the Secretary shall, at least annually, report to the Congress on the financial status of the Fund, advise the Congress of any administrative measures being taken to attain and maintain a capital ratio of at least 1.25 percent, and make any legislative recommendations that the Secretary deems appropriate.

`(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains and maintains a capital ratio of at least 2 percent. Beginning 3 years from the date of enactment of this subsection, the Secretary shall report annually to the Congress on the financial status of the Mutual Mortgage Insurance Fund and efforts to meet the capital ratio goal of at least 2 percent.

`(3) For purposes of this subsection--

`(A) the term `capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required by section 538 of this Act;

`(B) the term `economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund;

`(C) the term `capital ratio' means the ratio of capital to unamortized insurance-in-force; and

`(D) the term `unamortized insurance-in-force' means the Secretary's estimate of the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund.

`(f) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund.

`(g) If the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (f) shows that the Mutual Mortgage Insurance Fund is not meeting the following principles of operation:

`(1) maintaining an adequate capital ratio as defined in subsections (e)(1) and (e)(2); and

`(2) Meeting the needs of first-time homebuyers by providing access to mortgage credit; and

`(3) Avoiding the problems of adverse selection by establishing premiums related to the probability of homeowner default; and

`(4) Minimizing the risk to the Fund and to homeowners from homeowner default;

then the Secretary may propose through regulation and implement any adjustments to the insurance premiums referred to in section 203(c), or any other program requirements established by the Secretary, as is necessary to achieve these principles. As soon as the Secretary determines that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for it. Such premium change shall take effect not earlier than 90 days following such notification, unless Congress acts during such time to prevent it.'.

SEC. 2104. RISK-BASED PERIODIC MORTGAGE INSURANCE PREMIUM.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended by adding at the end thereof the following:

`Notwithstanding any other provision of law, the Secretary may require payment on mortgages which are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments, and may be required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The Secretary may establish a periodic premium rate higher than that referred to in the preceding sentence if necessary to achieve actuarial soundness. The Secretary shall not require payment of an additional premium charge where the initial loan-to-value ratio of the mortgage is less than 90 percent. For purposes of this paragraph, the premium charges shall not be included in the determination of the initial loan-to-value ratio of the mortgage.'.

SEC. 2105. MORTGAGOR EQUITY IN THE BASIC FHA HOME MORTGAGE INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting at the end thereof the following new paragraph.

`Notwithstanding any other provision of this paragraph, a mortgage may not have a principal obligation in excess of 98 percent of the appraised value of the property (97 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, `appraised value' shall be the amount set forth in the written statement required by section 226, or a similar amount determined by the Secretary if section 226 does not apply.'.

SEC. 2106. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following:

`(h) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.'.

Subtitle C--Mortgage Assignments

SEC. 2201. AMENDMENT TO SECTION 221(g)(4) OF THE NATIONAL HOUSING ACT.

Section 221(g)(4) of the National Housing Act (12 U.S.C. 1715l) is amended by adding after subparagraph (B) the following:

> *`(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the same under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (herein referred to as `participating certificates', unless the mortgagee can demonstrate that the auction and sale is less economically advantageous to it than the receipt of debentures. The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price would also include the right to a subsidy payment described in subsection (c).*
>
> *`(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing such a credit instrument.*
>
> *`(II) A mortgagee who elects to assign his mortgage must provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument to include, but not be limited to: principal mortgage balance; original stated interest rate; service fees; real estate and tenant characteristics; the level and duration of applicable Federal subsidies; and any other information determined by the Secretary to be appropriate. The Secretary shall also provide the status of this property with respect to provisions in the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay mortgage, whether the owner has filed an Intent to Prepay or a Plan of Action under the Emergency Low Income Housing Preservation Act of 1987 or under any subsequent Act; and the details with respect to*

incentives provided in the Emergency Low Income Housing Preservation Act of 1987 or under any subsequent Act in lieu of exercising prepayment rights.

`(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. For administrative simplicity, the Secretary may wait up to 6 months to conduct the auction, but under no circumstances may the Secretary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

`(IV) The lowest interest rate bid for such purchase by a bidder determined by the Secretary to be acceptable shall be accepted by the Secretary and published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage underlying the credit instrument shall occur within 30 business days of the date winning bidders are selected in the auction.

`(V) If no bids are received or if the bids that are received are not acceptable to the Secretary, the mortgage shall retain all rights under this section to assign the mortgage loan to the Secretary.

`(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the holder of the original credit instrument and the mortgage securing such a credit instrument (and its assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the Participation Certificates for the then unpaid principal balance plus accrued interest on the mortgage loan. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. Such interest subsidy payment shall be provided until the earlier of--

`(I) the maturity date of the loan;

`(II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or

`(III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

`(iv) The Secretary shall require that the loans presented for assignment be auctioned with servicing rights as whole loans and as participating certificates with servicing retained by the current servicer, except that the Secretary may determine if the inclusion of servicing rights in the sale will prove beneficial to the financial interests of the Federal Government.

`(v) To the extent practicable, the Secretary shall encourage State Housing Finance Agencies, nonprofit organizations, and organizations representing the tenants of the property for which the mortgage is being sold, or some other qualified mortgagee participating in a Plan of Action described in the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate fully in the auction and subsidy mechanism, described in clauses (ii) and (iii).

`(vi) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from the date of enactment and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of enactment.

`(vii) Nothing in this subparagraph shall diminish or impair the low

income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

`(viii) The provisions of this subparagraph expire effective October 1, 1995. Not later than January 31 of each year, the Secretary shall transmit to this Congress a report that includes: the number of mortgages auctioned and sold and their value, the amount of subsidies committed to this program, the number of mortgages transferred to preferred mortgagees, the ability of the Secretary to coordinate this program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from this program for the Federal Government.'.

Subtitle D--Crime and Flood Insurance Programs

SEC. 2301. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY- Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking `September 30, 1991' in the matter preceding paragraph (1) and inserting `September 30, 1995'.

(b) CONTINUATION OF EXISTING CONTRACTS- Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by striking `September 30, 1992' and inserting `September 30, 1996'.

(c) EXTENSION OF LIMITATION ON PREMIUMS- Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended by striking `September 30, 1991' and inserting `September 30, 1995'.

SEC. 2302. FLOOD INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY- Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking `September 30, 1991' and inserting `September 30, 1995'.

(b) EXTENSION OF EMERGENCY PROGRAM- Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking `September 30, 1991' and inserting `September 30, 1995'.

(c) EXTENSION OF LIMITATION ON PREMIUMS- Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking `September 30, 1991' and inserting `September 30, 1995'.

(d) EXTENSION OF EROSION PROVISIONS- Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking `September 30, 1991' and inserting `September 30, 1995'.

(e) INCLUSION OF COSTS IN PREMIUMS-

(1) ESTIMATES OF PREMIUM RATES- Section 1307(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)) is amended--

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

(B) in paragraph (1)(B)(ii), by inserting `and' after the comma at the end;

(C) in paragraph (1)(B), by inserting at the end the following new clause:

`(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs

(including the costs of mapping activities under section 1360) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commission, company's expense allowances, or State or local premium taxes,'; and

(D) in paragraph (2), by inserting after `title' the following: `, and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360)'.

(2) ESTABLISHMENT OF CHARGEABLE PREMIUM RATES- Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended--

(A) in subsection (b)--

(i) by striking `and' at the end of paragraph (2);

(ii) by redesignating paragraph (3) as paragraph (4); and

(iii) by inserting after paragraph (2), the following new paragraph:

`(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 1307(a), to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360), and'; and

(B) by striking subsection (d) and inserting the following new subsection:

`(d) With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 1307(a) or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Director. The Director shall deposit the sum in the National Flood Insurance Fund established under section 1310.'.

(3) NATIONAL FLOOD INSURANCE FUND- Section 1310(a)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)(4)) is amended to read as follows:

`(4) to the extent approved in appropriations Acts, to pay any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360); and'.

(4) ADMINISTRATIVE EXPENSES- Section 1375 of the National Flood Insurance Act of 1968 (42 U.S.C. 4126) is amended by striking `program' and all that follows and inserting the following: `and floodplain management programs authorized under this title may be paid with amounts from the National Flood Insurance Fund (as provided under section 1310(a)(4)), subject to approval in appropriations Acts.'.

(5) EXCEPTION TO LIMITATION ON PREMIUM INCREASES- Notwithstanding section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) (as amended by this section), the premium rates charged for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may be increased by more than 10 percent during fiscal year 1991, except that any increase in such rates not resulting from the inclusion in chargeable premium rates of administrative expenses of the flood insurance and floodplain management programs (pursuant to the amendments made by this subsection) may not exceed 10 percent.

TITLE III--COMMERCE, SCIENCE, AND TRANSPORTATION

Subtitle A--User Fees

SEC. 3001. COAST GUARD USER FEES.

(a) IN GENERAL- Notwithstanding the provisions of section 2110 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the `Secretary') shall establish and implement a system for the collection, commencing October 1, 1990, of $200,000,000 for each of the fiscal years 1991 through 1995, plus an amount sufficient to compensate for inflation for that period, in receipts from payments by users of direct or indirect services provided by the Coast Guard. Amounts received by the United States Government under this section shall be deposited into the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(b) APPLICATION- Any fees for indirect services established under this section shall apply only to vessels operating in navigable waters where the Coast Guard has an established presence.

(c) CARGO PREFERENCE USER FEES- (1) No user fee shall be collected pursuant to subsection (a) unless the Secretary has first established and implemented a system for the collection, for each of the fiscal years 1991 through 1995, plus an amount sufficient to compensate for inflation for that period, of user fees on United States-flag commercial vessels which win cargo preference shipment contracts pursuant to section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), section 901b of the Merchant Marine Act, 1936 (46 U.S.C. 1241f), the Joint Resolution entitled `Joint Resolution requiring agricultural or other products to be shipped in vessels of the United States where the Reconstruction Finance Corporation or any other instrumentality of the Government finances the exporting of such products', approved March 26, 1934 (46 U.S.C. 1241-1), or section 2631 of title 10, United States Code.

(2) Each such user fee established pursuant to paragraph (1) shall be an amount equal to 25 percent of the difference between the lowest foreign bid offered and the bid accepted by the shipping agency. Amounts received by the United States Government under this subsection shall be deposited into the general fund of the Treasury as offsetting receipts as follows: 20 percent as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities, and 80 percent as offsetting receipts of the original shipping Federal agency and ascribed to such agency's activities.

(3) Notwithstanding any other provision of law, in no case shall a cargo preference bid be accepted and contracted for pursuant to any law or provision thereof referred to in paragraph (1) of this subsection at over 200 percent the lowest foreign-flag bid.

SEC. 3002. RAILROAD SAFETY USER FEES.

The Federal Railroad Safety Act of 1970 is amended by inserting immediately after section 215 (45 U.S.C. 445) the following new section:

`USER FEES

`SEC. 216. (a)(1) The Secretary shall establish a schedule of fees to be assessed to railroads, in reasonable relationship to criteria such as revenue ton-miles, track miles, passenger miles, revenues, other relevant factors, or an appropriate combination thereof.

`(2) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or

instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

`(3) Fees established under his section shall be assessed to railroads subject to this title and shall approximate, as provided in subsection (d) of this section, the costs of administering this title and all other Federal laws relating to railroad safety and railroad noise control.

`(b) The Secretary shall assess and collect fees described in subsection (a) of this section with respect to each fiscal year before the end of such fiscal year.

`(c) All fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts and ascribed to the railroad safety activities of the Secretary.

`(d) Fees established by the Secretary under subsection (a) of this section shall be assessed after September 30, 1990. Fees assessed in the fiscal year beginning on October 1, 1990, shall total no more than $20,000,000; fees assessed in the fiscal year beginning on October 1, 1991, shall total no more than $37,000,000; fees assessed in the fiscal year beginning on October 1, 1992, shall total no more than $37,000,000; fees assessed in the fiscal year beginning on October 1, 1993, shall total no more than $38,000,000; and fees assessed in the fiscal year beginning on October 1, 1994, shall total no more than $38,000,000. Beginning on October 1, 1992, the fees assessed shall at least equal the appropriations made for the activities described in subsection (a)(3) of this section, but at no time shall the aggregate of fees assessed for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.'.

SEC. 303. UNITED STATES TRAVEL AND TOURISM FACILITATION FEE.

The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by adding at the end the following new section:

`SEC. 306. (a) In addition to any other fees authorized by law, the Secretary, on a calendar quarterly basis beginning January 1, 1991, shall charge and collect from each commercial airline and passenger ship line transporting passengers to the United States, a United States Travel and Tourism Administration Faciliation Fee. The Secretary shall charge each commercial airline and passenger ship line an amount equal to one dollar multipled by the number of nonexcluded passenger arriving at ports of entry in the customs territory of the United States from foreign countries, possessions, or territories aboard commercial aircraft or commercial passenger ships of that airline or passenger ship line during that calendar quarter. For purposes of determining the fee amount, the Secretary shall exclude passengers--

`(1) who are arriving only for immediate and continuous transmit through the United States to a destination outside the customs territory of the United States;

`(2) whose journey originated in Canada, Mexico, a territory or possession of the United States, Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territories or possessions in or bordering on the Caribbean Sea; or

`(3) whose journey originated in the United States and is limited to Canada, Mexico, a territory or possession of the United States, Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territories or possessions in or bordering on the Caribbean Sea.

`(b) Each commercial airline and passenger ship line shall remit the fee

charged by the Secretary under subsection (a) of this section, in United States dollars, no later than 31 days after the close of the calendar quarter of the arrival of the passengers on which the fee is based.

`(c) The Secretary shall deposit the fees received pursuant to subsection (b) of this section in the general fund of the Treasury as offsetting receipts and ascribed to the travel and tourism activities of the Secretary.

`(d) Beginning on October 1, 1992, the aggregate amounts collected for the fee charged under this section shall at least equal the appropriations made for the travel and tourism activities of the Secretary under this Act, but at no time shall the aggregate of amounts collected for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees. The formula for determining the fee amount under subsection (a) of this section may be modified by the Secretary as necessary to comply with the requirements of this section.

`(e) Subsections (a) through (d) of this section shall become effective thirty days after the date of enactment of this section: Provided, That no fee shall be charged for any passenger transported pursuant to a document or ticket purchased prior to that date. Subsection (f) of this section shall be effective upon enactment.

`(f) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.'.

SEC. 304. NOAA USER FEES.

Section 409 of the Act of November 17, 1988 (15 U.S.C. 1534), is amended--

(1) in subsection (a) by striking `archived' and all that follows and inserting in lieu thereof `and information and products derived therefrom collected and/or achieved by the National Oceanic and Atmospheric Administration.';

(2) in subsection (b)(1)--

(A) by inserting ', information, and products' immediately after `data' the first place it appears;

(B) by striking `data is' and inserting in lieu thereof `data, information, and products are';

(3) in subsection (b)(2)--

(A) by inserting ', information, or products' immediately after `data' the first place it appears;

(B) by striking `data exchange basis' and inserting in lieu thereof `basis of exchanging such data, information, and products';

(4) by adding at the end of subsection (b) the following new paragraph:

`(3) The Secretary shall waive the assessment of the fees authorized by subsection (a) as necessary to continue to provide weather warnings, watches, forecasts, and similar products and services essential to the mission of the National Oceanic and Atmospheric Administration.';

(5) by amending paragraph (1) of subsection (d) to read as follows:

`(1) The initial schedule of fees established by the National Environmental Satellite, Data, and Information Service shall remain in effect for the three-year period beginning on the date that the fees under that schedule take effect.';

(6) in subsections (e) and (f)(1), by inserting `by the National Environmental Satellite, Data, and Information Service' immediately after `under this section' each place it appears; and

(7) in subsection (g), by inserting immediately before the period at the end the following: '; including the authority of the Secretary pursuant to section 1307 of title 44, United States Code.'.

Subtitle B--Airport Capacity

PART 1--SHORT TITLE; FINDINGS

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the `Airport Capacity Act of 1990'.

SEC. 3102. FINDINGS.

The Congress finds that--

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation which could impede the national air transportation system;

(3) a noise policy must be implemented at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the technology aircraft, combined with the use of revenues, including those available from passenger facility charges, for noise management;

(6) federally controlled revenues can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) a precondition to the establishment or collection of a passenger facility charge shall be the establishment by the Secretary of Transportation of a national noise policy;

(8) revenues derived from a passenger facility charge may be applied to noise management and increased airport capacity;

(9) provisions of subpart S of part 93 of title 14, Code of Federal Regulations (known as the `buy-sell rule'), which allow a public right to be used as a private asset, not only restrict competition at the four airports whose use is controlled through slots but also can impede competition in air transportation throughout the northeastern and midwestern United States;

(10) passengers pay higher fares at slot controlled airports than at other airports;

(11) increasing the number of slots at high density traffic airports will make it easier for carriers not already engaged in regular operations at those airports to achieve regular operations; and

(12) improvements in the air traffic control system since the initiation of slot controls, including new technology and new methods of regulating air traffic, necessitate a complete review of the practice of using slots to control access to high density traffic airports.

CHAPTER 2--AUTHORIZATION OF APPROPRIATIONS

SEC. 323. FAA FACILITIES AND EQUIPMENT.

That (a) section 506(a)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(a)(1) is amended--

(A) by striking `and' immediately after `October 1, 1989,'; and

(B) by inserting immediately before the period at the end of the first sentence the following: `$14,625,200,000 for fiscal years ending before October 1, 1991, and $17,625,200,000 for fiscal years ending before October 1, 1992'.

SEC. 324. FAA RESEARCH, ENGINEERING AND DEVELOPMENT.

(a) Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(b)(2)) is amended--

(1) in subparagraph (B)(vii), by striking `and';

(2) in subparagraph (C), by striking the period at the end and inserting in lieu thereof `; and'; and

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

`(4) for fiscal year 1991, $260,000,000, and for fiscal year 1992, $260,000,000.'.

(b) Section 506(b)(4) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(b)(4)) is amended--

(1) in subparagraph (A), by striking `and 1990' and inserting in lieu thereof `1990, 1991, and 1992'; and

(2) in subparagraph (B), by striking `and 1990' and inserting in lieu thereof `1990, 1991, and 1992'.

(c) Section 506(d) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(d)) is amended by striking `and 1990' and inserting in lieu thereof `1990, 1991, and 1992'.

SEC. 325. FAA OPERATIONS.

For necessary expenses of the Administration for which there is no other specific authorization of appropriations, there is authorized to be appropriated $4,088,000,000 for fiscal year 1991 and $4,412,600,000 for fiscal year 1992.

PART 3--NATIONAL AVIATION NOISE POLICY

SEC. 3201. NATIONAL AVIATION NOISE POLICY.

(a) The Secretary of Transportation shall, by regulation, not later than October 1, 1991, develop and articulate a National Aviation Noise Policy which takes into account the Findings and Determinations and provisions of this chapter.

(b) The National Aviation Noise Policy shall include the establishment of a date or dates for the phasing out of Stage 2 technology aircraft as part of a comprehensive national noise management scheme. The national noise management scheme must include a detailed economic analysis of the impact of any phaseout date on competition in the airline industry, and may provide, by regulation, for the allocation and distribution of Stage 2 operating rights during the phaseout period in a manner determined by the Secretary to be economically efficient.

SEC. 3202. NOISE AND ACCESS RESTRICTION REVIEWS.

(a) The National Aviation Noise Policy shall require the establishment of a program for adequate public notice and comment opportunities on local

airport noise or access restrictions that first became effective after October 1, 1990, that were negotiated or executed agreements as of October 1, 1990, or where the FAA has already formed a working group to examine the noise impact of air traffic control procedure changes.

(b) No airport noise or access restriction on the operation of a Stage 3 certificated aircraft, or on a Stage 2 certificated aircraft weighing less than 75,000 pounds, including but not limited to--

(1) any restriction as to noise levels generated on either a single event or cumulative basis;

(2) any limit, direct or indirect, on the total number of State 3 aircraft operations;

(3) any noise budget or noise allocation program which would include Stage 3 aircraft;

(4) any restriction imposing limits on hours of operations; and

(5) any other limit on Stage 3 aircraft,

shall be effective unless it has been agreed to by the airport proprietor and all aircraft operators, or until it has been submitted to the Federal Aviation Administration pursuant to an airport operator's request for approval and approved in accordance with the program.

(c) No airport noise or access restriction proposed after October 1, 1990, could include a restriction on operations with other than Stage 3 aircraft, unless the airport operator publishes the proposed noise or access restriction at least 180 days prior to the effective date of the restriction and prepares--

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed noise regulation;

(2) a description of alternative regulations;

(3) a description of the alternative measures considered not involving aircraft restrictions, and a comparison of the costs and benefits of such alternative measures to the costs and benefits of the proposed noise or access regulation.

(d) The Administrator shall not approve a noise or access restriction applying to Stage 3 aircraft operations unless the Administrator finds the following conditions to be supported by substantial evidence:

(1) the proposed restriction is reasonable, nonarbitrary, and nondiscriminatory;

(2) the proposed restriction does not create an undue burden on interstate or foreign commerce;

(3) the proposed restriction is not inconsistent with maintaining the safe and efficient utilization of the navigable airspace;

(4) the proposed restriction does not conflict with any existing Federal statute or regulation;

(5) there has been an adequate opportunity for public comment with respect to the regulation;

(6) consideration of alternative means of minimizing or otherwise managing noise was reasonable; and

(7) such other factors as the Administrator deems appropriate to the national air transportation system, as determined by rulemaking.

(e) Sponsors of facilities operating under noise or access restrictions on Stage 3 operations that first became effective after October 1, 1990, shall not be eligible for grants authorized by section 505 of the Airport and Airway

Improvement Act of 1982 (49 U.S.C. App. 2204) 90 days after the date on which the Secretary promulgates the final rule called for under section 331 of this Act, unless the restrictions have been agreed to by the airport proprietor and airport operators or the Administrator has approved the restriction under this title, or the restriction has been rescinded.

(f) The Administrator may reevaluate any noise restrictions previously approved under subsection (d) upon the request of any aircraft operator able to demonstrate to the satisfaction of the Administrator that there has been a change in the noise environment of the affected airport pursuant to the criteria established under subsection (d) and that a review and reevaluation of the benefits and costs of the previously approved noise regulation is therefore justified.

(g) The Administrator shall establish by regulation procedures under which the evaluation provided in subsection (f) shall be accomplished. Such evaluation shall not occur less than two years after a determination under subsection (d)(2) has been made.

(h) Except to the extent required by the application of the provisions of this section, nothing in this Act shall be deemed to eliminate or supersede existing law with respect to restrictions by local authorities on operation of Stage 2 aircraft.

SEC. 3203. FEDERAL LIABILITY FOR NOISE DAMAGES.

In the event of a disapproval of a proposed noise or access restriction, the Federal Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of such disapproval. Action for the resolution of such a case shall be brought solely in the United States Claims Court.

SEC. 3204. PRIVATE RIGHT OF ACTION.

An aircraft operator may commence a civil action against an airport proprietor for the purpose of protecting its rights under this part, in any United States District Court without regard to citizenship or amount in controversy.

SEC. 3205. LIMITATION ON AIRPORT IMPROVEMENT PROGRAM REVENUE.

Except as specified in subsection (a), under no conditions shall any airport receive revenues under the provisions of the Airport and Airway Improvement Act of 1982, or impose or collect a passenger facility charge, unless the Administrator assures that the airport is not imposing any noise or access restriction not in compliance with this chapter.

SEC. 3206. NOISE COMPATIBILITY PROGRAM.

No proposal for the imposition of a passenger facility charge shall be approved by the Secretary if the airport has not conducted an airport noise compatibility program pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

PART 4--PASSENGER FACILITY CHARGES

SEC. 3301. DEFINITIONS.

For purposes of this part the following definition applies: The term `eligible airport-related project' means--

(1) a project for airport development under the Airport and Airway Improvement Act of 1982;

(2) a project for airport planning under such Act;

(3) a project for terminal development described in section 513(b) of such Act;

(4) a project for airport noise capability planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;

(5) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures under such section; and

(6) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

SEC. 3302. AUTHORIZATION FOR IMPOSITION.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513) is amended by the addition of a new subsection:

`(e) EXCEPTION FOR IMPOSITION OF PASSENGER FACILITY CHARGES- (1) Notwithstanding the above limitations the Secretary of Transportation is hereby authorized to establish by regulation a program for the imposition of approved passenger facility charges by any airport proprietor to finance eligible projects.

`(2) Passenger facility charges shall be imposed only as approved by the Secretary of Transportation and shall be approved only in full dollar amounts not to exceed three dollars per passenger. They shall remain in effect only during such periods as are necessary to pay for such specific projects as are identified to support their imposition.

`(3) Passenger facility charges shall be collected only from revenue passengers originating or terminating their travel at the airport imposing such a charge.

`(4) No proposal for the imposition of a passenger facility charge shall be approved by the Secretary of Transportation unless:

`(A) The airport proprietor seeking to impose the passenger facility charge certifies, in writing, that airport users and the general public have been provided with: a minimum of seventy-five days advance notice of the proposal; a full and detailed description of the project intended to be financed; a detailed financial plan for full funding of the specific project; and an opportunity to meet with the airport proprietor to present their views. On the basis of such advance notification and information the airport proprietor shall solicit the approval or disapproval of the airport users and the general public and shall advise the Secretary of Transportation of any disagreements with the proposed imposition of a passenger facility charge and the reasons supporting such disagreement.

`(B) In the event that no disagreement is registered, the Secretary shall approve the passenger facility charge.

`(C) In the event that disagreement is registered with reference to a project otherwise eligible for funding under the provisions of the Airport and Airway Improvement Act of 1982, the Secretary shall approve such passenger facility charge unless the Secretary finds by substantial evidence that it would not significantly benefit airport security, safety, noise mitigation, or capacity.

`(D) The Secretary shall establish, by appropriate rule, the procedures under which a disagreement is registered and an appeal heard under subsection (c).

`(E) In the event that disagreement is registered with reference to a project to build airport gates, the Secretary shall not approve such passenger facility charge unless he finds by substantial evidence that the project is justified by the need to increase capacity at the facility or

facilities affected. Under no circumstances shall any gates constructed, improved, or repaired with passenger facility charges under this paragraph be subject to long-term leases for periods exceeding 10 years, or to majority in interest clauses.

`(F) No other projects other than those defined in this title may be financed by a passenger facility charge.

`(5) Any proposal to amend a project supported by an approved passenger facility charge necessitating an upward adjustment of project financing costs shall be treated as a new proposal for the imposition of a passenger facility charge and submitted for approval.

`(6) No passenger facility charge shall be approved for imposition prior to the adoption by regulation of a national aviation noise policy in accordance with the provisions of title III of this Act and, in no event, prior to such date at which the uncommitted balance contained in the Airport and Airway Trust Fund is less than $5,000,000,000.

`(7) Authority for the approval of any new passenger facility charge, or the modification of any existing charge, shall terminate in the event that appropriations fail to be made to fund at least 90 percent of each amount authorized for essential air service and the airport improvement program during any fiscal year. Further, all authority to approve any passenger facility charge shall terminate at any time funds are spent from this Act except as authorized by this Act.

`(8)(A) Revenues derived from collection of a fee by an airport proprietor pursuant to this subsection shall not be treated as airport revenues for the purpose of establishing rates, fees and charges pursuant to any contract between such airport and an air carrier.

`(B) Except as otherwise provided in subparagraph (C) hereof, such airport shall not include the portion of the capital costs of any project paid for from such passenger facility charge revenues in the rate base, by means of depreciation, amortization or otherwise, in establishing fees, rates and charges for air carriers.

`(C) With respect to any project for terminal development, for gates and related areas, or for any facility which is occupied or utilized by one or more air carriers on an exclusive or preferential basis, the rates, fees and charges payable by air carriers which use such facilities shall be no less than the rates, fees and charges paid by carriers using similar facilities at the airport which were not financed with revenues derived from collection of a fee pursuant to this subsection.

`(D) Except as provided in this subsection, nothing contained in this Act shall be construed as endorsing or authorizing the unilateral abrogation, abridgement or alteration of any existing contract or lease provision in place at any airport.

`(9) Any passenger facility charge approved for imposition under this Act shall be collected by the air carrier or its agent selling such transportation and shall be paid to the airport imposing such a charge in accordance with regulations to be issued by the Secretary of Transportation. Such charge shall be separately identified on any ticket sold for such transportation as a local passenger facility charge. The Secretary of Transportation shall provide by regulation for the full and complete compensation of air carriers based upon a uniform fee which reflects their average cost for their collection and handling costs.

`(10) The Secretary of Transportation shall require that any airport imposing a passenger facility charge maintain the funds derived as a result in a separate and identifiable account which, for the purpose of this Act, shall be subject to the same record, audit and examination requirements imposed upon airport improvement program revenues by section 518 of the Airport and Airway Improvement Act of 1982.

`(11) No State (or political subdivision thereof, including the Commonwealth

of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect any tax on or with respect to any commercial aircraft flight, or any activity or service on board such flight, if such flight neither takes off nor lands in such state or jurisdiction'.

SEC. 3303. SPONSOR ASSURANCES INCLUDING MINORITY AND SMALL BUSINESS PARTICIPATION.

Section 511(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210) is amended by after the word title striking `, ' and inserting `or passenger facility charge project,'.

SEC. 3304. PREFORMANCE OF CONSTRUCTION WORK INCLUDING MINIMIUM RATES OF WAGES AND VETERANS PREFERENCE.

Section 515 of the Airport and Airway Improvement Act of 1982, (49 U.S.C. App. 2214) is amended--

(1) in subsection (a) by inserting `or passenger facility charge project' after `title';

(2) in subsection (b) by inserting `or passenger facility charge project' after `title';

(3) in subsection (c) by inserting `or passenger facility charge project' after `title';

PART 5--PURCHASE, SALE, LEASE, AND OTHER TRANSFER OF SLOTS DEFINITIONS

SEC. 3351. As used in this part, the term--

(1) `Administrator' means the Administrator of the Federal Aviation Administration.

(2) `Air carrier' has the meaning given that term in section 101(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(3)).

(3) `High density traffic airport' means the Kennedy International Airport, New York, New York; LaGuardia National Airport, New York, New York; O'Hare International Airport, Chicago, Illinois; or Washington National Airport, Washington, District of Columbia.

(4) `New entrant carrier' means an air carrier, including a commuter operator, that holds fewer than 12 slots at the relevant airport.

(5) `Secretary' means the Secretary of Transportation.

(6) `Slot' means the operational authority to conduct one landing or takeoff operation, under instrument flight rules, each day during a specific period at an airport.

AIR CARRIER SPECIAL AUTHORIZATIONS

SEC. 3352.(a)(1) Not later than 60 days after the date of enactment of this Act, the Administrator shall by rule create, at Washington National Airport, a pool of 30 daily air carrier special authorizations which shall be spread evenly throughout the day from the hour 0700 to the hour 2200 and shall be available only to air carriers that--

(A) will utilize such special authorizations to conduct operations with turbojet aircraft or any aircraft having a certificate maximum seating capacity of 75 or more; and

(B) hold fewer than 12 existing slots at Washington National Airport.

(2) Such special authorizations shall be created and allocated in such a manner that the actual number of daily operations does not exceed the total number of authorized daily operations at Washington National Airport as provided in subpart K of part 93 of title 14, Code of Federal Regulations.

(3) Such special authorizations shall be allocated by lottery and in such a manner that, to the maximum extent practicable, all such air carriers have an equal number of slots and special authorizations overall at Washington National Airport. No such air carrier shall receive a special authorization under this subsection which gives that carrier more than 12 slots and special authorizations overall at Washington National Airport.

(4) If such special authorizations remain unused after such air carriers have had an opportunity to obtain them, the remaining authorizations may only be made available to air carriers that have fewer than 12 slots at Washington National Airport.

(5) Each such special authorization shall be public property and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Secretary and the Administrator. Any such privilege may be withdrawn, recalled, or reallocated by the Secretary for reasons of aviation safety, airspace efficiency, the enhancement of competition in air transportation, or any other matter in the public interest and in accordance with the public convenience and necessity.

(6) If the holder of an air carrier special authorization fails to initiate use of the authorization within 60 days after receiving the authorization or thereafter fails to use the authorization in accordance with rules for use of existing air carrier slots, the authorization shall be withdrawn and, if appropriate, be reallocated to another air carrier as provided in this subsection.

(b)(1) Not later than 60 days after the date of enactment of this Act, the Administrator shall by rule create, at La Guardia National Airport, a pool of 30 daily air carrier special authorizations which shall be spread evenly throughout the day and shall be available only to air carriers that--

(A) will utilize such special authorizations to conduct operations with turbojet aircraft or any aircraft having a certificate maximum seating capacity of 75 or more; and

(B) hold fewer than 12 existing slots at La Guardia National Airport.

(2) Such special authorizations shall be allocated by lottery and in such a manner that, to the maximum extent practicable, all such air carriers have an equal number of slots and special authorizations overall at La Guardia National Airport. No such air carrier shall receive a special authorization under this subsection which gives that carrier more than 12 slots and special authorizations overall at La Guardia National Airport.

(3) If such special authorizations remain unused after such air carriers have had an opportunity to obtain them, the remaining authorizations may only be made available to air carriers that have fewer than 12 slots at La Guardia National Airport.

(4) Each such special authorization shall be public property and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Secretary and the Administrator. Any such privilege may be withdrawn, recalled, or reallocated by the Secretary for reasons of aviation safety, airspace efficiency, the enhancement of competition in air transportation, or any other matter in the public interest and in accordance with the public convenience and necessity.

(5) If the holder of an air carrier special authorization fails to initiate use of the authorization within 60 days after receiving the authorization or thereafter fails to use the authorization in accordance with rules for use of existing air carrier slots, the authorization shall be withdrawn and, if appropriate, be

reallocated to another air carrier as provided in this subsection.

HIGH DENSITY TRAFFIC AIRPORT RULES

SEC. 3353. (a)(1) On January 1, 1991, the Administrator shall initiate a review of the provisions of subparts K and S of part 93 of title 14, Code of Federal Regulations. The review shall evaluate the impact of such provisions on aviation safety and ground congestion at each of the high density traffic airports.

(2) Not later than January 1, 1992, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives regarding the findings of the review initiated under paragraph (1) and any recommendations to be taken in light of those findings.

(b)(1) On January 1, 1991, the Secretary shall initiate a review of the provisions of subparts K and S of part 93 of title 14, Code of Federal Regulations. The review shall evaluate--

(A) the impact of such provisions on airline competition and how such provisions have facilitated, and continue to facilitate, new entry at such airports; and

(B) methods by which the public can benefit financially from the provision of slots to carriers and how much revenue or other financial benefit can be generated by each such method.

(2) Not later than January 1, 1992, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives regarding the findings of the review initiated under paragraph (1) and any recommendations to be taken in light of those findings.

PART 6--UNIVERSITY AIR TRANSPORTATION CENTERS

SEC. 3401. (a) UNIVERSITY AIR TRANSPORTATION CENTERS-

(1) GRANTS FOR ESTABLISHMENT AND OPERATION- The Administrator of the Federal Aviation Administration (hereinafter referred to as the `Administrator') is authorized to make grants to one or more nonprofit institutions of higher learning to establish and operate one university air transportation center in each of the ten Federal regions which comprise the Standard Federal Regional Boundary System.

(2) RESPONSIBILITIES- The responsibilities of each university air transportation center established under this subsection shall include, but not be limited to, the conduct of research concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system, and the interpretation, publication, and dissemination of the results of such research.

(3) APPLICATION- Any nonprofit institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(4) SELECTION CRITERIA- The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

(A) The extent of which the needs of the State in which the

applicant is located are representative of the needs of the Federal region for improved air transportation services and facilities.

(B) The demonstrated research and extension resources available to the applicant for carrying out this subsection.

(C) The capability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

(D) The extent to which the applicant has an established air transportation program.

(E) The demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

(G) The projects which the applicant proposes to carry out under the grant.

(5) MAINTENANCE OF EFFORT- No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a university air transportation center and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(6) FEDERAL SHARE- The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the university air transportation center and related research activities carried out by the grant recipient.

(7) Research advisory committee-

(A) Section 312(f)(2) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(f)(2) is amended by adding at the end of the following new sentence: `In addition, the committee shall coordinate the research and training to be carried out by the university air transportation centers established under the Airport Capacity Act of 1990, disseminate the results of such research, act as a clearinghouse between such centers and the air transportation industry, and review and evaluate programs carried out by such centers.'.

(B) Section 312(f)(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(f)(3) is amended by striking `20' and inserting in lieu thereof `30'; and by striking the last sentence and inserting in lieu thereof the following: `The Administrator in appointing the members of the committee shall ensure that the university air transportation centers, universities, corporations, associations, consumers, and other government agencies are represented.'.

(b) AUTHORITY- Section 312(c) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(c)) is amended by inserting immediately after the third sentence the following: `The Administrator shall undertake or supervise research programs concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system.'.

PART 7--MISCELLANEOUS

SEC. 3451. SEVERABILITY.

If any provision of this Act (including an amendment made by this Act), or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 3452. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

(a) GENERAL RULE- The Secretary of Transportation shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight.

(b) REPORT TO CONGRESS- Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress with the plan and schedule for implementation of this section.

SEC. 3453. MILITARY AIRPORT PROGRAM.

(a) DECLARATION OF POLICY- Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a) is further amended--

(1) by striking `and' at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting `; and'; and

(3) by adding at the end the following:

`(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.'.

(b) SET-ASIDE--Section 508(d) of such Act (49 U.S.C. App. 2204(d) is amended by striking paragraph (5) and inserting the following:

`(5) MILITARY AIRPORT SET-ASIDE--Not less than one-half of one percent of the funds made available under section 505 in each of fiscal years 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (f) of this section for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

`(6) REALLOCATION- If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.'.

(c) DESIGNATION OF FORMER MILITARY AIRPORTS- Section 508 of such Act is further amended by adding at the end the following new subsection:

`(f) Designation of Current or Former Military Airports-

`(1) DESIGNATION- The Secretary shall designate not more than 5 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection. At least 2 such airports shall be designated within 6 months after the date of the enactment of this subsection and the remaining airports shall be designated for participation no later than September 30, 1992.

`(2) SURVEY- The Secretary shall conduct a survey of current and former

military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

`(3) LIMITATION- In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airport as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

`(4) PERIOD OF ELIGIBILITY- An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program for such additional fiscal years as may be determined by the Secretary.

`(5) ADDITIONAL FUNDING- Notwithstanding the provisions of section 513(b), not to exceed $3,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.'.

SEC. 3454. EXPANDED EAST COAST PLAN.

(a) ENVIRONMENTAL IMPACT STATEMENT- Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an environmental impact statement pursuant to the National Environmental Policy Act of 1969 on the effects of changes in aircraft patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(b) AIR SAFETY INVESTIGATION- Not later than 180 days after the date of enactment of this Act, the Administrator shall conduct an investigation to determine the effects on air safety of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(c) REPORT TO CONGRESS- Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the environmental impact statement and investigation conducted pursuant to this section. Such report shall also contain such recommendations for modification of the Expanded East Coast Plan as the Administrator considers appropriate or an explanation of why modification of such plan is not appropriate.

(d) IMPLEMENTATION OF MODIFICATIONS- Not later than 1 year after the date of the enactment of this Act, the Administrator shall implement modifications to the Expanded East Coast Plan recommended under subsection (c).

SEC. 3455. DECLARATION OF POLICY.

Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201) is amended--

(1) in paragraph (5) by inserting `, including as they may be applied between category and class of aircraft' after `discriminatory practices'; and

(2) in paragraph (13) by inserting `and should not unjustly discriminate between categories and classes of aircraft' after `attempted'.

SEC. 3456. CERTIFICATE TRANSFERS.

Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended--

(1) by redesignating the existing text as paragraph (1); and

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

`(2) The Secretary of Transportation shall, upon any such transfer, certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives that the transfer is consistent with the public interest.

`(3) For purposes of this subsection, a transfer of a certificate is consistent with the public interest if that transfer does not adversely affect:

(A) the viability of each of the carriers involved in the transfer;

(B) competition in the domestic airline industry, and

(C) the trade position of the United States in the international air transportation market.'.

SEC. 3457. SENSITIVE SECURITY INFORMATION.

Section 316(d)(2) of the Federal Aviation Act of 1958 (49 App. 1357(d)(2)) is amended--

(1) by inserting `security or' immediately before `research and development activities'; and

(2) by striking `subsection' and inserting in lieu thereof `title'.

SEC. 3458. REPORTS.

Section 107 (b) and (c) of the Federal Aviation Act of 1958 (49 App. 1307 (b) and (c)) is amended by striking `each April 1 thereafter' each place it appears and inserting in lieu thereof `through April 1, 1990'.

SEC. 3459. ATLANTIC CITY AIRPORT.

Section 312 of the Airport and Airway Safety and Capacity Expansion Act of 1987 (101 Stat. 1528) is repealed.

SEC. 3460. NATURAL DISASTER REGULATION.

The Federal Aviation Act of 1958 is amended by adding immediately after section 612 the following:

`SAFETY REGULATION

`SEC. 613. (a) NATIONAL DISASTER AREAS- Prior to the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Federal Aviation Administration, for safety and humanitarian reasons, shall issue such regulations as may be necessary to

prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

`(b) EXCEPTIONS- Regulations issued pursuant to subsection (a) shall not be applicable in the case of aircraft overflights involving an emergency or a ligitimate scientific purpose.

`(c) STATUS OF STUDIES- On or before the expiration of the 90-day period following the date of the enactment of this section, the Administrator of the Federal Aviation Administration shall report to the Congress on the status of the studies and reports required by Public Law 100-91 (101 Stat. 674 et seq.).'.

TITLE IV--COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A--Tongass Timber Reform

SEC. 4001. SHORT TITLE AND DEFINITION.

This subtitle may be cited as the `Tongass Timber Reform Act'.

SEC. 4002. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT ON THE TONGASS NATIONAL FOREST.

The Alaska National Interest Lands Conservation Act (Public Law 96-487, hereinafter in this subtitle referred to as `ANILCA') is hereby amended by deleting section 705(a) (16 U.S.C. 539d(a)) in its entirety and inserting in lieu thereof the following:

`SEC. 705. (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.'.

`(d) All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.'.

Subtitle B

SEC. 4110. SHORT TITLE- This subtitle may be cited as the `Uranium Enrichment Act of 1990'.

SEC. 4111. DELETION OF SECTION 161 v- Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 4112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES- The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by--

a. inserting at the commencement thereof after the words `ATOMIC ENERGY ACT OF 1954':

`TITLE I--ATOMIC ENERGY';

and

b. adding at the end thereof the following:

`TITLE II--UNITED STATES ENRICHMENT CORPORATION

`CHAPTER 21. FINDINGS

`SEC. 1101. FINDINGS- The Congress of the United States finds that:

`a. The enrichment of uranium is essential to the national security and energy security of the United States.

`b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

`c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

`d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

`e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

`f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

`g. Flexibility is essential to adapt business operations to a competitive marketplace.

`h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

`i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

`CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

`SEC. 1201. DEFINITIONS- For the purpose of this title:

`a. The term `Secretary' means the Secretary of Energy.

`b. The term `Department' means the Department of Energy of the United States.

`c. The term `Administrator' means the chief executive officer of the United States Enrichment Corporation.

`d. The term `Corporation' means the United States Enrichment Corporation.

`e. The term `Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

`f. The term `uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

`g. The term `remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

`h. The term `decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have

residual radioactive or mixed radioactive and hazardous chemical contamination.

`SEC. 1202. Establishment of the Corporation:

`a. There is hereby created a body corporate to be known as the `United States Enrichment Corporation'.

`b. The Corporation shall--

`(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

`(2) be an agency and instrumentality of the United States.

`SEC. 1203. PURPOSES- The Corporation is created for the following purposes--

`(1) to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

`(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

`(3) to market and sell enriched uranium and uranium enrichment and related services to--

`(A) the Department for governmental purposes; and

`(B) qualified domestic and foreign persons;

`(4) to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

`(5) to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

`(6) to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

`(7) to maintain a reliable and economical domestic source of enrichment services;

`(8) to conduct its activities in a manner consistent with the health and safety of the public;

`(9) to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

`(10) to take all other lawful action in furtherance of the foregoing purposes.

`CHAPTER 23. CORPORATE OFFICES

`SEC. 1301. CORPORATE OFFICES- The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

`CHAPTER 24. POWER AND DUTIES OF THE CORPORATION

`SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES- The Corporation--

`a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

`b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

`c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with--

`(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

`(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

`(3) as otherwise authorized by law;

`d. may--

`(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

`(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

`e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

`f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

`SEC. 1402. GENERAL POWERS OF THE CORPORATION- In order to accomplish the purposes of this title, the Corporation--

`a. shall have perpetual succession unless dissolved by Act of Congress;

`b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

`c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

`d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in

connection with their corporate activities;

`e. may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

`f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

`(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: Provided, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

`g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

`h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

`i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

`j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

`k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

`l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

`m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

`n. may define appropriate information as `Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

`o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

`p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

`q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

`r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this title: Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under section 1601 of this title.

`SEC. 1403. Continuation of Contracts, Orders, Proceedings, and Regulations:

`a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts, and the December 18, 1987, settlement agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

`b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

`c. Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

`SEC. 1404. LIABILITIES- Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

`CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

`SEC. 1501. Administrator:

`a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation: Provided, however, That upon enactment of this title, the President shall appoint in existing officer or employee of the United States to act as Administrator until the office is filled.

`b. The Administrator--

`(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

`(2) shall serve a term of six years but may be reappointed;

`(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

`(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503(c), except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

`(5) shall be a citizen of the United States;

`(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

`(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

`c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving--

`(A) the Nation's common defense and security; and

`(B) health, safety and the environment.

`(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

`SEC. 1502. DELEGATION- The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

`SEC. 1503. CORPORATE BOARD- There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility:

`a. (1) The specific responsibilities of the Corporate Board shall be to--

`(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

`(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

`(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's

own recommendation on removal of the Administrator.

`b. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers, and memoranda of, or in use by, the Corporation.

`c. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and up to ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504(a). The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504(a) during their term of employment, regardless of any recommendations received or not received under this title.

`d. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

`e. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

`f. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

`g. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

`h. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

`i. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

`(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such

response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

`SEC. 1504. EMPLOYEES OF THE CORPORATION- Officers and employees of the Corporation shall be officers and employees of the United States:

`a. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: Provided, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503(c) and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

`b. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

> *`(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.*
>
> *`(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.*

`c. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

`d. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

`e. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

`f. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

`SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION- In order to enable the Corporation to exercise the powers and duties vested in it by this title:

`a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following--

`(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: Provided, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: Provided further, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

`(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

`(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

`(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: Provided, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

`(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

`(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

`(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the

enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

`(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

`b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as `AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

`c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

`d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

`e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

`f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

`SEC. 1506. Capital Structure of the Corporation:

`a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

`b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to date of transfer. The Secretary of the Treasury shall hold such stock for the United States: Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

`(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

`c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the

investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

`d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the `Initial Debt'.

`e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt and the fees established under section 1701.c shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States of uranium enrichment activities prior to enactment of this title.

`SEC. 1507. Borrowing:

`a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as `bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

`(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

`(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding convenants with the holders of said bonds--and with the trustee, if any--under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

`(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

`b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for

purposes of the provisions of section 78c(c) of title 15, United States Code.

`c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

`SEC. 1508. PRICING:

`a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

`b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials, and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: Provided, however, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

`c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

`d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation beginning in fiscal year 1996 shall recover from its customers other than the Department in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505(a) at any time. The Corporation shall begin recovering such costs in prices and charges to the Department at such time as this title takes effect. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: Provided, That by the year 2000 the Corporation shall have

recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Corporate Fund and the Uranium Enrichment Decontamination and Decommissioning Base Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

`(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

`(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

`(4) With respect to property that has been used in the production of low-assay separative work,

> *`(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers or persons other than the Department in prices, charges and fees shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.*
>
> *`(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.*

`(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

`SEC. 1509. AUDITS- In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

`SEC. 1510. Reports:

`a. The Corporation shall prepare an annual report of its activities. This report shall contain--

> *`(1) a general description of the Corporation's operations;*
>
> *`(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and*

`(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

`b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

`SEC. 1511. CONTROL OF INFORMATION:

`a. The term `Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

`b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

`c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

`d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

`e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

`f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

`SEC. 1512. PATENTS AND INVENTIONS:

`a. The term `Commission' shall be deemed to include the Corporation wherever such term appears in section 152, 153b. (1), and 158 of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

`b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation,

and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

`c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

`d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, `any other licensee' in the first sentence thereof and within the phrase `such licensee' in the second sentence thereof.

`e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under section 181 of title 35, United States Code, through 187.

`f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

`g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

`CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

`SEC. 1601. Licensing:

`a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

`b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

`c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental

Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

`d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

`e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

`SEC. 1602. Exemption From Taxation and Payments in Lieu of Taxes:

`a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, beginning in fiscal year 1996, the Corporation is authorized and directed to make payments to State and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities, and income of the Corporation. All property of the Corporation its activities and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts and such income shall not be exempt from taxation.

`b. Beginning in fiscal year 1996, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

`(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: Provided, however, That there shall be excluded any amount that would be payable as a tax on net income.

`(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

`(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

`(4) Following the commencement of payments in fiscal year 1996, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this

title.

`c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: Provided, That no payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1996.

`d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

`SEC. 1603. Miscellaneous Applicability of Title I:

`a. Any references to the term `Commission' or to the Department in sections 105 b., 110 a., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230, and 232 of title I shall be deemed to include the Corporation.

`b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

`(1) The term `Commission' shall be deemed to refer to the Secretary;

`(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

`(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

`SEC. 1604. COOPERATION WITH OTHER AGENCIES- The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal or other local agencies.

`SEC. 1605. Applicability of Antitrust Laws:

`a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

`b. As used in this subsection, the term `antitrust laws' means:

`(1) The Act entitled: `An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1-7), as amended;

`(2) The Act entitled, `An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12-27), as amended;

`(3) Sections 73 and 74 of the Act entitled, `An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

`(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

`SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION- The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of section 170 of this Act.

`SEC. 1607. INTENT- It is hereby declared to be the intent of this title to aid

the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

`SEC. 1608. Report:

`a. Three years after enactment of this title or January, 1993, whichever is later, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

`b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

`CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

`SEC. 1701. Establishment:

`a. ESTABLISHMENT OF CORPORATE FUND- (1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Corporate Fund (hereinafter referred to in this chapter as the Corporate `Fund'). In accordance with section 1402(j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

`(2) The Corporate Fund shall consist of:

`(A) Amounts paid into it by the Corporation in accordance with section 1702. a.; and

`(B) Any interest earned under subsection (b)(2).

`b. ADMINISTRATION OF CORPORATE FUND- (1) The Secretary of the Treasury shall hold the Corporate Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Corporate Fund during the preceding fiscal year.

`(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

`(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

`(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

`(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Corporate Fund.

`c. ESTABLISHMENT OF FEE AND BASE FUND- (1) Beginning in fiscal year 1991 and lasting through fiscal year 1995, each licensee of a civilian nuclear

power reactor shall pay a fee of .20 mills per kilowatt hour of net electricity generated by such reactor. Such fee shall be collected by the Corporation and is established for purposes of reimbursing the Corporation for the costs of decontaminating and decommissioning uranium enrichment facilities of the Corporation which costs are attributable to the provision of separative work and other enrichment products, materials and services to commercial customers prior to the enactment of this title.

`(2) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Base Fund (hereinafter referred to in this chapter as the `Base Fund'). Notwithstanding any other provision of law, the Base Fund and all monies deposited therein shall be subject to appropriation and shall be made available exclusively to the Corporation for purposes of carrying out the purposes of this chapter.

`(3) The Base Fund shall consist of:

`(A) Amounts paid into it by the Corporation in accordance with section 1702.b.; and

`(B) Any interest earned under subsection d.(2).

`d. ADMINISTRATION OF BASE FUND- (1) The Secretary of the Treasury shall hold the Base Fund and annually report to the Congress on the financial condition and operations of the Base Fund during the preceding fiscal year.

`(2) The Secretary of the Treasury shall invest amounts contained within such Base Fund in obligations of the United States:

`(A) Having maturities determined by the Secretary of the Treasury, in consultation with the Corporation to be appropriate to the needs of the Base Fund; and

`(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

`(3) The Secretary of the Treasury shall sell such obligations and credit the proceeds to the Base Fund as made necessary by appropriations out of the Base Fund to the Corporation.

`SEC. 1702. DEPOSITS- a. Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Corporate Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

`b. As soon as practicable following enactment of this title, the Corporation shall establish procedures for the collection and payment of fees established under section 1701.c. Such fees shall be paid by licensees on a quarterly basis during each fiscal year and upon receipt by the Corporation shall be deposited in the Base Fund.

`SEC. 1703. Performance and Disbursements:

`a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

`b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Corporate Fund and such amounts as are appropriated to it out of the Base Fund.

SEC. 4113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED

FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS- The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 4114. MISCELLANEOUS PROVISIONS- (a) Section 9101(3) of title 31, United States Code (relating to the definition of `wholly-owned Government corporation') is amended by adding at the end of the following: `(N) United States Enrichment Corporation.'.

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word `or' appearing before the numeral `(2)' is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: `or (3) are owned by the United States Enrichment Corporation.'.

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word `or' is inserted before the word `grant' and the phrase `or through the provision of production or enrichment services' is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended:

(1) By adding before the period at the end of the definition of the term `production facility' in section 11 v. a colon and the following: `Provided, however, That as the term is used in chapters 10 and 16 of this Act, other than with respect to export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235';

(2) By striking the period at the end of section 161 b. and adding the following: `; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;';

(3) By striking the phrase `section 103 or 104' in section 41 a. (2) and inserting in lieu thereof `this title'; and

(4) In section 236 by striking the word `or' following paragraph (2) and adding after paragraph (3) `or (4) any uranium enrichment facility licensed by the Commission;'.

(5) In section 318(1) by striking the period after `activities' and by adding the following:

`(D) any facility owned by the United States Enrichment Corporation.'.

(e) Subsection 905(g)(1) of title II, United States Code, is amended to include `United States Enrichment Corporation' at the end thereof.

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

SEC. 4115. LIMITATION ON EXPENDITURES- (a) Notwithstanding any other provision of law, for fiscal year 1991 total expenditures of the United States Enrichment Corporation other than payments in lieu of taxes and intragovernmental transfers shall not exceed $1,289,000,000 and the Corporation shall pay into miscellaneous receipts of the Treasury of the United States dividends in the amount of at least $21,000,000.

(b) Notwithstanding any other provision of law, during fiscal years 1992 through 1995 total expenditures of the United States Enrichment Corporation other than payments in lieu of taxes and intragovernmental transfers shall not exceed an amount which is $323,000,000 less than total receipts from commercial customers during such years, and during such years the Corporation shall pay into miscellaneous receipts of the Treasury of the United States dividends in the amount of at least $323,000,000.

SEC. 4116. SEVERABILITY- In any provision of this subtitle, or the application of any provisions to any entity, person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, the remainder of this subtitle, or the application of the same shall not be thereby affected.

SEC. 4117. EFFECTIVE DATE- Except as otherwise provided, all provisions of this subtitle shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this act; Provided, however, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 (a) of the Atomic Energy Act of 1954, as amended by this Act and previous Acts.

Subtitle C

CHAPTER 1--SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

SEC. 4201. TITLE.

This subtitle may be cited as the `Uranium Security and Tailings Reclamation Act of 1989'.

SEC. 4202. FINDINGS AND PURPOSE.

(a) FINDINGS- The Congress finds for purposes of this subtitle that--

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found `not viable' by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to--

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat

from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners of licensees of active uranium and thorium sites and the Federal Government have each benefited from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and

(B) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE- It is the purpose of Chapters 2 and 3 of this subtitle to--

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 4203. DEFINITIONS.

For purposes of this subtitle--

(1) the term `active site' means--

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore--

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be--

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) the term `byproduct material' has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term `civilian nuclear power reactor' means any civilian nuclear

powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term `Corporation' means the United States Enrichment Corporation established under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term `Department' means the Department of Energy;

(6) the term `domestic uranium' means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term `domestic uranium producer' means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term `enrichment tails' means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term `reclamation, decommissioning, and other remedial action' includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term `Secretary' means the Secretary of Energy;

(11) the terms `source material' and `special nuclear material' have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term `tailings' means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

CHAPTER 2--URANIUM REVITALIZATION

SEC. 4210. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term `overfeeding' means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to

the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 4211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be retricted to military purposes and Government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 4212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium; Provided, however, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT- The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 4213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: Provided, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 4214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

CHAPTER 3--REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

SEC. 4220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL- Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT-

(1) IN GENERAL- The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are--

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT-

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES- The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES- Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES- Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX- The amounts in subsections (A), (B), and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT- Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 4222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 4221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 4220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by

reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 4220.

SEC. 4222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this chapter not more than $300,000,000 increased annually as provided in section 4220 based upon an inflation index as determined by the Secretary.

TITLE V--COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 5001. FEES OF THE ENVIRONMENTAL PROTECTION AGENCY- (a) The Administrator of the Environmental Protection Agency shall assess and collect fees and charges for services and activities carried out pursuant to the statutes which are administered by the Agency in the amount of $22,000,000 for the fiscal year 1991, and $33,000,000 in each of the fiscal years 1992, 1993, 1994, and 1995. Such sums shall be in addition to the sums the Agency is collecting for services or activities upon the date of enactment of this Act. The amount of any fee or charge assessed pursuant to this section shall be established by rule after notice and opportunity for public comment. Publicly owned wastewater treatment works shall not be required to pay a fee associated with discharge permits required pursuant to section 402 of the Federal Water Pollution Control Act.

(b) Except as may otherwise be specifically provided by law with regard to fees and charges, and their deposit and retention, any fees and charges established and collected by the Administrator of Environmental Protection Agency pursuant to this section or other statutes administered by the Agency shall be deposited in a special fund in the United States Treasury which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fee or charge is made.

NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES

SEC. 5002. (a) AMENDMENT TO ATOMIC ENERGY ACT- Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by adding at the end the following new section:

`SEC. 292. USER FEES AND ANNUAL CHARGES.

`(a) ANNUAL ASSESSMENT-

`(1) AMOUNT- Except as provided in subparagraph (3), the Nuclear Regulatory Commission (hereinafter in this section referred to as the Commission) shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority for the Commission's Salaries and Expenses in the fiscal year in which such assessment is made, less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

`(2) FIRST ASSESSMENT- The first assessment shall be made not later than September 30, 1991, and shall be based on the Commission's Salaries and Expenses budget authority for fiscal year 1991.

`(3) LAST ASSESSMENT- The last assessment of annual charges as described in subsection (c) shall be made not later than September 30, 1995, and shall be based on the Commission's Salaries and Expenses budget authority for fiscal year 1995.

`(b) FEES FOR SERVICE OR THING OF VALUE- Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in

providing any such service or thing of value.

`(c) Annual Charges-

`(1) PERSONS SUBJECT TO CHARGE- Any person who holds a license from the Commission may be required to pay, in addition to the fees set forth in subsection (b), an annual charge.

`(2) AGGREGATE AMOUNT OF CHARGES- The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority for the Commission's Salaries and Expenses in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

`(3) AMOUNT PER LICENSEE- The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). To the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

`(d) DEFINITION- As used in this section, `Nuclear Waste Fund' means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).'.

(b) REPEAL- Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), as amended, is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing section 292 of the Atomic Energy Act of 1954.

(c) TABLE OF CONTENTS- The table of contents of the Atomic Energy Act of 1954 is amended by adding after the term relating to section 291 the following new item:

`Sec. 292. User fees and annual charges.'.

SEC. 5003. RECREATION USER FEES AT WATER RESOURCES DEVELOPMENT AREAS ADMINISTERED BY THE DEPARTMENT OF THE ARMY.

(a) The second sentence of section 210 of the Flood Control Act of 1968 (82 Stat. 746; 16 U.S.C. 4604-3) is amended to read:

`Notwithstanding section 460 of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4604-6a(b)), the Secretary of the Army is authorized to charge fees for the use of specialized recreation sites and facilities, including, but not limited to, improved campsites, swimming beaches, and boat launching ramps; however, the Secretary shall not charge fees for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, toilet facilities, or general visitor information. The fees shall be deposited into the special Treasury account for the Corps of Engineers that was established by section 460 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4604-6a(b)).

(b) Section 4 of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4604-4(a)), as further amended by deleting the next to the last sentence of subsection (b).

TITLE VI--NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

SEC. 6000. AMENDMENT OF THE SOCIAL SECURITY ACT, TABLE OF CONTENTS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT- 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 Social Security Act.

(b) Table of Contents-

Subtitle A--Income Security

PART I--CHILD SUPPORT ENFORCEMENT

SEC. 6001. IRS INTERCEPT FOR NON-AFDC FAMILIES.

(a) AUTHORITY OF STATES TO REQUEST WITHHOLDING OF FEDERAL TAX REFUNDS FROM PERSONS OWING PAST DUE CHILD SUPPORT- Section 464(a)(2)(B) (42 U.S.C. 664(a)(2)(B)) is amended by striking `, and before January 1, 1991' before the period.

(b) WITHHOLDING OF FEDERAL TAX REFUNDS AND COLLECTION OF PAST DUE CHILD SUPPORT ON BEHALF OF DISABLED CHILD OF ANY AGE, AND OF SPOUSAL SUPPORT INCLUDED IN ANY CHILD SUPPORT ORDER- Section 464(c) (42 U.S.C. 664(c)) is amended--

(1) in paragraph (2), by striking `minor child.' and inserting `qualified child (or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent).'; and

(2) by adding at the end the following:

`(3) For purposes of paragraph (2), the term `qualified child' means a child--

`(A) who is a minor; or

`(B)(i) who, while a minor, was determined to be disabled under title II or XVI; and

`(ii) for whom an order of support is in force.'.

(c) EFFECTIVE DATE- The amendments made by subsection (b) shall take effect on January 1, 1991.

SEC. 6002. COMMISSION ON INTERSTATE CHILD SUPPORT.

Section 126 of the Family Support Act of 1988 (Public Law 100-485) is amended--

(1) in subsection (d)--

(A) by striking `1990' in paragraph (1) and inserting `1991'; and

(B) by striking `May 1, 1991' in paragraph (2) and inserting `May 1, 1992';

(2) in subsection (e), by adding at the end thereof the following new paragraph:

`(5)(A) Individuals may be appointed to serve the Commission without regard to the provisions of title 5 that govern appointments in the Competitive Service, without regard to the Competitive Service, and without regard to the Classification System in chapter 53 of title 5, United States Code. The Chairman of the Commission may fix the compensation of the Executive Director at a rate that shall not exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

`(B) The Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the Competitive Service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

`(C) On the request of the Chairperson of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section without regard to section 3341 of title 5, United States Code.'; and

(3) in subsection (f)(1), by striking `July 1, 1991' and inserting `July 1, 1992'.

PART II--SUPPLEMENTAL SECURITY INCOME

SEC. 6010. CONTINUATION OF MEDICAID ELIGIBILITY UNDER SECTION 1619(b) PAST AGE 65.

(a) IN GENERAL- Paragraph (1) of section 1619(b) (42 U.S.C. 1382h(b)) is amended in the matter preceding subparagraph (A) by striking `under age 65'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply with respect to benefits payable for months beginning after the date of the enactment of this Act.

SEC. 6011. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES.

(a) IN GENERAL- Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking `(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act.

SEC. 6012. TREATMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL- Section 1612(a) (42 U.S.C. 1382a(a)) is amended--

(1) in paragraph (1)--

(A) in subparagraph (C), by striking `; and' at the end of the subparagraph and inserting a semicolon; and

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

`(E) any royalty which is earned in connection with any publication of the work of an individual or any portion of any honorarium which is received for services rendered; and'; and

(2) in subparagraph (F) of paragraph (2), by inserting before the period `, other than royalties described in paragraph (1)(E) of this subsection'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply with respect to benefits for months beginning on or after the first day of the 18th calendar month following the month in which this Act is enacted.

SEC. 6013. EVALUATION BY PEDIATRICIAN IN CHILD DISABILITY DETERMINATIONS.

Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following new subparagraph:

`(H) In making determinations with respect to disability of a child under the age of 18 under this title, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of such child (as determined by the Secretary) evaluates the case of such child.'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to determinations made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6014. CONCURRENT SSI AND FOOD STAMP APPLICATIONS BY INSTITUTIONALIZED INDIVIDUALS.

Section 1631(m) (42 U.S.C. 1383(m)) is amended by striking the second sentence and inserting the following new sentence: `The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this subsection shall also be permitted to apply at the same time for participation in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).'.

SEC. 6015. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL- (1) Section 1615(d) (42 U.S.C. 1382d(d)) is amended by inserting immediately after the first sentence the following: `In such cases the reimbursement may include costs incurred for any month for which the individual received a benefit under this title (including assistance pursuant to section 1619(b)), received a federally administered State supplementary payment, or was ineligible (for a reason other than cessation of disability or blindness) to receive a benefit pursuant to section 1611, an agreement under section 1616(a), section 1619, and an agreement under section 212(b) of Public Law 93-66, but only for months prior to the thirteenth consecutive month of ineligibility.'.

(b) EFFECTIVE DATE- The amendment made by this section shall be effective on the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

SEC. 6016. CERTAIN NON-CASH CONTRIBUTIONS RECEIVED BY RECIPIENTS OF SSI BENEFITS EXCLUDED FROM INCOME.

(a) CONTRIBUTIONS (OTHER THAN CASH PAID DIRECTLY TO THE RECIPIENT) MADE TO OBTAIN SOCIAL SERVICES OR FOR MAINTENANCE OF HOME- (1) Section 1612(b) (42 U.S.C. 1382a(b)) is amended--

(A) by striking `and' at the end of paragraph (15);

(B) by striking the period at the end of paragraph (16) and inserting a semicolon; and

(C) by inserting after paragraph (16) the following;

`(17) contributions other than cash paid directly to the recipient which are not in the form of food, clothing, or shelter, or may not be used to obtain food, clothing, or shelter and are for the purchase of--

`(A) any service, including those which are--

`(i) designed to assist an eligible individual who has any physical or mental impairment to function in society on a level comparable to that of an individual who is not so impaired; and

`(ii) provided by a recognized social services or educational agency, whether governmental or private, and whether nonprofit or operated for profit;

`(B) vocational rehabilitation services;

`(C) private medical insurance coverage where the private insurer is to be the first payor;

`(D) medical care;

`(E) transportation;

`(F) educational services (including continuing adult education, postsecondary education, and vocational education), including books, tuition, laboratory fees, and any other costs related to education except those for room and board;

`(G) personal assistance or attendant care services; or

`(H) services or equipment related to the quality and liveability of the individual's shelter and which are not for the purposes of rent, mortgage, real property taxes, garbage collection and sewerage services, water, heating fuel, electricity, or gas; but permissible contributions include--

`(i) payment for telephone services;

`(ii) payment for repairs to shelter;

`(iii) payment for repairs or replacement of heating source in shelter; and

`(iv) purchase of any appliance, if such purchase will not result in the individual's household goods exceeding the amount which has been determined by the Secretary to be reasonable under section 1613(a)(2)(A).'.

(2) The amendments made by paragraph (1) shall apply to determinations of income made in months following the date of the enactment of this Act.

(b)(1) RULES GOVERNING CIRCUMSTANCES UNDER WHICH CONTRIBUTION OF A SHELTER IS TO BE COUNTED AS INCOME- Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended--

(A) in subparagraph (E), by striking `; and' and inserting `, except that receipt of any sum or property as a result of inheritance, gift, or support shall be treated as income only in the month in which the individual legally has access to the funds to use for the individual's own benefit;';

(B) in subparagraph (F), by striking the period and inserting `; and'; and

(C) by inserting at the end the following:

`(G) the value of an ownership interest in a shelter received, but the value of such interest shall be included in income only in the month of receipt and pursuant to the following rules:

`(i) If the individual resides in the shelter at the time of the conveyance, the limitations established by the Secretary for presuming a maximum value for in-kind support shall apply.

`(ii) If the individual does not reside in the shelter at the time of the conveyance, the full value of the interest shall be income in the month of receipt.'.

(2) The amendments made by paragraph (1) shall apply to determinations of income made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6017. CERTAIN TRUSTS NOT TO BE COUNTED AS A RESOURCE AVAILABLE TO THE RECIPIENT; TRUST NOT INCOME IN MONTH IN WHICH IT IS ESTABLISHED.

(a) CIRCUMSTANCES UNDER WHICH TRUST CREATED FOR BENEFIT OF RECIPIENT SHALL NOT BE COUNTED AS A RESOURCE- Section 1613(a) (42 U.S.C. 1382b(a)) is amended--

(1) by striking `and' at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting `, and'; and

(3) by inserting after paragraph (8) the following:

`(9) any amount set aside in a trust or similar legal device, either by the individual or on behalf of the individual, for the purpose of providing assistance to the individual, so long as the individual does not have access to the assets of the trust. An individual does not have access to assets held in a trust if the trustee, and not the individual, has the discretion to determine when such assets ought to be distributed to or for such individual and the amount of any such distribution. The authority for discretion by the trustee to use the assets of the trust for the support and maintenance of the individual, or to supplement any benefits available to the individual under title XVI or other public benefits, shall not mean that the individual has access to these assets. The fact that the trustee is also the representative payee for the individual or relative of the individual shall not be construed as causing trust assets to be accessible to the individual if all the other requirements of this subsection are satisfied.'.

(b) CREATION OF TRUST NOT TO BE COUNTED AS INCOME IN MONTH OF CREATION; LATER PLACEMENT OF FUNDS OR PROPERTY IN THE TRUST ALSO NOT COUNTED AS INCOME- (1) Section 1612(b) (42 U.S.C. 1382a(b)) is amended--

(A) by striking `and' at the end of the paragraph (16),

(B) by striking the period at the end of the paragraph (17) added by section 6016(a)(1)(C) of this Act and inserting `; and'; and

(C) by inserting after the paragraph (17) added by section 6016(a)(1)(C) of this Act the following:

`(18) any funds or other property placed in a trust for the benefit of the individual over which the individual has no discretion as to use shall not be treated as income either at the time of creation of the trust or if placed in the trust after its creation.'.

(2) The amendments made by paragraph (1) shall apply to determinations of income made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6018. NOTIFICATION OF CERTAIN INDIVIDUALS ELIGIBLE TO RECEIVE RETROACTIVE BENEFITS.

In notifying individuals of their eligibility to receive retroactive benefits under Sullivan v. Zebley, 110 S. Ct. 2658 (1990), the Secretary shall include written notice, in language that is easily understandable, explaining--

(1) the 6-month limitation on the exclusion from resources under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(2) the potential effects under title XVI of the Social Security Act, attributable to the receipt of such payment, including--

(A) potential discontinuation of eligibility; and

(B) potential reductions in the amount of benefits;

(3) the possibility of establishing a supplemental security income (SSI) special needs trust account that--

(A) designates the individual for whom such payment is made as the beneficiary; and

(B) may not be considered as income or resources for the purposes of this title; and

(4) that legal assistance in establishing such a trust may be available through legal referral services offered by a State or local bar association, or through the Legal Services Corporation.

PART III--AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 6020. OPTIONAL MONTHLY REPORTING AND RETROSPECTIVE BUDGETING.

(a) OPTIONAL MONTHLY REPORTING- Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended--

(1) by striking `with respect to' and all that follows through `(A) provide' and insert `provide, at the option of the State and with respect to such category or categories as the State may select and identify in its State plan (A)';

(2) by striking `(with the prior approval of the Secretary in recent work history and earned income cases)'; and

(3) by striking `upon a determination' and all that follows through `paragraph'.

(b) OPTIONAL RETROSPECTIVE BUDGETING- Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended by striking all that precedes subparagraph (A) and inserting the following:

`(13) at the option of the State, provide that--'.

(c) EFFECTIVE DATE- The amendments made by this section shall take effect with respect to reports pertaining to, or aid payable for, months beginning in or after October 1990.

SEC. 6021. CHILDREN RECEIVING FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS NOT TREATED AS MEMBER OF FAMILY UNIT FOR PURPOSES OF DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, AFDC BENEFIT.

(a) IN GENERAL- Part A of title IV (42 U.S.C. 601 et seq.) is amended by inserting after section 408 the following new section:

`EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.

`SEC. 409. Notwithstanding any other provision of this title, a child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of benefits of the family under this part, and the income and resources of such child shall be excluded from the income and resources of a family under this part unless, in the case of a child with respect to whom adoption assistance payments are so made, such exclusion would reduce the benefits of the family under this part.'.

(b) CONFORMING REPEAL- Section 478 (42 U.S.C. 678) is hereby repealed.

(c) EFFECTIVE DATE- The amendment made by subsection (a) and the repeal made by subsection (b) shall take effect on the first day of the first month beginning after the date that is 6 months after the date of the enactment of this Act.

SEC. 6022. ELIMINATION OF TERM LEGAL GUARDIAN.

(a) IN GENERAL- Section 402(a)(39) (42 U.S.C. 602(a)(39)) is amended--

(1) by striking `or legal guardian'; and

(2) by striking `or legal guardians'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6023. REPORTING OF CHILD ABUSE AND NEGLECT.

(a) CONCERNING AFDC APPLICANTS AND RECIPIENTS-

(1) IN GENERAL- Section 402(a)(16) (42 U.S.C. 602(a)(16)) is amended to read as follows:

`(16) provide that the State agency will--

`(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

`(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;'.

(2) CONFORMING AMENDMENTS- Section 402(a)(9) (42 U.S.C. 602(a)(9)) is amended--

(A) in subparagraph (C), by striking `and'; and

(B) by inserting `, and (E) reporting and providing information pursuant to paragraph (16) to appropriate authorities with respect to known or suspected child abuse or neglect' before the 1st semicolon.

(b) CONCERNING RECIPIENTS OF FOSTER CARE OR ADOPTION ASSISTANCE-

(1) IN GENERAL- Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended to read as follows:

`(9) provide that the State agency will--

`(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

`(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;'.

(2) CONFORMING AMENDMENTS- Section 471(a)(8) (42 U.S.C. 671(a)(8)) is amended--

(A) in subparagraph (C), by striking `and'; and

(B) by inserting `, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect' before the 1st semicolon.

(c) EFFECTIVE DATE- The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6024. DISCLOSURE OF INFORMATION ABOUT AFDC APPLICANTS AND RECIPIENTS AUTHORIZED FOR PURPOSES DIRECTLY CONNECTED TO STATE FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL- Section 402(a)(9)(A) (42 U.S.C. 602(a)(9)(A)) is amended by striking `or D' and inserting `, D, or E'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6025. REPATRIATION.

(a) IN GENERAL- Section 1113 of the Social Security Act (42 U.S.C. 1313), as amended by section 140 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended--

(1) in subsection (d), by striking `on or after October 1, 1989' and inserting `after September 30, 1991'; and

(2) by adding at the end thereof the following new subsection:

`(e)(1) The Secretary may accept on behalf of the United States gifts, in cash or in kind, for use in carrying out the program established under this section. Gifts in the form of cash shall be credited to the appropriation account from which this program is funded, in addition to amounts otherwise appropriated, and shall remain available until expended.

`(2) Gifts accepted under paragraph (1) shall be available for obligation or other use by the United States only to the extent and in the amounts provided in appropriation Acts.'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall be effective for fiscal years beginning after September 30, 1989.

SEC. 6026. GOOD CAUSE EXCEPTION TO REQUIRED COOPERATION FOR TRANSITIONAL CHILD CARE BENEFITS.

(a) IN GENERAL- Section 402(g)(1)(A)(vi)(II) (42 U.S.C. 602(g)(1)(A)(vi)(II)) is amended by inserting `, without good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child for whom child care is to be provided' before the period.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6027. TECHNICAL CORRECTION REGARDING PENALTY FOR FAILURE TO PARTICIPATE IN JOBS PROGRAM.

(a) IN GENERAL- Section 407(b)(1)(B)(iii) (42 U.S.C. 607(b)(1)(B)(iii)) is amended--

(1) before the dash, in the matter preceding subclause (I), by striking `child or relative specified in subsection (a)' and inserting `parent described in subparagraph (A)(i) and to any spouse of such parent (unless such spouse is participating in a program under part F)'; and

(2) in subclause (I), by striking `if and for so long as such child's parent described in subparagraph (A)(i)' and inserting `if and for so long as such parent'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6028. TECHNICAL CORRECTION REGARDING AFDC-UP ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL- Section 407(d)(1) (42 U.S.C. 607(d)(1)) is amended--

(1) by striking `a calendar quarter (A)' and inserting `(A) a calendar quarter';

(2) by striking `or' at the end of subparagraph (A); and

(3) by inserting `, and (C) a calendar quarter ending before October 1990 in which such individual participated in a community work experience program under section 409 (as in effect immediately before October 1, 1990) or the work incentive program established under part C (as in effect immediately before such date)' before the semicolon.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6029. TECHNICAL AMENDMENTS TO NATIONAL COMMISSION ON CHILDREN.

Section 1139(d) (42 U.S.C. 1320b-9(d)) is amended in the matter preceding paragraph (1), by striking `an interim report no later than March 31, 1991, and a final report no later than September 30, 1990' and inserting `an interim report no later than September 30, 1990, and a final report no later than March 31, 1991'.

SEC. 6030. FAMILY SUPPORT ACT DEMONSTRATION PROJECTS.

Section 505 of the Family Support Act of 1988 is amended--

(1) in subsection (a), by inserting `in each of the fiscal years 1990, 1991, and 1992,' before `shall'; and

(2) in subsection (e), by striking `September 30, 1989' and inserting `September 30 of the fiscal year specified in the agreement described in subsection (a)'.

SEC. 6031. STUDY OF JOBS PROGRAMS OPERATED BY INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS.

(a) IN GENERAL- Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States (hereafter in this

section referred to as the `Comptroller') shall conduct a study of the implementation of section 482(i) of the Social Security Act (42 U.S.C. 682(i)) relating to job opportunities and basic skills training programs (hereafter in this section referred to as `JOBS programs') operated by Indian tribes and Alaskan Native organizations (as defined in paragraph (5) of such section 482(i)).

(b) REQUIREMENTS FOR STUDY- In conducting the study described in subsection (a) the Comptroller shall--

(A) identify any problems associated with the implementation of section 482(i) of the Social Security Act; and

(B) assess (to the extent practicable) the effectiveness of the JOBS programs operated by Indian tribes and Alaskan Native organizations.

(c) REPORT- Upon completion of the study described in subsection (a), the Comptroller shall submit a report to the appropriate committees of the Congress that includes--

(A) a summary of the findings of the study; and

(B) recommendations with respect to proposed legislation or changes in administrative policy to improve the effectiveness of JOBS programs conducted pursuant to section 482(i) of the Social Security Act.

SEC. 6032. PROPOSED EMERGENCY ASSISTANCE AND AFDC SPECIAL NEEDS REGULATIONS.

Subsection (c) of section 8005 of the Omnibus Budget Reconciliation Act of 1989 is amended by striking `1990' and inserting `1991'.

PART IV--CHILD WELFARE AND FOSTER CARE

SEC. 6040. CLARIFICATION OF TERMINOLOGY RELATING TO ADMINISTRATIVE COSTS.

(a) IN GENERAL- Paragraph (3) of section 474(a) (42 U.S.C. 674(a)(3)) is amended by inserting `provision of child placement services and for the' before `proper and efficient'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6041. SECTION 427 TRIENNIAL REVIEWS.

(a) AMENDMENTS TO SECTION 10406 OF OBRA 1989- Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note) is amended--

(1) by striking `1991' and inserting `1992';

(2) by striking `1990' and inserting `1991'; and

(3) in the section heading, by striking `1990' and inserting `1991'.

(b) CONFORMING AMENDMENT- The item relating to section 10406 in the table of contents appearing immediately after section 10000 of such Act is amended by striking `1990' and inserting `1991'.

SEC. 6042. INDEPENDENT LIVING INITIATIVES.

(a) IN GENERAL- Subparagraph (C) of section 477(a)(2) (42 U.S.C. 677(a)(2)) is amended--

(1) by inserting `who has not attained age 21' after `may at the option of the State also include any child'; and

(2) by striking `, but such child' and all that follows through `care'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall apply to payments made under part E of title IV of the Social Security Act for fiscal years beginning with fiscal year 1991.

SEC. 6043. GRANTS TO STATES FOR CHILD CARE.

(a) RULES GOVERNING PROVISION OF CHILD CARE TO ELIGIBLE FAMILIES- Section 402 (42 U.S.C. 602) is amended by adding at the end the following:

`(i)(1) Each State agency may, to the extent that it determines that resources are available, provide child care in accordance with paragraph (2) to any low income family that the State determines is not eligible for aid under the State plan approved under this part, needs such care in order to work, and would be at risk of becoming eligible for aid under the State plan approved under this part if such care were not provided.

`(2) The State agency may provide child care pursuant to paragraph (1) by--

`(A) providing such care directly;

`(B) arranging such care through providers by use of purchase of service contracts or vouchers;

`(C) providing cash or vouchers in advance to the caretaker relative in the family;

`(D) reimbursing the caretaker relative in the family; or

`(E) adopting such other arrangements as the agency deems appropriate.

`(3)(A) A family provided with child care under paragraph (1) shall contribute to such care in accordance with a sliding scale formula established by the State agency based on the family's ability to pay.

`(B) The State agency shall make payment for the cost of child care provided under paragraph (1) with respect to a family in an amount that is the lesser of--

`(i) the actual cost of such care; and

`(ii) the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

`(4) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this subsection--

`(A) shall not be treated as income or as a deductible expense for purposes of any other Federal or federally assisted program that bases eligibility for or amount of benefits upon need; and

`(B) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

`(5) Amounts expended by the State agency for child care under paragraph (1) shall be treated as amounts for which payment may be made to a State under section 403(n) only to the extent that--

`(A) such amounts are, subject to paragraph (3)(B), within such limits as the State may prescribe;

`(B) the care involved meets applicable standards of State and local law; and

`(C) the entity providing the care allows parental access.

`(6)(i) Each State shall prepare reports annually, beginning with fiscal year

1993, on the activities of the State carried out with funds made available under section 403(n).

`(ii) The State shall make copies of each report required by this paragraph available for public inspection within the State, shall transmit a copy of each such report to the Secretary, and shall provide a copy of each such report, on request, to any interested public agency.

`(iii) The Secretary shall annually compile the State reports transmitted to the Secretary pursuant to clause (ii), and submit such annual compilation to the Congress.

`(B) Each report prepared and transmitted by a State under subparagraph (A) shall set forth with respect to child care services funded under section 403(n)--

`(i) showing separately for center-based child care services, group home child care services, family child care services, and relative care services the number of children who received such services, and the average cost of such services;

`(ii) the criteria applied in determining eligibility or priority for receiving services, and sliding fee schedules;

`(iii) the child care licensing and regulatory (including registration) requirements in effect in the State with respect to each type of service specified in clause (i); and

`(iv) the enforcement policies and practices in effect in the State which apply to licensed and regulated child care providers (including providers required to register).

`(C) Within 12 months after the date of the enactment of this subsection, the Secretary shall establish uniform reporting requirements for use by the States in preparing the information required by this paragraph, and make such other provision as may be necessary or appropriate to ensure that compliance with this subsection will not be unduly burdensome on the States.

`(D) The Secretary shall issue an interim report on the matters described in subparagraphs (A) and (B) with respect to fiscal year 1992, based on information made available by the States.

(b) PAYMENTS TO STATES- Section 403 (42 U.S.C. 603) is amended by adding at the end the following:

`(n)(1) In addition to any payment under subsection (a) or (l), each State shall be entitled to payment from the Secretary of an amount equal to the lesser of--

`(A) the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State in providing child care pursuant to section 402(i) for any fiscal year; and

`(B) the amount determined under paragraph (2) with respect to the State for the fiscal year.

`(2)(A) The limitation determined under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (B) for such fiscal year as the number of children residing in the State in the second preceding fiscal year bears to the number of children residing in the United States in the second preceding fiscal year.

`(B) The amount specified in this subparagraph is--

`(i) $65,000,000 for fiscal year 1991;

`(ii) $65,000,000 for fiscal year 1992;

`(iii) $65,000,000 for fiscal year 1993;

`(iv) $65,000,000 for fiscal year 1994; and

`(v) $65,000,000 for fiscal year 1995, and for each fiscal year thereafter.'.

(c) INCREASE AND EXTENSION OF GRANTS TO STATES TO IMPROVE CHILD CARE LICENSING AND REGISTRATION REQUIREMENTS, AND TO MONITOR CHILD CARE PROVIDED TO CHILDREN RECEIVING AFDC- Section 402(g)(6)(D) (42 U.S.C. 602(g)(6)(D)) is amended by inserting `, and $35,000,000 for each of fiscal years 1992, 1993, and 1994' before the period.

(e) COORDINATION WITH OTHER PROGRAMS FOR CHILDREN- Section 402(g)(7) (42 U.S.C. 602(g)(7)) is amended by inserting `and subsection (i)' after `this subsection'.

(f) EFFECTIVE DATE- Except as otherwise expressly provided, the amendments made by this section shall take effect on October 1, 1990.

PART V--OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

SEC. 6050. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 (42 U.S.C. 423(g)) is amended--

(1) in paragraph (1)(i), in the matter following subparagraph (C), by inserting `or' after `hearing,', and by striking `pending, or (iii) June 1991.' and inserting `pending.'; and

(2) by striking paragraph (3).

SEC. 6051. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL- Section 223(d)(2) (42 U.S.C. 423(d)(2)) is amended--

(1) in subparagraph (A), by striking `(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) or (f))';

(2) by striking subparagraph (B); and

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

(b) CONFORMING AMENDMENTS-

(1) The third sentence of section 216(i)(1) (42 U.S.C. 416(i)(1)) is amended by striking `(2)(C)' and inserting `(2)(B)'.

(2) Section 223(f)(1)(B) (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:

`(B) the individual is now able to engage in substantial gainful activity; or'.

(3) Section 223(f)(2)(A)(ii) of such Act (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:

`(ii) the individual is now able to engage in substantial gainful activity, or'.

(4) Section 223(f)(3) of such Act (42 U.S.C. 423(f)(3)) is amended by striking `therefore--' and all that follows and inserting `therefore the individual is able to engage in substantial gainful activity; or'.

(5) Section 223(f) of such Act is further amended, in the matter following paragraph (4), by striking `(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)' each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY-

(1) DETERMINATION OF MEDICAID ELIGIBILITY- Section 1634(d) (42 U.S.C. 1383c(d)) is amended--

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking `(d) If any person--' and inserting `(d)(1) This subsection applies with respect to any person who--';

(C) in subparagraph (A) (as redesignated), by striking `as required' and all that follows through `but not entitled' and inserting `being then not entitled';

(D) in subparagraph (B) (as redesignated), by striking the comma at the end and inserting a period; and

(E) by striking `such person shall' and all that follows and inserting the following new paragraph:

`(2) For purposes of title XIX, each person with respect to whom this subsection applies--

`(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

`(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.'.

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD-

(A) WIDOW'S BENEFITS BASED ON DISABILITY- Section 202(e)(5) (42 U.S.C. 402(e)(5)) is amended--

(i) in subparagraph (B), by striking `(i)' and `(ii)' and inserting `(I)' and `(II)', respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting `(A)' after `(5)'; and

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

`(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a)

(or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.'.

(B) WIDOWER'S BENEFITS BASED ON DISABILITY- Section 202(f)(6) (42 U.S.C. 402(f)(6)) is amended--

(i) in subparagraph (B), by striking `(i)' and `(ii)' and inserting `(I)' and `(II)', respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting `(A)' after `(6)'; and

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

`(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.'.

(C) MEDICARE BENEFITS- Section 226(e)(1) (42 U.S.C. 426(e)(1)) is amended--

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting `(A)' after `(e)(1)'; and

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

`(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.'.

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS-

(1) WIDOW'S INSURANCE BENEFITS- Section 202(e) (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

`(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.'.

(2) WIDOWER'S INSURANCE BENEFITS- Section 202(f) (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

`(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.'.

(e) EFFECTIVE DATE-

(1) IN GENERAL- The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS- In the case of any individual who--

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act, or State supplementary payments of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

SEC. 6052. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL- Section 216(e) (42 U.S.C. 416(e)) is amended in the second sentence--

(1) by striking `at the time of such individual's death living in such individual's household' and inserting `either living with or receiving at least one-half of his support from such individual at the time of such individual's death'; and

(2) by striking `; except' and all that follows and inserting a period.

(b) EFFECTIVE DATE- The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

SEC. 6053. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS-

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES-

(A) TITLE II- Section 205(j)(1) (42 U.S.C. 405(j)) is amended to read as follows:

`Representative Payees

`(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual or organization with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's `representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit paid to such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternate representative payee or to the individual.'.

(B) TITLE XVI-

(i)INGENERAL- Section 1631(a)(2)(A) (42 U.S.C. 1383(a)(2)(A)) is amended to read as follows:

`(A)(i) Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

`(ii) Upon a determination by the Secretary that the interest of such individual would be served thereby, or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual who, or to a qualified organization (as defined in subparagraph (D)(ii)) which, is interested in or concerned with the welfare of such individual and with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's `representative payee') for the use and benefit of the individual or eligible spouse.

`(iii) If the Secretary or a court of competent jurisdiction determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to clause (ii) or section 205(j)(1), the Secretary shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment of benefits to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse.'.

(ii) CONFORMING AMENDMENTS- Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended--

(I) in clause (i), by striking `a person other than the individual or spouse entitled to such payment' and inserting `representative payee of an individual or spouse';

(II) in clauses (ii), (iii), and (iv), by striking `other person to whom such payment is made' each place it appears and inserting `representative payee'; and

(III) in clause (v)--

(aa) by striking `person receiving payments on behalf of another' and inserting `representative payee'; and

(bb) by striking `person receiving such payments' and inserting `representative payee'.

(2) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES-

(A) IN GENERAL-

(i) TITLE II- Section 205(j)(2) (42 U.S.C. 405(j)(2)) is amended to read as follows:

`(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of--

`(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, include a face-to-face interview with the person to serve as representative payee, and

`(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

`(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall--

`(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

`(II) verify such person's social security account number (or employer identification number),

`(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

`(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title or title XVI.

`(ii) The Secretary shall establish and maintain 2 centralized files, which shall be updated periodically and which shall be in a form which renders them readily retrievable by each servicing office of the Social Security Administration. Such files shall consist of--

`(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2), by reason of misuse of funds paid as benefits under this title or title XVI, and

`(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

`(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if--

`(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

`(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been

revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(IV), or

`(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

`(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

`(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is--

`(I) a relative of such individual if such relative resides in the same household as such individual,

`(II) a legal guardian or legal representative of such individual,

`(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

`(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

`(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

`(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that--

`(I) such individual poses no risk to the beneficiary,

`(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

`(III) no other more suitable representative payee can be found.

`(D)(i) Subject to clause (ii), if the Secretary makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

`(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

`(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Secretary's determination, legally incompetent or under the age of 15.

`(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Secretary determines is in the best interest of the individual entitled to such benefits.

`(E)(i) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefit to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Secretary to the same extent as is provided in subsection (b), and to judicial review of the Secretary's final decision as is provided in subsection (g).

`(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Secretary shall provide written notice of the Secretary's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual--

`(I) is under the age of 15,

`(II) is an unemancipated minor under the age of 18, or

`(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

`(iii) Any such notice shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or such individual's legal guardian or legal representative--

`(I) to appeal a determination that a representative payee is necessary for such individual,

`(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

`(III) to review the evidence upon which such designation is based and submit additional evidence.'.

(ii) TITLE XVI - Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

`(B)(i) Any provision made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of--

`(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted before such payment, and shall, to the extent practicable, include a face-to-face interview with the person; and

`(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

`(ii) As part of the investigation referred to in clause (i)(I), the Secretary shall--

`(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

`(II) verify the social security account number (or employer identification number) of such person;

`(III) determine whether such person has been convicted of a violation of section 208 or 1632; and

`(IV) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(ii)(II), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits

under title II or this title.

`(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if--

`(I) such person has previously been convicted as described in clause (ii)(III);

`(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(IV), or certification of payment of benefits to such person under section 215(j) has previously been revoked as described in section 215(j)(2)(B)(i)(IV); or

`(III) except as provided in clause (v), such person is a creditor of the individual who provides the individual with goods or services for consideration.

`(iv) The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

`(v) Clause (iii)(III) shall not apply to any person who is a creditor of the individual if the creditor is--

`(I) a relative of the individual if such relative resides in the same household as such individual;

`(II) a legal guardian or legal representative of the individual;

`(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

`(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if the individual resides in the facility, and the payment of benefits under this title to the facility or the person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom the payment of such benefits would serve the best interests of the individual; or

`(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

`(vi) The procedures referred to in clause (v)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that--

`(I) such individual poses no risk to the beneficiary;

`(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

`(III) no other more suitable representative payee can be found.

`(vii) Subject to clause (viii), if the Secretary makes a determination described in subparagraph (A)(ii) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

`(viii)(I) Except as provided in subclause (I), any deferral or suspension of direct payment of a benefit pursuant to clause (vii) shall be for a period of not more than 1 month.

`(II) Clause (I) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Secretary's determination, legally incompetent or under the age 15 years.

`(ix) Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made--

`(I) to the representative payee upon such selection; and

`(II) as a single payment, or over such period as the Secretary determines is in the best interests of the individual entitled to such benefits.

`(x) Any individual who is dissatisfied with a determination by the Secretary under subparagraph (A)(ii) to pay such individual's benefits under this title to a representative payee, or with the selection of a particular person to be the representative payee of the individual, shall be entitled to a hearing by the Secretary, and to judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

`(xi) Before the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to so make the payment. Such notice shall be provided to--

`(I) the legal guardian or legal representative of the individual, if the individual has not attained the age of 15 years, is an unemancipated minor who has not attained the age of 18 years, or is legally incompetent; or

`(II) the individual, in any other case.

`(xii) Any notice referred to in clause (xi) shall be clearly written in language that is easily understandable to the reader, identify the person selected to be the representative payee of the individual, and explain to the reader the right under clause (x) of the individual or the legal guardian or legal representative of the individual--

`(I) to appeal a determination that a representative payee is necessary for the individual;

`(II) to appeal the selection of a particular person to be the representative payee of the individual; and

`(III) to review the evidence upon which the selection is based and submit additional evidence.'.

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS- As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1992, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(3) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES-

(A) IN GENERAL-

(i) TITLE II- Section 205(j) (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

`(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of--

`(i) 10 percent of the monthly benefit involved, or

`(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

`(B) For purposes of this paragraph, the term `qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary--

`(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals,

`(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual, and

`(iii) was in existence on October 1, 1988.

`(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code.

`(D) This paragraph shall cease to be effective on January 1, 1994.'.

(ii) TITLE XVI- Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended--

(I) by redesignating subparagraph (D) as subparagraph (E);

(III) by inserting after subparagraph (C) the following:

`(D)(i) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of--

`(I) 10 percent of the monthly benefit involved, or

`(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of the individual's benefits under this title.

`(ii) For purposes of this subparagraph, the term `qualified organization' means any community-based nonprofit social service agency which--

`(I) is bonded or licensed in each State in which the agency serves as a representative payee;

`(II) in accordance with any applicable regulations of the Secretary--

`(aa) regularly provides services as a representative payee pursuant

to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals;

`(bb) demonstrates to the satisfaction of the Secretary that such person is not otherwise a creditor of any such individual; and

`(cc) was in existence on October 1, 1988.

`(iii) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code.

`(iv) This subparagraph shall cease to be effective on January 1, 1994.'.

(B) STUDIES AND REPORTS-

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES- Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A), and

(ii) REPORT BY COMPTROLLER GENERAL- Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS- As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.

(5) EFFECTIVE DATES-

(A) USE AND SELECTION OF REPRESENTATIVE PAYEES- The amendments made by paragraphs (1) and (2) shall take effect July 1, 1991, and shall apply only with respect to--

(i) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(ii) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

(B) COMPENSATION OF REPRESENTATIVE PAYEES- The amendments made by paragraph (3) shall take effect January 1, 1992, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS-

(1) IMPROVED ACCESS TO CERTAIN INFORMATION-

(A) IN GENERAL- Section 205(j)(3) (42 U.S.C. 605(j)(3)) is amended--

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking `(A), (B), (C), and (D)' and inserting `(A), (B), and (C)'; and

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

`(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of--

`(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

`(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection or section 1631(a)(2).

`(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.'.

(B) EFFECTIVE DATE- The amendments made by subparagraph (A) shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act (as amended by subparagraph (A) of this paragraph) are satisfied as of such date.

(2) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES-

(A) IN GENERAL- As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(B) SPECIAL PROCEDURES- In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for--

(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

(ii) periodic, random audits of records which would be kept under such a system,

in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(C) HIGH-RISK REPRESENTATIVE PAYEE- For purposes of this paragraph, the term `high-risk representative payee' means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (42 U.S.C. 405(j) and 1383(a)(2), respectively) (other than a Federal or State institution) who--

(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual,

(iii) is a creditor of such individual, or

(iv) is in such other category of payees as the Secretary may determine appropriate.

(D) REPORT- The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

(3) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES-

(A) IN GENERAL- As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in all or part of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS- The list referred to in subparagraph (A) shall consist of a current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving benefits on the basis of the wages and self-employment income of the same individual shall be counted as 1 individual.

(C) APPROPRIATE STATE AGENCY- The appropriate State agency referred to in subparagraph (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(D) REPORT- The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

(E) STATE- For purposes of this paragraph, the term `State' means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(c) REPORTS TO THE CONGRESS-

(1) IN GENERAL-

(A) TITLE II- Section 205(j)(5) (as so redesignated by subsection (a)(3)(A)(i) of this section) is amended to read as follows:

`(5) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.'.

(B) TITLE XVI- Section 1631(a)(2)(E) (42 U.S.C. 1383(a)(2)(E)), as so redesignated by subsection (a)(3)(A)(ii)(I) of this section, is amended to read as follows:

`(E) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including--

`(i) the number of cases in which the representative payee was changed;

`(ii) the number of cases discovered where there has been a misuse of funds;

`(iii) how any such cases were dealt with by the Secretary;

`(iv) the final disposition of such cases (including any criminal penalties imposed); and

`(v) such other information as the Secretary determines to be appropriate.'.

(2) EFFECTIVE DATE- The amendments made by paragraph (1) shall apply with respect to annual reports issued for years after 1991.

(3) FEASIBILITY STUDY REGARDING INVOLVEMENT OF DEPARTMENT OF VETERANS AFFAIRS- As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in cooperation with the Secretary of Veterans Affairs, shall conduct a study of the feasibility of designating the Department of Veterans Affairs as the lead agency for purposes of selecting, appointing, and monitoring representative payees for those individuals who receive benefits paid under title II or XVI of the Social Security Act and benefits paid by the Department of Veterans Affairs. Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of such study, together with any recommendations.

SEC. 6054. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL-

(1) TITLE ii- Subsection (a) of section 206 (42 U.S.C. 406(a)) is amended--

(A) by inserting `(1)' after `(a)';

(B) in the fifth sentence, by striking `Whenever' and inserting `Except as provided in paragraph (2)(A), whenever'; and

(C) by striking the sixth sentence and all that follows through `Any person who' in the seventh sentence and inserting the following:

`(2)(A) In the case of a claim of entitlement to past-due benefits under this title, if--

`(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in writing to the Secretary prior to the time of the Secretary's determination regarding the claim,

`(ii) the fee specified in the agreement does not exceed the lesser of--

`(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1127(a)), or

`(II) $4,000, and

`(iii) the determination is favorable to the claimant,

then the Secretary shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be the maximum fee. The Secretary may from time to time increase the dollar amount under clause (ii)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 215(i) since such date. The Secretary shall publish any such increased amount in the Federal Register.

`(B) For purposes of this subsection, the term `past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to section 223(g).

`(C) In the case of a claim with respect to which the Secretary has approved an agreement pursuant to subparagraph (A), the Secretary shall provide the claimant and the person representing the claimant a written notice of--

`(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1127(a)) and the dollar amount of the past-due benefits payable to the claimant,

`(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

`(iii) a description of the procedures for review under paragraph (3).

`(3)(A) The Secretary shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(C)--

`(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Secretary to reduce the maximum fee, or

`(ii) the person representing the claimant submits a written request to the Secretary to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Secretary to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest or on the basis of evidence that the fee is clearly excessive for services rendered.

`(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Secretary determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review shall be conducted by another person designated by the Secretary for such purpose.

`(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Secretary or by an administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

`(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2). The decision of the administrative law judge or other person conducting the review shall not be subject to further review.

`(4)(A) Subject to subparagraph (B), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Secretary shall, notwithstanding section 205(i), certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1127(a)) to such attorney an amount equal to the maximum fee, but not in excess of 25 percent of such past-due benefits (as determined before any applicable reduction under section 1127(a)).

`(B) The Secretary shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completion of such review.

`(5) Any person who'.

(2) TITLE XVI- Paragraph (2)(A) of section 1631(d) (42 U.S.C. 1383(d)(2)(A)) is amended to read as follows:

`(2)(A) The provisions of section 206(a) (other than paragraphs (2)(B) and (4) thereof) shall apply to this part to the same extent as they apply in the case of title II, and in so applying such provisions `section 1631(g)' shall be substituted for `section 1127(a)'.'.

(b) PROTECTION OF ATTORNEY'S FEES FROM OFFSETTING SSI BENEFITS- Subsection (a) of section 1127 (42 U.S.C. 1320a-6(a)) is amended by adding at the end the following new sentence: `A benefit under title II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available for payment in full of the maximum fee which may be recov- ered from such benefit by an attorney pursuant to section 206(a)(4).'.

(c) LIMITATATION OF TRAVEL EXPENSES FOR REP- RESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS- Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) are each amended by adding at the end the following new sentence: `The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.'.

(d) EFFECTIVE DATE- The amendments made by this section shall apply with respect to determinations made on or after January 1, 1991, and to reimbursement for travel expenses incurred on or after January 1, 1991.

SEC. 6055. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL-

(1) TITLE II- Section 205(b) of the Social Security Act (42 U.S.C 405(b)) is amended by adding at the end the following new paragraph:

`(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

`(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.'.

(2) TITLE XVI- Section 1631(c)(1) (42 U.S.C 1383(c)(1)) is amended--

(A) by inserting `(A)' after `(c)(1)'; and

(B) by adding at the end the following:

`(B)(A) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration.

`(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply with respect to adverse determinations made on or after January 1, 1991.

SEC. 6056. DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS.

(a) IN GENERAL- The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to implement the accountability procedures described in subsection (b) in each of not fewer than 3 telephone service centers operated by the Social Security Administration. Telephone service centers shall be selected for implementation of the accountability procedures as they would operate in conjunction with the service technology most recently employed by the Social Security Administration. Each such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall remain in operation for not less than 1 year and not more than 3 years.

(b) ACCOUNTABILITY PROCEDURES-

(1) IN GENERAL- During the period of each dem- onstration project developed and carried out by the Secretary of Health and Human Services

with respect to a telephone service center pursuant to subsection (a), the Secretary shall provide for the application at such telephone service center of accountability procedures consisting of the following:

(A) In any case in which a person communicates with the Social Security Administration by telephone at such telephone service center and provides in such communication his or her name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must thereafter promptly provide such person a written receipt which sets forth--

(i) the name of any individual representing the Social Security Administration with whom such person has spoken in such communication,

(ii) the date of the communication;

(iii) a description of the nature of the communication,

(iv) any action that an individual representing the Social Security Administration has indicated in the communication will be taken in response to the communication, and

(v) a description of the information or advice offered in the communication by an individual representing the Social Security Administration.

(B) Such person must be notified during the communication by an individual representing the Social Security Administration that, if adequate identifying information is provided to the Administration, a receipt described in subparagraph (A) will be provided to such person.

(C) A copy of any receipt required to be provided to any person under subparagraph (A) must be--

(i) included in the file maintained by the Social Security Administration relating to such person, or

(ii) if there is no such file, otherwise retained by the Social Security Administration in retrievable form until the end of the 5-year period following the termination of the project.

(2) EXCLUSION OF CERTAIN ROUTINE TELEPHONE COMMUNICATIONS- The Secretary may exclude from demonstration projects carried out pursuant to this section routine telephone communications which do not relate to potential or current eligibility or entitlement to benefits.

(c) REPORT-

(1) IN GENERAL--The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report on the progress of the demonstration projects conducted pursuant to this section, together with any related data and materials which the Secretary may consider appropriate. The report shall be submitted not later than 90 days after the termination of the project.

(2) SPECIFIC MATTERS TO BE INCLUDED- The report required under paragraph (1) shall--

(A) assess the costs and benefits of the accountability procedures,

(B) identify any major difficulties encountered in implementing the demonstration project, and

(C) assess the feasibility of implementing the accountability procedures on a national basis.

SEC. 6057. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION.

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES- In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS- The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is maintained under subsection (a) in such locality. Such listing may also include information concerning the availability of a toll-free number which may be called for general information.

(c) REPORT BY SECRETARY- Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which--

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices.

(d) GAO REPORT- Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing the level of telephone access by the public to the local offices of the Social Security Administration.

(e) EFFECTIVE DATE- Subsections (a) and (b) shall take effect on April 1, 1991.

SEC. 6058. AMENDMENTS RELATING TO SOCIAL SECURITY ACCOUNT STATEMENTS.

(a) IN GENERAL- Section 1142 of the Social Security Act (42 U.S.C. 1320b-13), as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2485), is amended--

(1) by striking `sec. 1142.' and inserting `sec. 1143.'; and

(2) in subsection (c)(2), by striking ` a biennial' and inserting `an annual'.

(b) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION-

(1) IN GENERAL- Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

`(7) SOCIAL SECURITY ACCOUNT STATEMENT FURNISHED BY SOCIAL SECURITY ADMINISTRATION- Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.'.

(2) SAFEGUARDS- Section 6103(p)(4) of such Code (relating to safeguards) is amended, in the matter following subparagraph (f)(iii), by striking `subsection (m)(2), (4), or (6)' and inserting `paragraph (2), (4), (6), or (7) of subsection (m)'.

(3) UNAUTHORIZED DISCLOSURE PENALTIES- Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking `(m)(2), (4), or (6)' and inserting `(m)(2), (4), (6), or (7)'.

SEC. 6059. TRIAL WORK PERIOD DURING ROLLING FIVE-YEAR PERIOD FOR ALL DISABLED BENEFICIARIES.

(a) IN GENERAL- Section 222(c)(42 U.S.C. 422(c)) is amended--

(1) in paragraph (4)(A), by striking `, beginning on or after the first day of such period,' and inserting `in any period of 60 consecutive months,'; and

(2) by striking paragraph (5).

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect on January 1, 1992.

SEC. 6060. CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VOCATIONAL REHABILITATION PROGRAM.

(a) IN GENERAL- Section 225(b) (42 U.S.C. 425(b)) is amended--

(1) by striking paragraph (1) and inserting the following new paragraph:

`(1) such individual is participating in an approved program of vocational rehabilitation services, and'; and

(2) in paragraph (2), by striking `Commissioner of Social Security' and inserting `Secretary'.

(b) PAYMENTS AND PROCEDURES- Section 1631(a)(6) (42 U.S.C. 1383(a)(6)) is amended--

(1) by striking subparagraph (A) and inserting the following new subparagraph:

`(A) such individual is participating in an approved program of vocational rehabilitation services, and'; and

(2) in subparagraph (B), by striking `Commissioner of Social Security' and inserting `Secretary'.

(c) EFFECTIVE DATE- The amendments made by this section shall be effective with respect to benefits payable for months after the eleventh month following the month in which this Act is enacted and shall apply only with respect to individuals whose blindness or disability has or may have ceased after such eleventh month, as determined by the Secretary of Health and Human Services.

SEC. 6061. LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGE-72 PAYMENTS.

(a) IN GENERAL- Section 228(a)(2) (42 U.S.C. 428(a)(2)) is amended by striking `(B)' and inserting `(B)(i) attained such age after 1967 and before 1972, and (ii)'.

(b) EFFECTIVE DATE-- The amendment made by subsection (a) shall apply with respect benefits payable on the basis of applications filed after the date of the enactment of this Act.

SEC. 6062. ELIMINATION OF ADVANCED CREDITING TO THE TRUST FUNDS OF SOCIAL SECURITY PAYROLL TAXES AND REVENUES FROM TAXATION OF SOCIAL SECURITY BENEFITS.

(a) IN GENERAL- Section 201(a)(42 U.S.C. 401(a)) is amended--

(1) in the first sentence following clause (4)--

(A) by striking `monthly on the first day of each calendar month' both places it appears and inserting `from time to time';

(B) by striking `to be paid to or deposited into the Treasury during such month' and inserting `paid to or deposited into the Treasury'; and

(2) in the last sentence, by striking `Fund;' and inserting `Fund. Notwithstanding the preceding sentence, in any month for which the Secretary of the Treasury determines that the assets of either such Trust Fund would otherwise be inadequate to meet such Fund's obligations, the Secretary of the Treasury shall transfer to such Trust Fund on the first day of such month the amount which would have been transferred to such Fund under this section as in effect on October 1, 1990; and'.

(c) EFFECTIVE DATE- The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

SEC. 6063. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL- Section 202(j)(4) (42 U.S.C. 402(j)(4)) is amended--

(1) in subparagraph (A), by striking `if the effect' and all that follows and inserting `if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q).'; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE- The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 6064. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNTS.

(a) CONSOLIDATION OF COMPUTATION METHODS-

(1) IN GENERAL- Section 215(a)(5) (42 U.S.C. 415(a)(5)) is amended--

(A) by striking `For purposes of' and inserting `(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of';

(B) by striking the last sentence; and

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

`(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be, in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

`(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

`(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

`(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of--

`(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or `(II) the primary insurance amount computed under section 215(d).

`(C) An individual is described in this subparagraph if--

`(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979, and

`(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 would have been computed under the provisions described in subparagraph (D).

`(D) The provisions described in this subparagraph are--

`(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

`(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and

`(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

`(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.'.

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT-

(A) DIVISION OF WAGES BY ELAPSED YEARS- Section 215(d)(1) (42 U.S.C. 415(d)(1)) is amended--

(i) in subparagraph (A), by inserting `and subject to section 104(j)(2) of the Social Security Amendments of 1972' after `thereof'; and

(ii) by striking `(B) For purposes' in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

`(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)--

`(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual--

`(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the `divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year

entirely included in a period of disability, and in no case shall the divisor be less than one, and

`(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the `divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

`(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the `divisor') elapsing after 1949 and prior to 1951.'.

(B) CREDITING OF WAGES TO YEARS- Clause (iii) of section 215(d)(1)(B) (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

`(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and'.

(C) APPLICABILITY- Section 215(d) is further amended--

(i) in paragraph (2)(B), by striking `except as provided in paragraph (3),';

(ii) by striking paragraph (2)(C) and inserting the following:

`(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

`(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) or under section 231.'; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS-

(A) Section 215(i)(4) (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting `and as amended by section 6064 of the Omnibus Budget Reconciliation Act of 1990' after `as then in effect'.

(B) Section 203(a)(8) (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting `and as amended by section 6064 of the Omnibus Budget Reconciliation Act of 1990,' after `December 1978' the second place it appears.

(C) Section 215(c) (42 U.S.C. 415(c)) is amended by striking `This' and inserting `Subject to the amendments made by section 6064 of the Omnibus Budget Reconciliation Act of 1990, this'.

(D) Section 215(f)(7) (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting `, including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by

section 6064 of the Omnibus Budget Reconciliation Act of 1990'.

(E)(i) Section 215(d) (42 U.S.C. 415(d)) is further amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 of such Act (42 U.S.C. 415) are each amended by striking `subsection (d)(5)' each place it appears and inserting `subsection (d)(3)'.

`(iii) Section 215(f)(9)(B) (42 U.S.C. 415(f)(9)(B)) is amended by striking `subsection (a)(7) or (d)(5)' each place it appears and inserting `subsection (a)(7) or (d)(3)'.

(4) EFFECTIVE DATE-

(A) IN GENERAL- Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement to such benefits under section 202 or 223.

(B) RECOMPUTATIONS- The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS- Section 217(b) (42 U.S.C. 417(b)) is amended--

(1) in the first sentence of paragraph (1), by striking `Any' and inserting `Subject to paragraph (3), any'; and

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

`(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after the month in which the Omnibus Budget Reconciliation Act of 1990 was enacted.

`(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.'.

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950-

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS- Section 213(c) (42 U.S.C. 413(c)) is amended--

(A) by inserting `and 215(d)' after `214(a)'; and

(B) by striking `except where--' and all that follows and inserting the following: `except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for

periods after 1950.'.

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH- Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking `after such date'.

(3) EFFECTIVE DATE- The amendments made by this subsection shall apply only with respect to individuals who--

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

SEC. 6065. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) IN GENERAL- Section 223(e) (42 U.S.C. 623(e)) is amended by--

(1) by inserting `(1)' after `(e)'; and

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

`(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

Subtitle B--Medicare

PART 1--PROVISIONS RELATING ONLY TO PART A

SEC. 6101. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES.

(a) IN GENERAL- Section 1886(g)(3)(A)(v) (42 U.S.C. 1395ww(g)(3)(A)(v)) is amended by striking `September 30, 1990' and inserting `September 30, 1991, and by 10 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during the period beginning October 1, 1991 and ending September 30, 1995.'

(b) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS- Section 1886(g)(3)(B) (42 U.S.C. 1395ww(g)(3)(B)) is amended by striking `1886(d)(5)(D)(iii)).' and inserting `1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in subsection (mm)(1)).'

(c) PROSPECTIVE PAYMENT FOR CAPITAL- Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended--

(1) by inserting at the end of subparagraph (A) the following: `Payment under such system shall be determined in a manner that assures that the expected aggregate payments for such capital-related costs for discharges occurring during fiscal year 1992 are not greater or less than those that would have been made for portions of cost reporting periods occurring during fiscal year 1992, taking into account the reductions specified in paragraph (3)(A)(v).'; and

(2) by inserting after subparagraph (B)(iv) the following sentence: `Notwithstanding clause (i), such system may provide for continuation of payment for fixed capital on a reasonable cost basis, subject to reductions in paragraph (3)(A)(v).'.

SEC. 6102. PROSPECTIVE PAYMENT HOSPITALS.

(a) CHANGES IN HOSPITAL UPDATE FACTORS-

(1) IN GENERAL- Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended--

(A) by striking `and' at the end of subclause (V);

(B) in subclause (VI)--

(i) by striking `1991' and inserting `1994', and

(ii) by redesignating such subclause as subclause (IX); and

(C) by inserting after subclause (V) the following new subclauses:

`(VI) for fiscal year 1991, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas,

`(VII) for fiscal year 1992, the market basket percentage increase minus 1.5 percentage points for hospitals in all areas,

`(VIII) for fiscal year 1993, the market basket percentage increase minus 1.4 percentage points for hospitals in all areas, and'.

(2) EFFECTIVE DATE- The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1991.

(b) PHASE-OUT OF SEPARATE AVERAGE STANDARDIZED AMOUNTS-

(1) IN GENERAL- Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by subsection (a)(1), is further amended--

(A) in subclause (VI), by striking `in all areas,' and inserting `in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,';

(B) in subclause (VII), by striking `in all areas,' and inserting `in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,';

(C) in subclause (VIII), by striking `in all areas, and' and inserting `in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,';

(D) in subclause (IX)--

(i) by striking `1994' and inserting `1995', and

(ii) by redesignating such subclause as subclause (X); and

(E) by inserting after subclause (VIII) the following new subclause:

`(IX) for fiscal year 1994, the market basket percentage increase for hospitals located in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/2 (compared to fiscal year 1993) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,'.

(2) CONFORMING AMENDMENTS- Section 1886(d) (42 U.S.C. 1395ww(d)) is amended in paragraph (3)(A)--

(A) in clause (ii), by striking `the Secretary' and inserting `and ending on or before September 30, 1994, the Secretary',

(B) by redesignating clause (iii) as clause (iv), and

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

`(iii)(I) For discharges occurring in the fiscal year beginning on October 1, 1994, the average standardized amount for hospitals located in a rural area shall equal the average standardized amount for hospitals located in an other urban area.

`(II) For discharges occurring in a fiscal year beginning on or after October 1, 1995, the Secretary shall compute an average standardized amount for hospitals located in a large urban area and for hospitals located in other areas within the United States and within each region equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.';

(D) in paragraph (3)(B), by striking `for hospitals located in an urban area and for hospitals located in a rural area' and by striking `for hospitals located in such respective area';

(E) in paragraph (3)(D)(i)--

(i) in the matter preceding subclause (I), by striking `an urban area (or,' and all that follows through `area),' and inserting `a large urban area, and

(ii) in subclause (I), by striking `an urban area' and inserting `a large urban area'; and

(F) in paragraph (3)(D)(ii), by striking `a rural area' each place it appears and inserting `other areas'.

(3) EFFECTIVE DATE- The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1991, and the amendments made by paragraph (2) shall apply to payments for discharges occurring on or after October 1, 1994.

(c) PHASE-IN OF AREA WAGE INDEX UPDATE FOR FISCAL YEAR 1991-

(1) AREA WAGE INDEX- Subject to the last sentence of section 1886(d)(3)(E) of the Social Security Act, for purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services, the Secretary of Health and Human Services, in adjusting such amount under such section to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall--

(A) for discharges occurring during fiscal year 1991, apply a combined area wage index consisting of--

(i) 75 percent of the area wage index determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 25 percent of the area wage index applicable to the hospital for discharges occurring during fiscal year 1990, as determined using the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for discharges occurring during fiscal year 1992 and fiscal year 1993, apply the area wage index otherwise applicable to the hospital under such section for discharges occurring during such fiscal year.

(2) STUDY OF HOSPITAL OCCUPATIONAL MIX AND WAGE INDEX COMPUTATION- The Prospective Payment Assessment Commission (hereinafter referred to as the `Commission') shall examine State level and other available data measuring earnings and paid hours of employment by occupational category of workers employed by hospitals. The examination shall include analysis of the impact of variation in occupational mix on the computation of the area wage index (as computed under section 1886 (d)) of the Social Security Act. Based on the findings of this analysis, the Commission shall include in its March 1991 report recommendations regarding the feasibility and desirability of modifying the wage index computation to take into account occupational mix. In considering alternative computations or adjustments to the wage index, the Commission shall examine and take into account variation in occupational mix resulting from differences in State codes and requirements.

SEC. 6103. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED-

(1) Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended--

(A) in subclause (I), by striking `1.89' and inserting in lieu thereof `1.68'; and

(B) in subclause (II), by striking `1.43' and inserting in lieu thereof `1.28'.

(2) Section 1886(d)(3)(C)(ii) (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended--

(A) in subclause (I)--

(i) by striking `1985 and' and inserting in lieu thereof `1985,', and

(ii) by inserting `and by section 6103 of the Omnibus Budget Reconciliation Act of 1990' after `1987'; and

(B) in subclause (II)--

(i) by striking `1985 and' and inserting in lieu thereof `1985,', and

(ii) by inserting `and by section 6103 of the Omnibus Budget Reconciliation Act of 1990' after `1987'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to payments for discharges occurring on or after January 1, 1991.

SEC. 6104. PPS EXEMPT HOSPITALS.

(a) DEADLINES FOR REVIEW AND DECISION- (1) Section 1816(f) (42 U.S.C. 1395h(f)) is amended--

(A) by striking `(1)' and `(2)' and inserting `(A)' and `(B)';

(B) by striking `(f)' and inserting `(f)(1)'; and

(C) by striking `Such standards and criteria' and all that follows and inserting the following:

`(2) The standards and criteria established under paragraph (1) shall include--

`(A) with respect to claims for services furnished under this part by any

provider of services other than a hospital--

`(i) whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days, and

`(ii) the extent to which such agency or organization's determinations are reversed on appeal; and

`(B) with respect to applications for a reconsideration of the target amount applicable under section 1886(b) to a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B))--

`(i) if such agency or organization receives a completed application, whether such agency or organization is able to process such application not later than 60 days after the application is filed, and

`(ii) if such agency or organization receives an incomplete application, whether such agency or organization is able to return the application with instructions on how to complete the application not later than 60 days after the application is filed.'.

(2) Section 1886(b)(4)(A) (42 U.S.C. 1395ww(b)(4)(A)) is amended by adding at the end the following new sentence: `The Secretary shall announce a decision on any request for an exemption, exception, or adjustment under this paragraph not later than 180 days after receiving a completed application for such exemption, exception, or adjustment, and shall include in such decision a detailed explanation of the grounds on which such request was approved or denied.'.

(b) STANDARDS FOR ASSIGNMENT OF NEW BASE PERIOD- Section 1886(b)(4) (42 U.S.C. 1395ww(b)(4)) is amended--

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

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

`(B) In determining under subparagraph (A) whether to assign a new base period which is more representative of the reasonable and necessary cost to a hospital of providing inpatient services, the Secretary shall take into consideration--

`(i) changes in applicable technologies, medical practices, or case mix severity that increase the hospital's costs;

`(ii) whether increases in wages and wage-related costs in the geographic area in which the hospital is located substantially exceed the average of the increases in such costs paid by hospitals in the United States; and

`(iii) such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.'.

(c) GUIDANCE TO INTERMEDIARIES AND HOSPITALS- The Administrator of the Health Care Financing Administration shall provide guidance to agencies and organizations performing functions pursuant to section 1816 of the Social Security Act and to hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of such Act) to assist such agencies, organizations, and hospitals in filing complete applications with the Administrator for exemptions, exceptions, and adjustments under section 1886(b)(4)(A) of such Act.

(d) EFFECTIVE DATES- The amendments made by subsection (a) shall take effect on the effective date of the next regular publication of such standards, and the amendments made by subsections (b) and (c) shall take effect upon enactment of this Act.

SEC. 6105. EXPANSION OF HOSPICE BENEFIT.

(a) IN GENERAL- Section 1812 (42 U.S.C. 1395d) is amended--

(1) in subsection (a)(4), by striking `90 days each' and all that follows through `with respect to' and inserting the following: `90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to'; and

(2) in subsection (d)--

(A) in paragraph (1), by striking `90 days each' and all that follows through `lifetime' and inserting the following: `90 days each, a subsequent period of 30 days, and a subsequent extension period during the individual's lifetime', and

(B) in paragraph (2)(B), by striking `a 90- or 30-day period,' and inserting `a 90- or 30-day period or a subsequent extension period,'.

(b) CONFORMING AMENDMENT- Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended--

(1) in clause (i), by striking `and' at the end;

(2) in clause (ii), by striking the semicolon at the end and inserting `, and'; and

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

`(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply with respect to care and services furnished on or after January 1, 1990.

SEC. 6106. MISCELLANEOUS AND TECHNICAL AMENDMENTS RELATING TO PART A.

(a) EXTENSIONS OF WAIVERS OF LIABILITY FOR SKILLED NURSING FACILITIES AND HOSPICES-

(1) SKILLED NURSING FACILITIES- The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking `October 31, 1990' and inserting `December 31, 1995'.

(2) HOSPICES- Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking `November 1, 1990' and inserting `December 31, 1995'.

(3) EFFECTIVE DATE- The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

(b) DESIGNATIONS OF CERTAIN HOSPITALS AS RURAL PRIMARY CARE HOSPITALS-

(1) PRIORITY IN DISCRETIONARY DESIGNATIONS GIVEN TO HOSPITALS AFFILIATED WITH A RURAL HEALTH NETWORK IN A PARTICIPATING STATE- Section 1820(i)(2)(C) (42 U.S.C. 1395i-4(i)(2)(C)) is amended by adding at the end the following new sentence: `In designating facilities as rural primary care hospitals under this subparagraph, the Secretary shall give preference to facilities that have entered into an agreement described in subsection (g)(2) with a rural health network located in a State receiving a grant under subsection (a)(1).'.

(2) ELIGIBILITY OF CERTAIN CLOSED HOSPITALS- Section 1820(f)(1)(B) (42 U.S.C. 1395i-4(f)(1)(B)) is amended by striking `hospital,' and

inserting the following: `hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed),'.

(3) ELIGIBILITY OF OTHER FACILITIES AS RURAL PRIMARY CARE HOSPITALS- Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended by inserting before the period at the end `, or meets such substitute criteria limiting the number of inpatient beds and the hours of inpatient care as the State may impose with the approval of the Secretary'.

(4) EFFECTIVE DATE- The amendments made by paragraphs (1), (2), and (3) shall take effect on the date of the enactment of this Act.

(c) RESPONSIBILITIES AND REPORTING REQUIREMENTS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION- Section 1886 (42 U.S.C. 1395ww) is amended--

(1) in subsection (d)(4)(D), by striking the last sentence;

(2) in subsection (e)(2)--

(A) by striking `recommendations to the Secretary' and inserting `recommendations to the Secretary and Congress';

(B) by inserting `(A)' after `(2)' and by adding at the end the following new subparagraphs:

`(B) In order to promote the efficient and effective delivery of high-quality health care services, the Commission shall, in addition to carrying out its functions under subsection (d)(4)(D) and subparagraph (A), study and make recommendations for each fiscal year to the Secretary and the Congress regarding changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates and the development of new institutional reimbursement policies under this title, including recommendations relating to--

`(i) payments during such fiscal year under the prospective payment system established under this section for determining payments for the operating costs of inpatient hospital services, including changes in the number of diagnosis-related groups used to classify inpatient hospital discharges under subsection (d), adjustments to such groups to reflect severity of illness, and changes in the methods by which hospitals are reimbursed for capital-related costs; and

`(ii) additional payments made to hospitals under subsection (d), including payments made--

`(I) to hospitals located in large urban areas;

`(II) to hospitals located in rural areas, including regional referral centers and sole community hospitals;

`(III) for the indirect costs of medical education;

`(IV) for hospitals serving a disproportionate share of low-income patients; and

`(V) for discharges described in subsection (d)(5)(A).

`(C) The Commission, by not later than June 1 of each year (beginning with calendar year 1991), shall submit a report to the Congress examining the American health care system including issues related to--

`(i) trends in health care costs;

`(ii) the financial condition of hospitals including the level of payments made to hospitals under this title;

`(iii) trends in utilization of health care services; and

`(iv) new and innovative methods utilized by private employers and insurers to constrain growth in health care related costs.

`(D) The Commission shall include in its annual recommendations under subparagraph (B) recommendations on major revisions to the hospital payment system including revisions of the prospective payment system or other modifications to payment methods under this title for hospital outpatient services, and recommendations with regard to payments to hospitals exempt from the prospective payment system, to skilled nursing facilities, and for home health services.';

(3) in subsection (e)(3)(A) by striking the period at the end and inserting the following: `, together with any other recommendations under paragraph (2)(B) that are applicable to institutional reimbursements under this title in that fiscal year.';

(4) in subsection (e)(4)--

(A) by striking `(4)' and inserting `(4)(A)', and

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

`(B) In addition to the recommendation made under subparagraph (A), the Secretary shall, taking into consideration the recommendations of the Commission under paragraph (2)(B), recommend for each fiscal year (beginning with fiscal year 1992) other appropriate changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates.';

(5) in subsection (e)(5)--

(A) by striking `recommendation' each place it appears and inserting `recommendations', and

(B) by adding at the end the following new sentence: `To the extent that the Secretary's recommendations under paragraph (4) differ from the Commission's recommendations for that fiscal year, the Secretary shall include in the publication referred to in subparagraph (A) an explanation of the Secretary's grounds for not following the Commission's recommendations.'; and

(6) in subsection (e)(6)(G) by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(d) PROPAC STUDY OF MEDICAID PAYMENTS TO HOSPITALS- The Prospective Payment Assessment Commission (hereafter in this subsection referred to as the `Commission') shall conduct a study of hospital payment rates under State medicaid programs established under title XIX of the Social Security Act. The Commission shall specifically examine in such study the level of hospital reimbursement under title XIX programs, the relationship between these payments and payments made to hospitals under title XVIII of the Social Security Act, and the financial condition of affected hospitals, with particular attention to hospitals in urban areas which treat large numbers of title XIX recipients and other low-income individuals. By no later than October 1, 1991, the Commission shall submit a report to Congress on such study and shall include such recommendations as the Commission deems appropriate.

(e) UPDATE OF ROUTINE SERVICE COSTS OF SKILLED NURSING FACILITIES-

(1) IN GENERAL- Section 6024 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following new sentence:

`The Secretary shall update such costs under such section for cost reporting periods beginning on or after October 1, 1989, by using cost reports submitted by skilled nursing facilities for cost reporting periods ending not earlier than January 31, 1988, and not later than December 31, 1988.'.

(2) 2-YEAR UPDATES REQUIRED- Section 1888(a) (42 U.S.C. 1395yy(a)) is amended by inserting before the period at the end of the matter following such subsection the following: `, and shall, for cost reporting periods beginning on or after October 1, 1992 and every 2 years thereafter, provide for an update to the per diem cost limits described in this subsection'.

(3) EFFECTIVE DATE- The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(f) CLARIFICATION OF SECRETARIAL WAIVER AUTHORITY-

(1) IN GENERAL- Section 6003 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following:

`(k) CLARIFICATION OF WAIVER AUTHORITY- The Secretary of Health and Human Services (in this subsection referred to as the `Secretary') is authorized to waive such provisions of title XVIII of the Social Security Act as are necessary to conduct any demonstration project for limited-service rural hospitals with respect to which the Secretary has entered into an agreement before the date of the enactment of this Act.'.

(2) NURSING HOME DEMONSTRATIONS- Section 6901(d)(3)(B) of the Omnibus Budget Reconciliation Act of 1989 is amended to read as follows:

`(B) The Secretary may also waive the survey and certification requirements described in subparagraph (A) to the extent the Secretary determines is necessary to carry out a pilot demonstration project in Wisconsin and demonstration projects in other States (relating to testing an approved alternative survey and certification process) as part of a nursing home prospective case-mix payment demonstration project.'.

(3) EFFECTIVE DATE- The amendment made by paragraphs (1) and (2) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(g) GEOGRAPHIC CLASSIFICATION REVIEW BOARD- (1) For purposes of section 1886(d)(10)(C)(ii) (42 U.S.C. 1395ww(d)(10)(C)(ii)), an application of a subsection (d) hospital submitted to the Secretary under such clause shall be considered to have been submitted by the first day of the preceding fiscal year under such clause if it is submitted within 60 days of the date of publication of the guidelines described in subparagraph (D)(i) of such section.

(2) Section 1886(d)(10) is amended--

(A) in subparagraph (B)(i) by striking `representatives' and inserting `representative';

(B) in subparagraph (B)(i) by striking `1 member shall be a member of the Prospective Payment Assessment Commission, and at least'; and

(C) in subparagraph (C)(iii)(II) by striking the first two sentences and inserting in lieu thereof the following: `Appeal of decisions of the Board shall be subject to the provisions of 5 U.S.C. section 557b'.

(h) REVIEW OF HOSPITAL REGULATIONS WITH RESPECT TO RURAL HOSPITALS-

(1) IN GENERAL- Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall review the requirements in regulations developed pursuant to section 1861(e) of the

Social Security Act to determine which requirements could be made less administratively and economically burdensome for hospitals defined in section 1886(d)(1)(B) of the Social Security Act that are located in a rural area as defined in section 1886(d)(2)(D) of the Social Security Act without diminishing the quality of care provided by such hospitals to individuals entitled to receive benefits under part A of title XVIII of the Social Security Act. Such review shall specifically include standards related to staffing requirements.

(2) REPORT- The Secretary of Health and Human Services shall report to Congress by April 1, 1992, on the results of the review conducted under subsection (a), and include conclusions on which regulations, if any, should be modified with respect to hospitals located outside a metropolitan statistical area as described in subsection (a).

(i) MEDICARE NURSING HOME REFORM PROVISIONS-

(1) NURSE AIDE TRAINING AMENDMENTS-

(A) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS--The Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall not take (and shall not continue) any action against a State under section 1864 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1819(e)(1)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing requirements under section 1819(f)(2)(A)(iv)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(B) PART TIME NURSE AIDES NOT ALLOWED DELAY IN TRAINING- Section 1819(b)(5)(A) (42 U.S.C. 1395i-3(b)(5)(A)) is amended--

(i) by striking `, temporary, per diem, or other';

(ii) by inserting `(i)' after `(A)';

(iii) by redesignating clauses `(i)' and `(ii)' as subclauses `(I)' and `(II)' respectively; and

(iv) by adding at the end the following:

`(ii) EXCEPTION- A skilled nursing facility must not use on a temporary, per diem, or on any other than a full-time basis any individual as a nurse aide in the facility on or after October 1, 1990, unless the individual meets the requirements described in subclauses (I) and (II) of clause (i).'.

(B) CLARIFICATION OF PERMISSIBLE CHARGES FOR TRAINING OF AIDES NOT YET EMPLOYED BY A FACILITY- Section 1819(f)(2)(A)(iv)(II) (42 U.S.C. 1395i-3(f)(2)(A)(iv)(II)) is amended by striking `such program' and inserting `such program, except, that on accredited nonfacility based program may impose such charges on individuals who are not presently employed by a nursing facility or who have not yet had an offer for future employment at such a facility'.

(C) NURSE AIDE REGISTRY-

(i) IN GENERAL- Section 1819(b)(5)(C) (42 U.S.C. 1395i-3(b)(5)(C)) is amended by adding at the end thereof the following new sentence: `In the case of an individual who a nursing facility is considering employing as a nurse aide and who the facility has reason to believe is from a State other than the State in which the facility is located, such a facility shall not use such an individual as a nurse aide unless the facility has inquired concerning such individual of the State registry established under subsection (e)(2)(A) of the State from which such facility has reason to believe such individual resided'.

(ii) DEEMED AIDES TO BE INCLUDED ON REGISTRY- Section 1819(e)(2)(A) (42 U.S.C. 1395i-3(e)(2)(A)) is amended by striking `individuals' and inserting `individuals (including those individuals deemed under section 6901 (b)(4) (B), (C), and (D) of the Omnibus Budget Reconciliation Act of 1989 to have satisfied the training and competency evaluation program requirements under this section)'.

(2) MISCELLANEOUS AND TECHNICAL AMENDMENTS-

(A) RESIDENT ACCESS TO CLINICAL RECORDS- Section 1819(c)(1)(A)(iv) (42 U.S.C. 1395i-3(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: `and access to current clinical records of the resident promptly upon reasonable request (as defined by the Secretary) by the resident or resident's legal representative'.

(B) MAINTAINING REGULATORY STANDARDS FOR CERTAIN NURSING AND RELATED SERVICES- The Secretary shall provide that any regulations promulgated by the Secretary with respect to nursing and related services described in clauses (ii), (iv), and (v) of section 1819(b)(4)(A) of the Social Security Act, are comparable or more strict in terms of requirements for such services that such regulations for such services were prior to the enactment of the Omnibus Budget Reconciliation Act of 1987.

(C) STUDY- The Secretary shall conduct a study on the hiring and dismissal practices of nursing facilities with respect to social workers, dieticians, activities professionals, and medical records practitioners, and report to Congress by January 1, 1993, on whether facilities have on their staffs, persons with significantly different credentials as a result of new regulations that became effective October 1, 1990, and the impact of staff composition on quality of care.

(D) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY- Section 1819(f)(2)(B) (42 U.S.C. 1395i-3(f)(2)(B)) is amended, in the second sentence, by inserting `(through subcontract or otherwise)' after `may not delegate'.

(E) OMBUDSMAN PROGRAM COORDINATION WITH STATE MEDICAID AND SURVEY AND CERTIFICATION AGENCIES- Section 1819(g)(5)(B) (42 U.S.C. 1395i-3(g)(5)(B)) is amended to read as follows:

`(B) NOTICE TO OMBUDSMAN- Each State agency with an agreement with the Secretary under this section shall enter into a written agreement with the Office of the State Long-Term Care Ombudsman (as defined by the Older Americans Act), to provide for information exchange, case referral, and prompt notification of the office of any adverse action to be taken against a nursing facility.'.

(F) ADDITIONAL REQUIREMENTS WITH RESPECT TO MEDICARE NURSE STAFFING WAIVERS- Section 1819(b)(4)(C)(ii) (42 U.S.C. 1395i-3(b)(4)(C)(ii)) is amended by adding at the end thereof the following: `The Secretary shall provide notice of the waiver to the appropriate State and substate long-term care ombudsman, to the protection and advocacy system and other appropriate State and private agencies, and shall ensure that a nursing facility that is granted such a waiver is required to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative of such residents) of the waiver.'.

(G) STUDY ON STAFFING REQUIREMENTS IN SKILLED NURSING FACILITIES- The Secretary shall conduct a study and report to Congress no later than January 1, 1992, on the appropriateness of establishing minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for skilled nursing facilities receiving payments under title XVIII of the Social Security Act. If the Secretary determines that

the establishment of such minimum ratios is advisable, the Secretary shall specify in the report provided for in this subsection appropriate ratios or standards.

(H) PERIOD FOR RESIDENT ASSESSMENT- Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking `4 days' and inserting `14 days'.

(I) QUALIFICATION OF MEDICARE FACILITIES TO PROVIDE NURSE AIDE TRAINING AND COMPETENCY EVALUATION- Section 1819(f)(2) (42 U.S.C. 1395i-3(f)(2)) is amended--

(i) in subparagraph (B)(iii), by amending subclause (I) to read as follows:

`(I) offered by or in a skilled nursing facility described in subparagraph (C), or'; and

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

`(C) SKILLED NURSING FACILITIES INELIGIBLE TO OFFER PROGRAMS- A skilled nursing facility shall be ineligible to offer a program under this paragraph--

`(i) if at any time on or after October 1, 1988, the Secretary or a State agency administering a program under title XIX terminated or terminates the facility's provider agreement under this title or title XIX, until after the end of a period of at least two years following reinstatement, during which period--

`(I) no survey or investigation finds any deficiencies warranting termination, and

`(II) at least one standard survey is conducted pursuant to subsection (g); or

`(ii) if the facility--

`(I) received a notice of termination of its provider agreement under this title or title XIX from the Secretary or a State agency at any time during the one-year period ending September 30, 1990; or

`(II) is found, pursuant to a standard survey or investigation under subsection (g) or section 1919(g), to have deficiencies resulting in a civil monetary penalty in excess of $5,000 denial of payment, or appointment of temporary management pursuant to subsection (h)(2)(B) or to section 1919(h)(2)(A),

until after the completion of a subsequent standard survey under subsection (g) which finds no such deficiencies.'.

(J) RETRAINING REQUIRED- Section 1819(b)(5)(D) (42 U.S.C. 1395i-3(b)(5)(D)) is amended by inserting before the period the following: `, or a new competency evaluation program'.

(K) CHARGES FOR NURSE AID TRAINING- Section 1819(f)(2)(A)(iv) (42 U.S.C. 1395i-3(f)(2)(A)(iv)) is amended by adding the following at the end:

`(III) For individuals employed or under contract for employment as a nurse aide within 12 months after successful completion of a nonfacility-based, State-approved nurse aide training and competency evaluation program, the State must ensure that the costs incurred by such individuals for such programs are reimbursed to such individuals.'.

(3) EFFECTIVE DATES- The amendments made by this section shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(j) NO RESTANDARDIZING FOR RECENT ADJUSTMENTS-

(1) ADJUSTMENTS UNDER OBRA 1989- Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: `, except that the Secretary shall not exclude additional payments under such paragraph made as a result of the enactment of section 6003(c) of the Omnibus Budget Reconciliation Act of 1989.'.

(2) EFFECTIVE DATE- The amendment made by subparagraph (D)(i) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

PART 2--PROVISIONS RELATING ONLY TO PART B

Subpart A--Payment for Physicians' Services

SEC. 6111. REDUCTION IN PAYMENTS FOR OVERVALUED PROCEDURES.

(a) PREVIOUSLY IDENTIFIED PROCEDURES- Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following:

`(16)(A) In determining the reasonable charge for a physicians' service specified in paragraph (14)(C)(i) and furnished during 1991, the prevailing charge for such service shall not exceed the prevailing charge otherwise recognized for such service for the period during 1990 beginning on April 1, reduced by 15 percent or, if less, one-third of the percent (if any) by which such prevailing charge exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

`(B) For purposes of this paragraph:

`(i) The `locally-adjusted reduced prevailing amount' for a locality for a physicians' service is equal to the product of--

`(I) the reduced national weighted average prevailing charge for the service (specified in clause (ii)), and

`(II) the adjustment factor (specified in clause (iii)) for the locality for the service.

`(ii) The `reduced national weighted average prevailing charge' for a physicians' service is equal to the national weighted average prevailing charge for the service (specified in subparagraph (C)(i)) reduced by the percentage change (specified in subparagraph (C)(ii)) for the service.

`(iii) The `adjustment factor' for a locality for a physicians' service is the sum of--

`(I) the practice expense component percent (divided by 100) for the service specified in paragraph (14)(B)(iii)(I), multiplied by the geographic practice cost index value specified for the locality in paragraph (14)(C)(iv), and

`(II) 1 minus the practice expense component percent (divided by 100) for the service, multiplied by the geographic work index value specified for the locality in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243).

`(C) For purposes of this paragraph:

`(i)(I) The `national weighted average prevailing charge' specified in this clause, for a physicians' service specified in paragraph (14)(C)(i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

`(II) For purposes of determining the national weighted average prevailing charge for a service under subclause (I), the Secretary shall adjust the prevailing charge for the service for each locality by the adjustment factor (specified in subparagraph (B)(iii)) for that locality.

`(ii) The `percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified in paragraph (14)(C)(iii).'.

(b) UNSURVEYED SURGICAL AND TECHNICAL PROCEDURES- Section 1842(b), as amended by subsection (a) (42 U.S.C. 1395u(b)), is further amended by adding at the end the following new paragraph:

`(17)(A) In determining the reasonable charge for all physicians' services other than physicians' services specified in subparagraph (B) furnished during 1991, the prevailing charge otherwise recognized for a locality shall be reduced by 4 percent.

`(B) For purposes of subparagraph (A), the physicians' services specified in this subparagraph are as follows:

`(i) Radiology, anesthesia and physician pathology services, and physicians' services specified in paragraph (14)(C)(i).

`(ii) Primary care services specified in subsection (i)(4), hospital inpatient medical services (HCPCS codes 90200 through 90292), consultations (HCPCS codes 90600 through 90654), preventive medicine visits (HCPCS codes 90750 through 90754), emergency care facility services (HCPCS codes 99062 through 99065), and critical care services (HCPCS codes 99160 through 99174).

`(iii) Partial, simple and subcutaneous mastectomy (HCPCS codes 19160 through 19180); tendon sheath injections and small joint arthrocentesis (HCPCS codes 20550 through 20610); femoral fracture and trochanteric fracture treatments (HCPCS codes 27230 through 27248); endotracheal intubation (HCPCS code 31500); thoracentesis (HCPCS code 32000); thoracostomy (HCPCS codes 32020 through 32036); lobectomy (HCPCS codes 32485 through 32490); aneurysm repair (HCPCS codes 35022 through 35111); enterectomy (HCPCS code 44115); colectomy (HCPCS code 44151); cholecystectomy (HCPCS code 47612); cystourethroscopy (HCPCS code 52340); transurethral fulguration and resection (HCPCS codes 52606 and 52620); sacral laminectomy (HCPCS code 63011); tympanoplasty with mastoidectomy (HCPCS codes 69643 and 69645); and ophthalmoscopy (HCPCS codes 92225, 92250, and 92260).'.

SEC. 6112. RADIOLOGY SERVICES.

(a) REDUCTION IN FEE SCHEDULE- Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended--

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and

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

`(D) 1991 FEE SCHEDULES- For radiologist services (other than portable X-ray services) furnished under this part during 1991, the conversion factors used in a locality under this subsection shall be determined as follows:

`(i) NATIONAL WEIGHTED AVERAGE CONVERSION FACTOR-

`(I) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished for the period during 1990 beginning April 1 using the best available data.

`(II) For purposes of determining the national average conversion factor under subclause (I), the Secretary shall adjust the conversion factor for each locality by the adjustment factor (specified in clause (iii)) for that locality.

`(ii) REDUCED NATIONAL WEIGHTED AVERAGE- The national weighted average estimated under clause (i) shall be reduced by 12 percent.

`(iii) LOCAL ADJUSTMENT- Subject to clause (iv), the conversion factor to be applied to the professional or technical component of a service in a locality is the sum of--

`(I) the product of (aa) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work, and (bb) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

`(II) the product of (aa) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii), and (bb) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause with respect to the professional component of a service, 80 percent of the conversion factor shall be considered to be attributable to physician work, and with respect to the technical component of the service, 35 percent shall be considered to be attributable to physician work.

`(iv) MAXIMUM REDUCTION- The conversion factor to be applied to a locality under this subparagraph to the professional or technical component of a service shall not be reduced by more than 8 percent below the conversion factor applied in the locality under subparagraph (C) to such component.

`(v) TREATMENT OF GLOBAL FEES- In applying this subparagraph in the case of a global fee for a service that includes a professional and a technical component, the conversion factor to be applied is the sum of the conversion factors for the professional and technical components of the service computed separately.'.

(b) REDUCTION IN PREVAILING CHARGE LEVEL FOR OTHER RADIOLOGY SERVICES-

(1) IN GENERAL- In applying part B of title XVIII of the Social Security Act, the prevailing charge for physicians' services, furnished during 1991, which are radiology services may not exceed the fee schedule amount established under section 1834(b) of such Act with respect to such services.

(2) EXCEPTION- Paragraph (1) shall not apply to radiology services which are subject to section 6105(b) or 6108(b) of the Omnibus budget Reconciliation Act of 1989.

(c) SPECIAL RULE FOR NUCLEAR MEDICINE SERVICES-

(1) PAYMENT FOR SERVICES FURNISHED IN 1990 AND 1991- Section 6105(b) of the Omnibus Budget Reconciliation Act of 1989 is amended--

(A) by inserting `after March 31, 1990, and before January 1, 1992' after `furnished', and

(B) by striking all after `Act' the second place it appears and inserting `, there shall be substituted for the fee schedule otherwise applicable a fee schedule based on 1/3 on the fee schedule computed under such section (without regard to this subsection) and 2/3 on 101 percent of the 1988 prevailing charge for such services.'.

(2) ADJUSTED HISTORICAL PAYMENT BASIS- Section 1848(a)(2)(D) (42 U.S.C. 1395w-4(a)(2)(D)) is amended--

(A) in clause (ii) by inserting `, but excluding nuclear medicine services that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989' after `section 1834(b)(6))', and

(B) by adding at the end the following:

`(iii) NUCLEAR MEDICINE SERVICES- In applying clause (i) in the case of physicians' services which are nuclear medicine services that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989, there shall be substituted for the weighted average prevailing charge the amount provided under such section.'.

(3) Section 1848(b)(2)(A) is amended by striking `section 1834(b)(6)' and inserting `section 1834(b)(6), but excluding nuclear medicine services'.

(4) For purposes of determining the `fee schedule amount' under section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) for nuclear medicine services furnished on or after January 1, 1992, the Secretary of Health and Human Services shall apply relative values determined in accordance with the methodology utilized for other physicians' services and may not apply the relative values developed for such services under the fee schedule established under section 1834(b) of such Act.

(d) EXTENSION OF SPLIT BILLING RULE FOR INTERVENTIONAL RADIOLOGISTS- Section 6105(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting `or 1991' after `1990' each place it appears.

(e) LIMITATION ON ADJUSTMENTS- For radiologist services furnished during 1991 for which payment is made under section 1834(b) of the Social Security Act--

(1) a carrier may not make any adjustment, under section 1842(b)(3)(B) of such Act, in the payment amount for the service under section 1834(b) on the basis that the payment amount is higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier,

(2) no payment adjustment may be made under section 1842(b)(8) of such Act, and

(3) section 1842(b)(9) of such Act shall not apply.

(f) ESTABLISHMENT OF FLOOR- Section 1834(b)(4), as amended by subsection (a), is further amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G) and inserting after subparagraph (D) the following:

`(E)(i) For purposes of determining payments for radiologist services furnished under this part during 1991 (and the adjusted historical payment basis (as defined in section 1848(a)(2)(D)) for such services, the Secretary shall

establish a locality-specific conversion factor floor that is equal to 80 percent of the national weighted average of the conversion factors used under this subsection for radiologist services furnished during the 9-month period beginning April 1, 1990 (as determined by the Secretary using the best data available), adjusted in the manner described in subparagraph (D)(iii) for the locality.

`(ii) The conversion factor used under this subsection for services furnished in a locality during 1991 (and the adjusted historical payment basis used under section 1848) may not be less than the floor established under clause (i) for the locality.'.

SEC. 6113. ANESTHESIA SERVICES.

(a) REDUCTION IN FEE SCHEDULE- Section 1842(q)(1) (42 U.S.C. 1395u(q)(1)) is amended--

(1) by inserting `(A)' after `(q)(1)', and

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

`(B) For physician anesthesia services furnished under this part during 1991, the conversion factor used in a locality under this subsection shall be determined as follows:

`(i)(I) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for physician anesthesia services furnished during 1990 after March 31 using the best available data.

`(II) For purposes of determining the national average conversion factor under subclause (I), the Secretary shall adjust the conversion factor for each locality by the adjustment factor (specified in clause (iii)) for that locality.

`(ii) The national weighted average estimated under clause (i) shall be reduced by 4 percent.

`(iii) Subject to clause (iv), the conversion factor to be applied in a locality is the sum of--

`(I) the product of (aa) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work and (bb) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

`(II) the product of (aa) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii) and (bb) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause, 70 percent of the conversion factor shall be considered to be attributable to physician work.

`(iv) The conversion factor to be applied to a locality under this subparagraph shall not be reduced by more than 15 percent below the conversion factor applied in the locality for the period during 1990 beginning April 1.'.

(b) EXTENSION OF REDUCTION FOR SUPERVISION OF CONCURRENT SERVICES- Subparagraphs (A) and (B) of section 1842(b)(13) (42 U.S.C. 1395u(b)(13)) are each amended by striking `1991' and inserting `1996'.

(c) ESTABLISHMENT OF FLOOR- Section 1842(q)(1), as amended by subsection (a), is further amended by adding at the end the following:

`(C)(i) For purposes of determining payments for physician anesthesia services furnished under this part during 1991 (and the adjusted historical

payment basis (as defined in section 1848(a)(2)(D)) for such services, the Secretary shall establish a locality-specific conversion factor floor that is equal to 75 percent of the national weighted average of the conversion factors used under this subsection for physician anesthesia services furnished during the 9-month period beginning April 1, 1990 (as determined by the Secretary using the best data available), adjusted in the manner described in subparagraph (B)(iii) for the locality.

`(ii) The conversion factor used under this subsection for services furnished in a locality during 1991 (and the adjusted historical payment basis used under section 1848) may not be less than the floor established under clause (i) for the locality.'.

SEC. 6114. PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES-

(1) IN GENERAL- Subject to paragraph (2), in determining the reasonable charge under part B of title XVIII of the Social Security Act for physician pathology services furnished on or after January 1, 1991, the prevailing charge for such service shall be 96 percent of the prevailing charge otherwise used under such part for services furnished during 1990 after March 31 (taking into account the amendments made by this Act).

(2) LIMITATION- The prevailing charge for the technical and professional components of a physician pathology service furnished by a physician through an independent laboratory shall not be reduced pursuant to paragraph (1) to the extent that such reduction would reduce such prevailing charge below 115 percent of the prevailing charge for the professional component of such service when furnished by a hospital-based physician in the same locality. For purposes of the preceding sentence, an independent laboratory is a laboratory that is independent of a hospital and separate from the attending or consulting physicians' office.

(b) REPEAL OF PATHOLOGY FEE SCHEDULE-

(1) Subsection (f) of section 1834 (42 U.S.C. 1395m) is repealed.

(2) Section 1833(a)(1)(J) (42 U.S.C. 1395l(a)(1)) is amended by striking `or physician pathology services' and by striking `or section 1834(f), respectively'.

(3) Section 4050 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(c) ADJUSTMENT- (1) The Secretary of Health and Human Services shall provide for an appropriate adjustment to payments under section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) to reflect the technical component of furnishing physician pathology services through an independent laboratory. The adjustment shall apply to services furnished on or after January 1, 1992.

(2) For purposes of paragraph (1), the term `independent laboratory' means a laboratory that is independent of a hospital and separate from the attending or consulting physician's office.

SEC. 6115. UPDATE FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991 AND CUSTOMARY AND PREVAILING CHARGES DURING 1991-

(1) IN GENERAL- Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

`(v) For purposes of this part for items and services furnished in 1991, the percentage increase in the MEI is--

`(I) 0 percent for services (other than primary care services), and

`(II) 2.0 percent for primary care services (as defined in subsection (i)(4)).'.

(2) LIMITING UPDATE IN CUSTOMARY CHARGES- Section 1842(b)(4)(B) (42 U.S.C. 1395u(b)(4)(B)) is amended by adding at the end the following new clause:

`(iv) In determining the reasonable charge under paragraph (3) for physicians' services (other than primary care services, as defined in subsection (i)(4)) furnished during 1991, the customary charges shall be the same customary charges as were recognized under this section for the 9-month period beginning April 1, 1990. In a case in which subparagraph (F) applies (relating to new physicians) so as to limit the customary charges of a physician during 1990 to a percent of prevailing charges, the previous sentence shall not prevent such limit on customary charges under such subparagraph from increasing in 1991 to a higher percent of such prevailing charges.'.

(c) VOLUME PERFORMANCE STANDARDS- Section 1848(f)(2) (42 U.S.C. 1395w-4(f)(2)) is amended--

(1) in subparagraph (A) by striking `the performance standard factor (specified in subparagraph (B))' and inserting `1 percentage point for fiscal year 1991, 1 1/2 percentage points for fiscal year 1992, and 2 percentage points for each succeeding fiscal year', and

(2) by striking subparagraph (B) and inserting the following:

`(B) Notwithstanding subparagraph (A), the performance standard rate of increase for a category of physicians' services (as defined in paragraph (5)) for fiscal year 1991 shall be the sum of--

`(i) the Secretary's estimate of the rate of increase in expenditures for all physicians' services for portions of calendar years occurring in such fiscal year (determined without regard to the amendments made by the Omnibus Budget Reconciliation Act of 1990), and

(ii) the Secretary's estimate of the percentage increase or decrease in expenditures for the category of services involved that will result from changes in law and regulations,

reduced by 2.0 percentage points.'.

SEC. 6116. NEW PHYSICIANS.

(a) EXTENSION OF CUSTOMARY CHARGE LIMIT FOR 1991- Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended by adding at the end the following: `For the second and third calendar years during which the first sentence of this subparagraph no longer applies, the Secretary shall set the customary charge at a level no higher than 90 and 95 percent, respectively, of the prevailing charge for the service.'.

(b) APPLICATION UNDER FEE SCHEDULE- Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

`(4) TREATMENT OF NEW PHYSICIANS- In the case of physicians' services furnished by a physician before the end of the physician's first full calendar year of furnishing services for which payment may be made under this part, and during each of the 3 succeeding years, the fee schedule amount to be applied shall be 80 percent, 85 percent, 90 percent, and 95 percent, respectively, of the fee schedule amount applicable to physicians who are not subject to this paragraph. The preceding sentence shall not apply to primary care services or services furnished in a rural area (as defined in section 1886(d)(2)) that is designated under section 322(a)(1)(A) of the Public Health Service Act as a health manpower shortage area.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 6117. ASSISTANTS AT SURGERY.

(a) PHYSICIANS AS ASSISTANTS-AT-SURGERY- Section 1848(i) (42 U.S.C. 1395w-4(i)) is amended by adding at the end the following:

> *`(2) ASSISTANTS-AT-SURGERY- In the case of a surgical service furnished by a physician, if payment is made separately under this part for the services of a physician serving as an assistant-at-surgery, such payment shall not exceed 16 percent of the amount otherwise determined under this section (or for 1991 under section 1842(b)(3)) for the global surgical service involved.'.*

(b) EFFECTIVE DATE- The amendments made by subsections (a) and (b) shall apply with respect to services furnished on or after January 1, 1991.

SEC. 6118. ADVANCE DETERMINATIONS BY CARRIERS.

(a) IN GENERAL- Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following:

`(o)(1)(A) A carrier shall determine in advance whether an item or service is not allowable under section 1862(a)(1) if the item or service has been listed by the Secretary under paragraph (2).

`(B)(i) A carrier may in accordance with procedures established by the Secretary, determine in advance whether an item or service is not allowable under section 1862(a)(1) if--

> *`(I) the item or service is furnished or ordered by a physician described under paragraph (3),*
>
> *`(II) the carrier notifies the physician as to the kinds of items or services that will be subject to advance determination, and*
>
> *`(III) the carrier provides a general notice for entities likely to furnish the kinds of items or services described in the notification under subclause (II) that are ordered by the physician.*

`(ii) A carrier may determine in advance whether an item is not allowable under section 1862(a)(1) if--

> *`(I) the item is furnished by an entity described under paragraph (4), and*
>
> *`(II) the carrier notifies the entity as to the kinds of items that will be subject to advance determination.*

`(C) The preceding subparagraphs do not apply--

> *`(i) to the kinds of items and services in an area that are under review by a utilization and quality control peer review organization, or*
>
> *`(ii) in cases of a medical emergency or under such other circumstances as the Secretary may specify.*

`(2) The Secretary may list specific expensive items or services that the Secretary finds should be subject to advance determination.

`(3) Items and services furnished or ordered by a particular physician are subject to paragraph (1)(B)(i) if--

> *`(A) a substantial number of items or services furnished or ordered by the physician have been found not to be allowable under section 1862(a)(1), or*
>
> *`(B) a carrier has identified a pattern of overutilization resulting from the performance or ordering practices of the physician, has so informed the*

physician, and has afforded the physician an opportunity to respond.

`(4) Items furnished by a particular entity are subject to paragraph (1)(B)(ii) if--

`(A) a substantial number of items furnished by the entity have been found not to be allowable under section 1862(a)(1), or

`(B) a carrier has identified a pattern of overutilization resulting from the business practices of the entity, has so informed the entity, and has afforded the entity an opportunity to respond.'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall become effective with respect to items and services furnished on or after January 1, 1991.

SEC. 6119. LIMITATION ON BENEFICIARY LIABILITY.

Section 1848(g)(2)(A) (42 U.S.C. 1395w-4(g)(2)(A)) is amended by adding at the end thereof the following:

`In the case of evaluation and management services (as specified in section 1842(b)(17)(B)(ii)), the preceding sentence shall be applied by substituting `50 percent' for `25 percent'.'.

SEC. 6120. STATEWIDE FEE SCHEDULE AREAS FOR PHYSICIANS' SERVICES.

(a) IN GENERAL- Notwithstanding section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w-4(j)(2)), in the case of a State that meets the requirements specified in subsection (b) on or before April 1, 1991, the Secretary of Health and Human Services (Secretary) shall treat the State as a single fee schedule area for purposes of determining--

(1) the adjusted historical payment basis (as defined in section 1848(a)(2)(D) of such Act (42 U.S.C. 1395w-4(a)(2)(D))), and

(2) the fee schedule amount (as referred to in section 1848(a) (42 U.S.C. 1395w-4(a)) of such Act),

for physicians' services (as defined in section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3))) furnished on or after January 1, 1992.

(b) REQUIREMENTS- The requirements specified in this subsection are that (on or before April 1, 1991) there are written expressions of support for treatment of the State as a single fee schedule area (on a budget-neutral basis) from--

(1) each member of the congressional delegation from the State, and

(2) organizations representing urban and rural physicians in the State.

(c) BUDGET NEUTRALITY- Notwithstanding section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)), the Secretary shall provide for treatment of a State as a single fee schedule area (as described in subsection (a)) in a manner that ensures that total payments for physicians' services (as so defined) furnished by physicians in the State during 1992 are not greater or less than total payments for such services would have been but for such treatment.

(d) CONSTRUCTION- Nothing in this section shall be construed as limiting the availability (to the Secretary, the appropriate agency or organization with a contract under section 1842, or physicians in a State) of otherwise applicable administrative procedures for modifying the fee schedule area or areas in the State after implementation of subsection (a) with respect to the State.

SEC. 6121. TECHNICAL CORRECTIONS RELATING TO PHYSICIAN PAYMENT.

(a) COMPARABILITY AND INHERENT REASONABLENESS ADJUSTMENTS-

(1) Section 1842(b)(3)(B) (42 U.S.C. 1395u(b)(3)(B)) is amended by inserting `, subject to section 1848(i)(2),' after `such charge will be reasonable and'.

(2) Section 1848(i) is amended by adding at the end the following new paragraph:

`(3) NO COMPARABILITY ADJUSTMENT- For physicians' services (including radiology and anesthesia services) for which payment under this part is determined under this section--

`(A) a carrier may not make any adjustment in the payment amount under section 1842(b)(3)(B) on the basis that the payment amount is higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier,

`(B) no payment adjustment may be made under section 1842(b)(8), and

`(C) section 1842(b)(9) shall not apply.'.

(b) ALLOWING PERIODIC RECOMPUTATION OF GPCI- Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

`(C) PERIODIC RECOMPUTATION OF INDICES- The Secretary shall, from time to time, recompute the indices established under this paragraph based on the formula described in subparagraph (A) to reflect the most recent data available.'.

(c) OVERVALUED PROCEDURES-

(1) Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended--

(A) in subparagraph (B)(iii)(I), by striking `practice expense ratio for the service (specified in table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i))' and inserting `practice expense component (percent), divided by 100, specified in Appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives (Committee Print 101-M, 101st Congress, 1st Session) for the service';

(B) in subparagraph (B)(iii)(II), by striking `practice expense ratio' and inserting `practice expense component (percent), divided by 100';

(C) in subparagraph (C)(i), by striking `physicians' services specified in table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the `Omnibus Budget Reconciliation Act of 1989'), 101st Congress,' and inserting `procedures listed (by code and description) in the Overvalued Procedures List for Finance Committee, Revised September 20, 1989, prepared by the Physician Payment Review Commission';

(D) in subparagraph (C)(iii), by striking `The `percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in table #2 in the Joint Explanatory Statement' and inserting `The `percentage change' specified in this clause, for a physicians' service specified in clause (i), is the percent difference (but expressed as a positive number) specified for the service in the list'; and

(E) in subparagraph (C)(iv), by striking `such value specified for the locality in table #3 in the Joint Explanatory Statement referred to in clause (i)' and inserting `the Geographic Overhead Costs Index specified for the locality in table 1 of the September 1989 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research)'.

(2) Section 1842(b)(4)(E)(iv)(I) of such Act (42 U.S.C. 1395u(b)(4)(E)(iv)(I)) is amended by striking `Table #2' and all that follows through `101st Congress' and inserting `the list referred to in paragraph (14)(C)(i)'.

(3) The amendments made by paragraphs (1) and (2) apply to services furnished after March 1990.

(d) MVPS AS MULTIPLICATIVE, NOT ADDITIVE- Section 1848(f)(2)(A) (42 U.S.C. 1395w-4(f)(2)(A)) is amended--

(1) in the matter preceding clause (i) by striking `sum' and inserting `product';

(2) in clauses (i) through (iv)--

(A) by inserting `1.00 plus (' before `the Secretary's' each place it appears, and

(B) by inserting `) divided by 100' before the comma at the end of each clause; and

(3) in the matter following clause (iv), by striking `reduced' and inserting `minus 1.0 percentage point, multiplied by 100, and reduced'.

(e) ELIMINATION OF RESTRICTION ON INCORPORATION OF TIME IN VISIT CODES- Section 1848(c)(4) (42 U.S.C. 1395w-4(c)(4)) is amended by striking `only for services furnished on or after January 1, 1993'.

(f) TREATMENT OF PRICE INCREASE IN DETERMINING PERFORMANCE STANDARD RATES OF INCREASE- Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w-4(f)(2)(A)(iv)) is amended by inserting `including changes in law and regulations affecting the percentage increase described in clause (i)' after `law or regulations'.

(g) MISCELLANEOUS FEE SCHEDULE CORRECTIONS-

(1) CHANGES IN SECTION 1848- Section 1848 (42 U.S.C. 1395w-4) is amended--

(A) in subsection (c), by redesignating the second paragraph (3), and paragraphs (4) and (5), as paragraphs (4) through (6), respectively;

(B) in subsection (c)(4), as redesignated by subparagraph (C), is amended by striking `subsection' and inserting `section';

(C) in subsection (d)(1)--

(i) in subparagraph (A)--

(I) by inserting `(or factors)' after `conversion factor' each place it appears in the subparagraph, and

(II) by striking `subparagraph (C)' and inserting `paragraph (3)'; and

(ii) in subparagraph (C)--

(I) in clause (i), by striking `(or factors)'; and

(II) in clause (ii), by inserting `the conversion factor (or

factors) which will apply to physicians' services for the following year and' before `the update (or updates)', and by striking `the following' and inserting `such';

(D) in subsection (d)(2)(A)--

(i) in the matter preceding clause (i) by striking `services' the first place it appears and inserting `services (as defined in subsection (f)(5)(A))';

(ii) in clause (i) by inserting `for the services involved' after `section 1842(b)(3)'; and

(iii) in clause (ii)--

(I) by striking `all physicians' services (as defined in subsection (f)(5)(A))' and inserting `the services involved'; and

(II) by striking `all such physicians' and inserting `such'; and

(iv) in the last sentence by striking `proportion of HMO enrollees' and inserting `proportion of individuals who are enrolled under this part who are HMO enrollees';

(E) in subsection (d)(2)(E)(ii)(I), by inserting `payments for' after `under this part for';

(F) in subsection (d)(3)(B)--

(i) in clause (i)--

(I) by striking `update for' and inserting `update for a category of physicians' services for'; and

(II) by striking `physicians' services (as defined in subsection (f)(5)(A))' and inserting `services in such category';

(ii) in clause (ii)--

(I) by inserting `more than' after `decrease of'; and

(II) in subclause (I), by striking `more than';

(G) in subsection (f)(1)--

(i) in subparagraph (A), by striking `each category' and inserting `each category and group';

(ii) in subparagraph (C) by striking `all physicians' services and for'; and

(iii) in subparagraph (D)(i) by striking `calendar years' and inserting `portions of calendar years';

(H) in subsection (f)(2)(A)--

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

(I) by striking `each' and inserting `the'; and

(II) by striking `increase' and inserting `increase for a category of physicians' services';

(ii) in subsection (f)(2)(A)(i), by striking `physicians' services (as defined in subsection (f)(5)(A))' and inserting `services in such category';

(iii) in subsection (f)(2)(A) (iii) by striking `physicians' services' and inserting `services in such category'; and

(iv) in subsection (f)(2)(A)(iv) by striking `physicians' services (as defined in subsection (f)(5)(A)' and inserting `services in such category';

(I) in subsection (f)(4)--

(i) in subparagraph (A)--

(I) by striking `paragraph (B)' and inserting `subparagraph (B)'; and

(II) by striking `after' and all that follows through `1991'; and

(ii) in subparagraph (B) by striking `congress specifically approves the plan' and inserting `specifically approved by law'.

(J) in subparagraphs (A) and (B) of subsection (g)(2), by inserting `other than radiologist services subject to section 1834(b),' after `during 1991,' and after `during 1992,', respectively;

(K) in subsection (i)(1)(A) by striking `historical payment basis (as defined in subsection (a)(2)(C)(i))' and inserting `adjusted historical payment basis (as defined in subsection (a)(2)(D)(i))'; and

(L) in subsection (j)(1), by striking `, and such other' and all that follows through the period and inserting `(as defined by the Secretary) and all other physicians' services.'.

(2) MISCELLANEOUS-

(A) Effective as if included in the Omnibus Budget Reconciliation Act of 1989, section 6102(e)(4) of such Act is amended by striking `rate determined' after `prevailing charge'.

(B) Effective January 1, 1991, section 1842(b)(3)(G) is amended by striking `subsection (j)(1)(C)' and inserting `section 1848(g)(2)'.

(C) Section 1842(b)(12)(A)(ii)(II) is amended by striking `, as the case may be'.

(D) Section 1833(a)(1)(H) is amended by striking `, as the case may be'.

(E) Section 6102(e)(11) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting `of Health and Human Services' after `Secretary'.

(h) REPEAL OF REPORTS NO LONGER REQUIRED-

(1) Subsection (b) of section 4043 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(2) Subsection (c) of section 4048 of such Act is repealed.

(3) Section 4049(b)(1) of such Act is amended by striking `, and shall report' and all that follows up to the period at the end.

(4) Section 4056(a)(1) of such Act, as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

(5) Section 4056(b)(2) of such Act is amended by striking the second sentence.

(i) ADJUSTMENT OF EFFECTIVE DATES- Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987--

(1) section 4048(b) of such Act is amended by striking `January 1, 1989' and inserting `March 1, 1989', and

(2) section 4049(b)(2) of such Act is amended by striking `January 1, 1989' and inserting `April 1, 1989'.

SEC. 6122. BILLING FOR SERVICES OF SUBSTITUTE PHYSICIAN.

(a) UNDER MEDICARE- Section 1842(b)(6) (42. U.S.C. 1395u(b)(6)) is amended--

(1) by striking `and' before `(C)', and

(2) by striking `involved.' and inserting `involved, and (D) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services.'.

(b) UNDER MEDICAID- Section 1902(a)(32) (42 U.S.C. 1396a(a)(32))--

(1) by striking `and' before `(B)',

(2) by inserting `and' at the end of subparagraph (B), and

(3) by adding at the end the following:

`(C) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 6123. STUDY OF PREPAYMENT MEDICAL REVIEW SCREENS.

(a) IN GENERAL- The Secretary of Health and Human Services (in this section referred to as the `Secretary') shall conduct a study of the effect of the release of prepayment medical review screen parameters on physician billings for the services to which the parameters apply.

(b) LIMITATIONS- The study shall be based upon the release of the screen parameters at a minimum of six carrier sites.

(c) REPORT- The Secretary shall report the results of the study to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than October 1, 1992.

SEC. 6124. UTILIZATION SCREENS FOR PHYSICIAN VISITS IN REHABILITATION HOSPITALS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall revise the utilization screen established pursuant to section 4085(h) of the Omnibus Budget Reconciliation Act of 1987 to apply to all physician visits to an inpatient of a rehabilitation hospital or unit. Such screen shall reflect a standard of physician care that is comparable to the standard of physician care recognized for inpatients of acute care hospitals and units, particularly with respect to the frequency of visits by an attending physician. The Secretary shall provide that the provisions of this section shall be implemented in a manner that provides that expenditures are not greater or lesser than they would have been but for the enactment of the provisions of this section.

SEC. 6125. STUDY OF HIGH VOLUME PAYMENT ADJUSTMENT.

(a) IN GENERAL- (1) The Secretary of Health and Human Services (in this section referred to as the `Secretary') shall conduct a study of the feasibility and desirability of adjusting payments to individual physicians performing a high volume of a particular procedure in order to reflect the economies of scale afforded by volume.

(2) Taking into account the potential impact of such an adjustment on the medicare program costs and patient access to necessary services, the Commission shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on--

(A) the types of services or procedures for which such an adjustment would be appropriate,

(B) options for implementing such an adjustment,

(C) appropriate exceptions to such an adjustment, and

(D) appropriate safeguards to ensure access by medicare beneficiaries to necessary services.

(b) DEADLINES FOR REPORT- The Secretary shall submit the report required by subsection (a) on or before July 1, 1992.

Subpart B--Payments for Other Items and Services

SEC. 6130. HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS- Section 1861(v)(1)(S)(ii)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking `fiscal year 1990' and inserting `during the period beginning on October 1, 1989, and ending September 30, 1991 and by 10 percent for portions of cost reporting periods occurring during the period beginning on October 1, 1991 and ending September 30, 1995'.

(b) REDUCTION IN REASONABLE COSTS OF HOSPITAL OUTPATIENT SERVICES- Section 1861(v)(1)(S)(ii) of such Act (42 U.S.C. 1395x(v)(1)(S)(ii)) is amended--

(1) in subclause (II), by striking `1886(d)(5)(D)(iii)).' and inserting `1886(d)(5)(D)(iii)), a rural primary care hospital (as defined in subsection (mm)(1)), or a hospital designated under section 1820(e) as an essential access community hospital.';

(2) in subclause (III)--

(A) by striking `subclause (I)' and inserting `subclauses (I) and (II)', and

(B) by striking `capital-related' and inserting `the';

(3) by redesignating subclauses (II) and (III) as subclauses (III) and (IV); and

(4) by inserting after subclause (I) the following new subclause:

`(II) The Secretary shall reduce the reasonable cost of outpatient hospital services (other than the capital-related costs of such services) otherwise determined pursuant to section 1833(a)(2)(B)(i)(I) by 5 percent for payments attributable to portions of cost reporting periods during the period beginning on October 1, 1990, and ending December 31, 1995.'.

(c) EXTENSION OF ASC BLEND AMOUNTS FOR EYE AND EYE AND EAR SPECIALTY HOSPITALS- The last sentence of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended by striking `in fiscal year 1989 or fiscal year 1990' and inserting `on or after October 1, 1988, and before September 30, 1993'.

SEC. 6131. CLINICAL DIAGNOSTIC LABORATORY SERVICES.

(a) CAP ON ANNUAL FEE SCHEDULE INCREASES- Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended--

(1) by striking `any other provision of this subsection' and inserting `clause (i)';

(2) by striking `and' at the end of subclause (I);

(3) by striking the period at the end of subclause (II) and inserting `, and'; and

(4) by adding at the end the following new subclause:

`(III) the annual adjustment in the fee schedules under clause (i) for 1991 shall be a 2 percent increase.'.

(b) REDUCTION IN NATIONAL 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 (ii);

(2) in clause (iii), by inserting `and before January 1, 1991,' after `1989,';

(3) by striking the period at the end of clause (iii) and inserting `, and'; and

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

`(iv) after December 31, 1990, is equal to 90 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).'.

SEC. 6132. DURABLE MEDICAL EQUIPMENT.

(a) DEVELOPMENT AND APPLICATION OF NATIONAL LIMITS ON FEES-

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING- Paragraphs (2) and (3) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended--

(A) in subparagraph (B)(i), by striking `or' at the end;

(B) by striking clause (ii) of subparagraph (B) and inserting the following:

`(ii) in 1991 is the sum of (I) 67 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(I) for 1991, and (II) 33 percent of the national limited

payment amount for the item or device computed under subparagraph (C)(ii) for 1991;

`(iii) in 1992 is the sum of (I) 33 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(II) for 1992, and (II) 67 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1992; and

`(iv) in 1993 and each subsequent year is the national limited payment amount for the item or device computed under subparagraph (C)(ii) for that year.'; and

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

`(C) COMPUTATION OF LOCAL PAYMENT AMOUNT AND NATIONAL LIMITED PAYMENT AMOUNT- For purposes of subparagraph (B)--

`(i) the local payment amount for an item or device for a year is equal to--

`(I) for 1991, the amount specified in subparagraph (B)(i) for 1990 increased by the covered item increase for 1991, and

`(II) for 1992, the amount determined under this clause for the preceding year increased by the covered item increase for 1992; and

`(ii) the national limited payment amount for an item or device for a year is equal to--

`(I) for 1991, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the weighted average of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the weighted average of all local payment amounts determined under such clause for such item, and

`(II) for each subsequent year, the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.'.

(2) MISCELLANEOUS ITEMS AND OTHER COVERED ITEMS- Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended--

(A) in subparagraph (A)(ii)--

(i) by striking `or' at the end of subclause (I);

(ii) in subclause (II)--

(I) by striking `1991 or', and

(II) by striking `the percentage increase' and all that follows through the period and inserting `the covered item increase for the year.';

(iii) by redesignating subclause (II) as subclause (III); and

(iv) by inserting after subclause (I) the following new subclause:

`(II) in 1991, equal to the local purchase price computed under this clause for the previous year, increased by the covered item increase for 1991, and decreased by the percentage by which the average of the purchase prices on

claims submitted for all items described in paragraph (7) exceeds 110 percent of the average of the reasonable charges on claims paid for the items during the 6-month period ending with December 1986; or';

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

`(B) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE- With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price--

`(i) for 1991, equal to the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year; and

`(ii) for each subsequent year, equal to the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.';

(C) in subparagraph (C)--

(i) by striking `regional purchase price' each place it appears and inserting `national limited purchase price',

(ii) by striking `and subject to subparagraph (D)',

(iii) in clause (ii)--

(I) by striking `75' and inserting `67'; and

(II) by striking `25' and inserting `33', and

(iv) in clause (iii)--

(I) in subclause (I), by striking `50' and inserting `33' and striking `subparagraph (A)(ii)(II)' and inserting `subparagraph (A)(ii)(III)'; and

(II) in subclause (II), by striking `50' and inserting `67'; and

(D) by striking subparagraph (D).

(3) OXYGEN AND OXYGEN EQUIPMENT- Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended--

(A) in subparagraph (A)(ii)(II), by striking `the percentage increase' and all that follows through the period and inserting `the covered item increase for the year.';

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

`(B) COMPUTATION OF NATIONAL LIMITED MONTHLY PAYMENT RATE- With respect to the furnishing of an item in a year, the Secretary shall compute a national limited monthly payment rate equal to--

`(i) for 1991, the local monthly payment rate computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local monthly payment rates computed

for the item under such subparagraph for the year; and

`(ii) for each subsequent year, equal to the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.';

(C) in subparagraph (C)--

(i) by striking `regional monthly payment rate' each place it appears and inserting `national limited monthly payment rate',

(ii) in clause (ii)--

(I) by striking `75' and inserting `67'; and

(II) by striking `25' and inserting `33', and

(iii) in clause (iii)--

(I) in subclause (I), by striking `50' and inserting `33'; and

(II) in subclause (II), by striking `50' and inserting `67' and striking `subparagraph (B)(i)' and inserting `subparagraph (B)(ii)'; and

(D) by striking subparagraph (D).

(4) DEFINITION- Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

`(14) COVERED ITEM INCREASE- In this subsection, the term `covered item increase' means, for 1991 and each 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.'.

(5) CONFORMING AMENDMENT- Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended by striking `defined for purposes of paragraphs (8)(B) and (9)(B)'.

(b) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS- Section 1834(a)(7)(A)(i) (42 U.S.C. 1395m(a)(7)(A)(i)) is amended--

(1) by striking `for each such month' and inserting `for each of the first 3 months of such period'; and

(2) by striking the semicolon at the end and inserting the following: `, and for each of the remaining months of such period is 7.5 percent of such purchase price;'.

(c) FREEZE IN REASONABLE CHARGES FOR ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1991- In determining the amount of payment under part B of title XVIII of the Social Security Act for enteral and parenteral nutrients, supplies, and equipment furnished during 1991, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such items for 1990.

(d) OXYGEN RETESTING- Section 1834(a)(5) (42 U.S.C. 1395m(a)(5)) is amended--

(1) in subparagraph (A), by striking `(B) and (C)' and inserting `(B), (C), and (E)'; and

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

`(E) RECERTIFICATION FOR PATIENTS RECEIVING HOME OXYGEN THERAPY- In the case of a patient receiving home oxygen therapy

services who, at the time such services are initiated, has an initial arterial blood gas value at or above a partial pressure of 55 or an arterial oxygen saturation at or above 89 percent (or such other values or saturations as the Secretary may specify), no payment may be made under this part for such services after the expiration of the 60-day period that begins on the date the patient first received such services unless the patient's attending physician certifies that, on the basis of a followup test of a patient's arterial blood gas value or arterial oxygen saturation conducted during the final 15 days of such 60-day period, there is a medical need for the patient to continue to receive such services.'.

(e) EFFECTIVE DATE- (1) Except as provided in paragraph (2), the amendments made by this section shall apply to items furnished on or after January 1, 1991.

(2) The amendments made by subsection (d) shall apply to patients who first receive home oxygen therapy services on or after January 1, 1991.

SEC. 6133. ORTHOTICS AND PROSTHETICS.

(a) MAINTAINING CURRENT PAYMENT METHODOLOGY- Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

`(h) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS-

`(1) GENERAL RULE FOR PAYMENT-

`(A) IN GENERAL- Payment under this subsection for prosthetic devices and orthotics and prosthetics shall be made in a lump-sum amount for the purchase of the item in an amount equal to 80 percent of the payment basis described in subparagraph (B).

`(B) PAYMENT BASIS- Except as provided in subparagraph (C), the payment basis described in this subparagraph is the lesser of--

`(i) the actual charge for the item; or

`(ii) the amount recognized under paragraph (2) as the purchase price for the item.

`(C) EXCEPTION FOR CERTAIN PUBLIC HOME HEALTH AGENCIES- Subparagraph (B)(i) shall not apply to an item furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

`(D) EXCLUSIVE PAYMENT RULE- This subsection shall constitute the exclusive provision of this title for payment for prosthetic devices, orthotics, and prosthetics under this part or under part A to a home health agency.

`(2) PURCHASE PRICE RECOGNIZED- For purposes of paragraph (1), the amount that is recognized under this paragraph as the purchase price for prosthetic devices, orthotics, and prosthetics is the amount described in subparagraph (C) of this paragraph, determined as follows:

`(A) COMPUTATION OF LOCAL PURCHASE PRICE- Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

`(i) The carrier shall compute a base local purchase price for each item equal to the average reasonable charge in the locality for the purchase of the item for the 12-month period ending with June 1987.

`(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item--

`(I) in 1989 and 1990, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 6-month period ending with December 1987, or

`(II) in 1991, 1992 or 1993, equal to the local purchase price computed under this clause for the previous year increased by the applicable percentage increase for the year.

`(B) COMPUTATION OF REGIONAL PURCHASE PRICE- With respect to the furnishing of a particular item in each region (as defined by the Secretary), the Secretary shall compute a regional purchase price--

`(i) for 1992 and for 1993, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

`(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the applicable percentage increase for the year.

`(C) PURCHASE PRICE RECOGNIZED- For purposes of paragraph (1) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished--

`(i) in 1989, 1990, or 1991, is 100 percent of the local purchase price computed under subparagraph (A)(ii);

`(ii) in 1992, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

`(iii) in 1993, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

`(iv) in 1994 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

`(D) RANGE ON AMOUNT RECOGNIZED- The amount that is recognized under subparagraph (C) as the purchase price for an item furnished--

`(i) in 1991, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

`(ii) in a subsequent year, may not exceed 120 percent, and may not be lower than 90 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

`(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO DURABLE MEDICAL EQUIPMENT- Subparagraphs (A) and (B) of paragraph (10), paragraph (11), and paragraph (12) of subsection (a) shall apply to prosthetic devices, orthotics, and prosthetics in the same manner as such provisions apply to covered items under such subsection.

`(4) DEFINITIONS- In this subsection--

`(A) the term `applicable percentage increase' means--

`(i) for 1991, 0 percent, and

`(ii) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;

`(B) the term `prosthetic devices' has the meaning given such term in section 1861(s)(8), except that such term does not include parenteral and enteral nutrition nutrients, supplies, and equipment; and

`(C) the term `orthotics and prosthetics' has the meaning given such term in section 1861(s)(9).'.

(b) CONFORMING AMENDMENTS- (1) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended--

(A) in subparagraphs (A) and (B), by striking `subparagraph (G)' each place it appears and inserting `subparagraph (G) or subparagraph (I)';

(B) by striking `and' at the end of subparagraph (G);

(C) by striking the period at the end of subparagraph (H) and inserting `; and'; and

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

`(I) prosthetic devices and orthotics and prosthetics (described in section 1834(h)(4)) furnished by a provider of services or by others under arrangements with them made by a provider of services.'.

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended--

(A) by striking `, and (L)' and inserting `, (L)'; and

(B) by striking `subparagraph and (N)' and inserting the following: `subparagraph, (M) with respect to prosthetic devices and orthotics and prosthetics (as defined in section 1834(h)(4)), the amounts paid shall be the amounts described in section 1834(h)(1), and (N)'.

(3) Section 1833(a) (42 U.S.C. 1395l(a)) is amended--

(A) in paragraph (2), in the matter before subparagraph (A), by striking `and (H)' and inserting `(H), and (I)';

(B) by striking `and' at the end of paragraph (5);

(C) by striking the period at the end of paragraph (6) and inserting `; and'; and

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

`(7) in the case of prosthetic devices and orthotics and prosthetics (as described in section 1834(h)(4)), the amounts described in section 1834(h).'.

(4) Section 1834(a) (42 U.S.C. 1395m(a)), is amended--

(A) in the heading, by striking `, Prosthetic Devices, Orthotics, and Prosthetics';

(B) in paragraph (2)(A), by striking `(13)(A)' and inserting `(13)';

(C) in paragraph (6) by inserting `or prosthetic devices, and orthotics and prosthetics described in subsection (h)' after `or (5)'; and

(D) in paragraph (13), by striking `means--' and all that follows and

inserting the following: `means durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5)), but does not include intraocular lenses or medical supplies (including catheters, catheter supplies, ostomy bags, and supplies related to ostomy care) furnished by a home health agency under section 1861(m)(5).'.

(c)(1) PROHIBITION ON REGULATIONS- Notwithstanding any other provision of law, except as provided in paragraph (2), the Secretary of Health and Human Services (referred to in this subsection as the `Secretary') may not issue any regulation that changes the coverage of conventional eye wear furnished to individuals (enrolled under part B of title XVIII of the Social Security Act) following cataract surgery with an intraocular lens (IOL) implant.

(2) EXCEPTION- Paragraph (1) does not apply to any regulation issued for the sole purpose of implementing sections 1861(s)(8) and 1862(a)(7) of the Social Security Act (as amended by paragraph (3)).

(3) CLARIFYING COVERAGE OF POST-CATARACT EYEGLASSES-

(A) Section 1861(s)(8) (42 U.S.C. 1395x(s)(8)) is amended by inserting after `devices' the following `, and including one pair of corrective eyeglasses provided with intraocular lenses following cataract surgery'.

(B) Section 1862(a)(7) (42 U.S.C. 1395y(a)(7)) is amended by inserting after `eyeglasses' the first place it appears the following: `(other than eyeglasses described in section 1861(s)(8))'.

(d) EFFECTIVE DATE- The amendments made by this section shall apply to prosthetic devices, orthotics, and prosthetics furnished on or after January 1, 1991.

Subpart C--Miscellaneous Provisions

SEC. 6140. COMMUNITY MENTAL HEALTH CENTERS.

(a) PARTIAL HOSPITALIZATION SERVICES- (1) Section 1861(ff)(3) (42 U.S.C. 1395x(ff)(3)) is amended--

(A) by striking `(3)' and inserting `(3)(A)';

(B) by striking `outpatients' and inserting `outpatients or by a community mental health center (as defined in subparagraph (B)),'; and

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

`(B) For purposes of subparagraph (A), the term `community mental health center' means an entity--

`(i) providing the services described in section 1916(c)(4) of the Public Health Service Act; and

`(ii) meeting applicable licensing or certification requirements for community mental health centers in the State in which it is located.'.

(2)(A) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)), as amended by section X124(b)(1), is amended--

(i) by striking `and' at the end of subparagraph (G);

(ii) by striking the period at the end of subparagraph (H) and inserting `; and'; and

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

`(I) partial hospitalization services provided by a community mental health center (as described in section 1861(ff)(2)(B)).'.

(B) Section 1866(e) (42 U.S.C. 1395cc(e)) is amended by striking `include a clinic' and all that follows through the period and inserting the following: `include--

`(1) a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(p)(4)(A) (or meets the requirements of such section through the operation of section 1861(g)), or if, in the case of a public health agency, such agency meets the requirements of section 1861(p)(4)(B) (or meets the requirements of such section through the operation of section 1861(g)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services; and

`(2) a community mental health center (as defined in section 1861(ff)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(ff)(1)).'.

(3) EFFECTIVE DATE- The amendments made by this subsection shall apply with respect to partial hospitalization services provided on or after April 1, 1991.

(b) COVERAGE OF MENTAL HEALTH PROFESSIONAL SERVICES- (1) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by the Omnibus Budget Reconciliation Act 1989, is amended--

(A) by striking `and' at the end of subparagraph (M);

(B) by adding `and' at the end of subparagraph (N); and

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

`(O) qualified mental health professional services;'.

(2) Section 1833 (42 U.S.C. 1395l) is amended--

(A) in subsection (a)(1) by inserting after subparagraph (L) the following new subparagraph: `, (M) with respect to qualified mental health professionals under section 1861(s)(2)(O), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph.'.

(B) in subsection (p), by amending the first sentence to read as follows:

`(p) In case of--

`(1) certified nurse-midwife services;

`(2) qualified psychologists services;

`(3) clinical social worker services; and

`(4) qualified mental health professionals services,

for which payment may be made under this part only pursuant to subparagraphs (L), (M), (N), and (O) of section 1861(s)(2), respectively, payment may only be made under this part for such services on an assignment-related basis.'.

(3) Section 1861 (42 U.S.C. 1395x), as amended by subsection (a), is amended by inserting after subsection (ii) the following new subsection:

`(jj)(1) The term `qualified mental health professionals services' means such services and such services and supplies furnished as an incident to services furnished by a marriage and family therapist (as defined in paragraph (2)), or a psychiatric nurse (as defined in paragraph (3)) on-site at a community

mental health center (as defined in subsection (ff)), and such services that are necessarily furnished off-site (other than at an off-site office of such therapist, nurse, or counselor) as part of a treatment plan because of the inability of the individual furnished such services to travel to the center by reason of physical or mental impairment, because of institutionalization, or because of similar circumstances of the individual, which the marriage and family therapist, psychiatric nurse, or clinical mental health counselor is legally authorized to perform under State law (or the regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's services.

`(2) The term `marriage and family therapist' means an individual who--

`(A) possesses a minimum of a masters degree in a field related to marriage and family therapy.

`(B) after obtaining such degree has performed at least 2 years of supervised clinical experience in the field of marriage and family therapy; and

`(C)(i) is licensed or certified by the State in which such services are performed as a marriage and family therapist, married, family and child counselor, or is licensed under a similar professional title; or

`(ii) in the case of an individual in a State which does not provide for licensing or certification, is eligible for clinical membership in a national professional association that recognized credentials for clinical membership for marriage and family therapists (as determined by the Secretary).

`(3) The term `psychiatric nurse' means an individual who--

`(A) is licensed to practice professional nursing by the State in which such individual practices nursing;

`(B) performs such psychiatric nursing services as are authorized under the law of the State in which such individual practices psychiatric nursing; and

`(C)(i) possesses a minimum of a masters degree in nursing with a specialization in psychiatric and mental health nursing or a related field; or

`(ii) possesses a minimum of a masters degree in a related field from an accredited educational institution and is certified as a psychiatric nurse by a duly recognized national professional nurse organization, as determined by the Secretary, or is eligible to receive such certification.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to services performed on or after January 1, 1991.

SEC. 6141. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of the Omnibus Budget Reconciliation Act of 1986 is amended--

(1) in subsection (c)(1), by striking `3 years' and inserting `5 years', and

(2) in subsection (d)(1), by striking `third year' and inserting `fourth year'.

SEC. 6142. CERTIFIED REGISTERED NURSE ANESTHETISTS.

Section 1833(l) (42 U.S.C. 1395l) is amended--

(1) in paragraph (1)--

(A) by inserting `(A)' after `(1)'; and

(B) by adding at the end the following:

`(B) In establishing the fee schedule under this paragraph the Secretary may utilize a system of time units, a system of base and time units, or any appropriate methodology.

`(C) The provisions of this subsection shall not apply to certain services furnished in certain hospitals in rural areas under the provisions of section 9320(k) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6132 of the Omnibus Budget Reconciliation Act of 1989.';

(2) by striking the second sentence of paragraph (2); and

(3) by striking paragraph (4) and inserting the following:

`(4)(A) Except as provided in subparagraphs (C) and (D), in determining the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1991, by a certified registered nurse anesthetist who is not medically directed--

`(i) the conversion factor shall be--

`(I) for services furnished in 1991, $15.50,

`(II) for services furnished in 1992, $15.75,

`(III) for services furnished in 1993, $16.00,

`(IV) for services furnished in 1994, $16.25,

`(V) for services furnished in 1995, $16.50,

`(VI) for services furnished in 1996, $16.75, and

`(VII) for services furnished in calendar years after 1995, the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year;

`(ii) the payment areas to be used shall be the fee schedule areas used under section 1848 (or, in the case of services furnished during 1991, the localities used under section 1842(b)) for purposes of computing payments for physicians' services that are anesthesia services;

`(iii) the geographic adjustment factors to be applied to the conversion factor under clause (i) for services in a fee schedule area or locality is--

`(I) in the case of services furnished in 1991, the geographic work index value and the geographic practice cost index value specified in section 1842(q)(1)(B) for physicians' services that are anesthesia services furnished in the area or locality, and

`(II) in the case of services furnished after 1991, the geographic work index value, the geographic practice cost index value, and the geographic malpractice index value used for determining payments for physicians' services that are anesthesia services under section 1848,

with 70 percent of the conversion factor treated as attributable to work and 30 percent as attributable to overhead for services furnished in 1991 (and the portions attributable to work, practice expenses, and malpractice expenses in 1992 and thereafter being the same as is applied under section 1848).

`(B)(i) Except as provided in clause (ii) and subparagraph (D), in determining the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1991, by a certified registered nurse anesthetist who is medically directed, the Secretary shall apply the same methodology specified in subparagraph (A).

`(ii) The conversion factor used under clause (i) shall be--

`(I) for services furnished in 1991, $10.50,

`(II) for services furnished in 1992, $10.75,

`(III) for services furnished in 1993, $11.00,

`(IV) for services furnished in 1994, $11.25,

`(V) for services furnished in 1995, $11.50,

`(VI) for services furnished in 1996, $11.70, and

`(VII) for services furnished in calendar years after 1996, the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.

`(C) Notwithstanding subclauses (I) through (V) of subparagraph (A)(i)--

`(i) in the case of a 1990 conversion factor that is greater than $16.50, the conversion factor for a calendar year after 1990 and before 1996 shall be the 1990 conversion factor reduced by the product of the last digit of the calendar year and one-fifth of the amount by which the 1990 conversion factor exceeds $16.50; and

`(ii) in the case of a 1990 conversion factor that is greater than $15.49 but less than $16.51, the conversion factor for a calendar year after 1990 and before 1996 shall be the greater of--

`(I) the 1990 conversion factor, or

`(II) the conversion factor specified in subparagraph (A)(i) for the year involved.

`(D) In no case may the conversion factor used to determine payment for services in a fee schedule area or locality under this subsection, as adjusted by the adjustment factors specified in subparagraphs (A)(iii), exceed the conversion factor used to determine the amount paid for physicians' services that are anesthesia services in the area or locality.'.

SEC. 6143. FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) COVERAGE- Section 1861(s)(2)(E) (42 U.S.C. 1395x(s)(2)(E)) is amended by inserting `and Federally qualified health center services' after `rural health clinic services'.

(b) SERVICES DEFINED- Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended--

(1) in the heading, by adding at the end the following: `and Federally Qualified Health Center Services',

(2) in paragraph (3), by striking `paragraphs (1) and (2)' and inserting `the previous provisions of this subsection' and by redesignating such paragraph and paragraph (4) as paragraph (5) and (6), respectively, and

(3) by inserting after paragraph (2) the following new paragraphs:

`(3) The term `Federally qualified health center services' means services of the type described in subparagraphs (A) through (C) of paragraph (1) when furnished to an individual (who is not an inpatient) and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a Federally qualified health center or a physician at the center, respectively.

`(4) The term `Federally qualified health center' means an entity which--

`(A)(i) is receiving a grant under section 329, 330, or 340 of the Public

Health Service Act and which requests the Secretary to reimburse it as a Federally qualified health center, or

`(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and (II) meets the requirements to receive a grant under section 329, 330, or 340 of such Act;

`(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant; or

`(C) was treated by the Secretary, for purposes of part B, as a comprehensive Federally funded health center as of January 1, 1990.'.

(c) PAYMENTS-

(1) IN GENERAL- Section 1832(a)(2)(D) (42 U.S.C. 1395k(a)(2)(D)) is amended by inserting `(i)' after `(D)' and by inserting `and (ii) Federally qualified health center services' after `rural health clinic services'.

(2) EXCLUSION FROM PAYMENT REMOVED- Section 1862(a) (42 U.S.C. 1395y(a)) is amended--

(A) in paragraph (2), by inserting `, except in the case of Federally qualified health center services' before the semicolon at the end, and

(B) in paragraph (3), by inserting `, in the case of Federally qualified health center services, as defined in section 1861(aa)(3),' after `1861(aa)(1),'.

(3) PRRB REVIEW- Section 1878 (42 U.S.C. 1395oo) is amended by adding at the end the following new subsection:

`(j) In this section, the term `provider of services' includes a rural health clinic and a Federally qualified health center.'.

(d) CONFORMING AMENDMENTS- Section 1861 (42 U.S.C. 1395x) is further amended--

(1) in subsection (s)(2)(H)(i) and (s)(2)(K), by striking `subsection (aa)(3)' and `subsection (aa)(4)' each place either appears inserting `subsection (aa)(5)' and `subsection (aa)(6)', respectively, and

(2) in subsection (aa)(1)(B), by striking `paragraph (3)' and inserting `paragraph (5)'.

(e) TEMPORARY WAIVER OF RHC STAFFING REQUIREMENTS- Section 1861(aa) (42 U.S.C. 1395x(aa)) is further amended by adding at the end the following new paragraph:

`(7)(A) The Secretary shall waive for a 1-year period the requirements of paragraph (2) that a rural health clinic employ a physician assistant, nurse practitioner or certified nurse midwife or that such clinic require such providers to furnish services at least 50 percent of the time that the clinic operates for any facility that requests such waiver if the facility demonstrates that the facility has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90-day period.

`(B) The Secretary may not grant such a waiver under subparagraph (A) to a facility if the request for the waiver is made less than 6 months after the date of the expiration of any previous such waiver for the facility.

`(C) A waiver which is requested under this paragraph shall be deemed granted unless such request is denied by the Secretary within 60 days after the date such request is received.'.

(f) EFFECTIVE DATE- (1) Subject to paragraph (2), the amendments made by

this section shall apply to services furnished on or after January 1, 1991.

(2) In the case of a Federally qualified health center that has elected, as of January 1, 1990, under part B of title XVIII of the Social Security Act, to have the amount of payments for services under such part determined on a reasonable-charge basis, the amendment made by subsection (c)(1) shall only apply on and after such date (not earlier than January 1, 1991) as the center may elect.

SEC. 6144. SEPARATE PAYMENT UNDER PART B FOR SERVICES OF CERTAIN HEALTH PROFESSIONALS.

(a) SERVICES OF CERTAIN HEALTH PROFESSIONALS NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES- Section 1861(b) (42 U.S.C. 1395x(b)) is amended--

(1) in paragraph (3), by striking `(including clinical psychologist (as defined by the Secretary))', and

(2) in paragraph (4), by striking everything after `intern' and inserting `, services described by subsection (s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist; and'.

(b) SERVICES OF CERTAIN HEALTH PROFESSIONALS NOT TO BE BILLED THROUGH PROVIDERS OF SERVICES- Section 1832(a)(2)(B)(iii) (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended to read as follows:

> *`(iii) services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist;'.*

(c) CONFORMING AMENDMENTS-

(1) Section 1862(a)(14) (42 U.S.C. 1395y) is amended--

(A) by striking `or are services of a certified registered nurse anesthetist', and

(B) by inserting after `this paragraph)' a comma and the following: `services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist,'.

(2) The matter in section 1866(a)(1)(H) (42 U.S.C. 1395x(a)(1)(H)) preceding clause (i) is amended by inserting after `and other than' the following: `services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and'.

(d) EFFECTIVE DATE- The amendments made by the preceding subsections apply to services furnished on or after January 1, 1991.

SEC. 6145. NEW TECHNOLOGY IOL'S.

(a) IN GENERAL- The Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall develop and implement a process under which interested parties may request review by the Secretary of the appropriate reimbursement 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.

(b) EVALUATION BASED UPON MEDICAL BENEFITS- In determining whether to provide an adjustment of payment with respect to a particular lens under subsection (a), 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.

(c) NOTICE AND COMMENTS-

(1) NOTICE- The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) a list of the requests that the Secretary has received for review under this section.

(2) COMMENT- The Secretary shall provide for a 60-day comment period on the notice under paragraph (1). The Secretary shall publish a notice of his determination with respect to intraocular lenses listed in the notice within 120 days after the close of the comment period.

SEC. 6146. RURAL NURSING INCENTIVES.

(a) COVERAGE OF SERVICES- Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended--

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

(2) by adding `and' at the end of subparagraph (M); and

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

`(P) nurse practitioner or clinical nurse specialist services;'.

(b) SERVICES DEFINED- Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (jj) the following new subsection:

`NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES

`(kk)(1) The term `nurse practitioner or clinical nurse specialist services' means services provided by a nurse practitioner or clinical nurse specialist (as defined in paragraph (2)) in a rural area (as defined in paragraph (3)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed.

`(2) The term `nurse practitioner or clinical nurse specialist' means an individual who--

`(A) is a registered nurse and is licensed to practice nursing in the State in which the nurse practitioner or clinical nurse specialist services are performed; and

`(B)(i) holds a master's degree in nursing or a related field from an accredited educational institution, or

`(ii) is certified as a nurse practitioner or clinical nurse specialist by a duly recognized professional nurses association.

`(3) The term `rural area' means any area outside a metropolitan statistical area (as defined by the Office of Management and Budget).'.

(c) DIRECT PAYMENT FOR SERVICES- Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended--

(1) by striking `and' at the end of clause (ii); and

(2) by adding at the end of clause (iii) the following new clause:

`(iv) nurse practitioner or clinical nurse specialist services;'.

(d) AMOUNT OF PAYMENT FOR SERVICES- Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended--

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

(2) by adding `and' at the end of subparagraph (N); and

(3) by adding at the end thereof the following new subparagraph: `(O) in the case of nurse practitioner or clinical specialist services under section 1861(s)(2)(P), the amounts paid shall be an amount equal to 100 percent of 75 percent of the prevailing charge (or, in the case of services furnished after 1991, the amount determined under section 1848(a)) in area for the service for participating physicians and such payment shall be made only on an assignment-related basis;'.

(e) EFFECTIVE DATE- The amendments made by this section shall apply with respect to services furnished on or after January 1, 1991.

PART 3--PROVISIONS RELATING TO PARTS A AND B

SEC. 6150. END STAGE RENAL DISEASE SERVICES.

(a) MAINTENANCE OF CURRENT RATES THROUGH 1992- Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6203(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended--

(1) by striking `and before October 1, 1990' and inserting `and before October 1, 1993'; and

(2) by striking `equal to' and inserting `not less than'.

(b) PROPAC STUDY ON ESRD COMPOSITE RATES-

(1) IN GENERAL-

(A) STUDY- The Prospective Payment Assessment Commission (in this subsection referred to as the `Commission') shall conduct a study to determine the costs and services and profits associated with various modalities of dialysis treatments provided to end stage renal disease patients provided under title XVIII of the Social Security Act.

(B) RECOMMENDATIONS- Based on information collected for the study described in subparagraph (A), the Commission shall make recommendations to Congress regarding the method or methods and the levels at which the payments made for the facility component of dialysis services by providers of service and renal dialysis facilities under title XVIII of the Social Security Act should be established for dialysis services furnished during fiscal year 1993 and the methodology to be used to update such payments for subsequent fiscal years. In making recommendations concerning the appropriate methodology the Commission shall consider--

(i) hemodialysis and other modalities of treatment,

(ii) the appropriate services to be included in such payments,

(iii) the adjustment factors to be incorporated including facility characteristics, such as hospital versus free-standing facilities, urban versus rural, size and mix of services,

(iv) adjustments for labor and nonlabor costs,

(v) comparative profit margins for all types of renal dialysis providers of service and renal dialysis facilities,

(vi) adjustments for patient complexity, such as age, diagnosis, case mix, and pediatric services, and

(vii) efficient costs related to high quality of care and positive outcomes for all treatment modalities.

(2) REPORT- Not later than June 1, 1992, the Commission shall submit a report to the Committee on Finance of the Senate, and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on the study conducted under paragraph (1)(A) and shall include in the report the recommendations described in paragraph (1)(B), taking into account the factors described in paragraph (1)(B).

(3) ANNUAL REPORT- The Commission, not later than March 1 before the beginning of each fiscal year (beginning with fiscal year 1993) shall report its recommendations to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on an appropriate change factor which should be used for updating payments for services rendered in that fiscal year. The Commission in making such report to Congress shall consider conclusions and recommendations available from the Institute of Medicine.

(c) SELF-ADMINISTERED ERYTHROPOIETIN- (1) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended--

(A) by striking `and' at the end of subparagraph (O);

(B) by adding `and' at the end of subparagraph (P); and

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

`(Q) erythropoietin for home dialysis patients competent to use such drug without medical or other supervision with respect to the administration of such drug, subject to methods and standards established by the Secretary by regulation for the safe and effective use of such drug, and items related to the administration of such drug;'.

(2)(A) Section 1881(b)(11) (42 U.S.C. 1395rr(b)) is amended--

(i) by striking `(11)' and inserting `(11)(A)', and

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

`(B) Erythropoietin (including self-administered erythropoietin (as described in section 1861(s)(2)(Q)), when provided to a patient determined to have end stage renal disease, shall not be included as a dialysis service for purposes of payment under any prospective payment amount or comprehensive fee established under this section, and payment for such item shall be made separately--

`(i) in the case of erythropoietin provided by a physician, in accordance with section 1833; and

`(ii) in the case of erythropoietin provided by a provider of services or a renal dialysis facility, in an amount specified by the Secretary.'.

(B) Section 1881(b) (42 U.S.C. 1395rr(b)) is further amended--

(i) in paragraph (1)--

(I) by striking `and (B)' and inserting `(B), and

(II) by striking `equipment.' and inserting `equipment, and (C) payments to a supplier of home dialysis supplies and equipment that is not a provider of services, a renal dialysis facility, or a physician for self-administered erythropoietin as described in section 1861(s)(2)(Q) if the Secretary finds that the patient receiving such drug from such a supplier can safely and effectively administer the drug (in accordance with the applicable methods and standards established by the Secretary pursuant to such section).';

and

(ii) in paragraph (2)(A), by striking `(2)(A)' and inserting `(2)(A)(i)'; and

(iii) in paragraph (11)(B), as added by subparagraph (A)--

(I) by striking `(B)' and inserting `(B)(i)',

(II) by redesignating clauses (i) and (ii) as subclauses (I) and (II), and

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

`(ii) Notwithstanding clause (i), the amount payable to a supplier of home dialysis supplies and equipment that is not a provider of services, a renal dialysis facility, or a physician for erythropoietin shall be determined in the same manner as the amount payable to a renal dialysis facility for such item.'.

(d) EFFECTIVE DATE- The amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 1991.

SEC. 6151. STAFF-ASSISTED HOME DIALYSIS.

(a) IN GENERAL- Section 1861(s)(2)(F) (42 U.S.C. 1395x(s)(2)(F)) is amended by striking `self-care' and all that follows through `and institutional' and inserting `home dialysis support services, home hemodialysis staff assistance, and institutional'.

(b) PAYMENT FOR COSTS OF ASSISTANT SERVICES-

(1) IN GENERAL- Section 1881(b) of such Act (42 U.S.C. 1395rr(b)(1)) is amended--

(A) in paragraph (1)--

(i) by striking `self-care home dialysis support services' and inserting `home dialysis support services'; and

(ii) by striking `and routine' and inserting `services of a staff assistant provided to an individual described in subsection (h)(3) which are furnished by a provider of services or facility, and routine';

(B) in paragraph (4), by amending subparagraph (A) to read as follows: `Pursuant to agreements with approved providers of services and renal dialysis facilities, the Secretary may make payments to such providers and facilities for the cost of home dialysis supplies and equipment and home dialysis support services furnished to patients whose home dialysis is under the direct supervision of such provider or facility, and home hemodialysis staff assistance furnished to patients described in subsection (h)(3) whose home hemodialysis is under the direct supervision of a provider of services or a renal dialysis facility on the basis of the method established under paragraph (7).'; and

(C) in paragraph (5)--

(i) by inserting `(A)' after `paragraph (4)'; and

(ii) by amending clause (iv) to read as follows:

`(iv) the services of a trained home hemodialysis staff assistant (as described in subsection (h)(2)) to individuals described in subsection (h)(3);'.

(2) ESTABLISHING PAYMENT RATE- Section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) is amended--

(A) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(B) by inserting `(A)' after the paragraph designation; and

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

`(B)(i) The Secretary shall provide by regulation for a method of determining prospectively the amount of payment to be made for home hemodialysis staff assistance furnished by a provider of services or a renal dialysis facility with respect to a maintenance dialysis episode.

`(ii) The amount of payment determined under clause (i) shall be in addition to the amount determined under subparagraph (A) on the basis of a rate based on a single composite weighted formula (in this subparagraph referred to as the `composite rate').

`(iii) The amount of payment determined under clause (i) shall be the product of the rate determined under clause (iv) with respect to a provider of services or a renal dialysis facility and the factor by which the labor portion of the rate determined under subparagraph (A) is adjusted for area differences in wage levels.

`(iv) The rate determined under this clause, with respect to a provider of services or renal dialysis facility, shall equal the amount obtained by subtracting--

`(I) 2/2 of the labor portion of the composite rate applicable to the provider or facility (as adjusted to reflect area differences in wage levels), from

`(II) the product of the national median hourly wage for a home hemodialysis staff assistant and the national median time expended in the provision of home hemodialysis staff assistant services (taking into account time expended in travel and predialysis patient care).

`(v) For purposes of clause (iv)(II)--

`(I) the national median hourly wage for a home hemodialysis staff assistant and the national median average time expended for home hemodialysis staff assistant services shall be determined annually on the basis of the most recent data available, and

`(II) the national median hourly wage for a home hemodialysis staff assistant shall be the sum of 65 percent of the national median hourly wage for a licensed practical nurse and 35 percent of the national median hourly wage for a registered nurse.'.

(c) DEFINITION AND CRITERIA RELATED TO STAFF ASSISTED HOME HEMODIALYSIS SERVICES- Section 1881 of such Act (42 U.S.C. 1395rr) is further amended by adding at the end the following new subsection:

`(h)(1) For purposes of this title, the term `home hemodialysis staff assistance' means the following services provided by a home hemodialysis staff assistant (as described in paragraph (2)) through a provider of services or a renal dialysis facility to an eligible patient (as described in paragraph (3)):

`(A) Technical assistance with the operation of a hemodialysis machine in the patient's home and with such patient's care during in-home hemodialysis.

`(B) Administration of medications within the patient's home to maintain the patency of the extra corporeal circuit.

`(2) For purposes of this title, the term `home hemodialysis staff assistant' means those individuals who--

`(A) have met minimum qualifications as specified by the Secretary; and

`(B) meet the minimum qualifications as specified under the law of the State in which the home hemodialysis staff assistant is providing services.

`(3) For purposes of this title, an `eligible patient' means those individuals who--

`(A)(i) a physician certifies as being confined to a bed or wheelchair and who cannot transfer themselves from a bed to a chair, or

`(ii) have serious medical conditions (as specified by the Secretary) which would be exacerbated by traveling to and from a dialysis facility; and

`(B) are eligible for ambulance transportation to receive routine maintenance dialysis treatments, and, based on the medical condition of the patient, there is reasonable expectation that such transportation will be used by the patient for a period of at least 6 consecutive months, such that the cost of ambulance transportation can reasonably be expected to meet or exceed the cost of home hemodialysis staff assistance as provided under subsection (b)(4); and

`(C) have no spouse, relative, or other caregiver who either lives with the individual or comes to such individual's home periodically and who is willing and able to assist the individual with home hemodialysis; and

`(D) the Secretary certifies annually as meeting the requirements of this paragraph.

`(4) A resident of a skilled nursing facility, under this title, shall not for purposes of this subsection be considered an `eligible patient' as defined in paragraph (3).'.

(d) CONFORMING AMENDMENT- Section 1881(b)(9) of such Act (42 U.S.C. 1395rr(b)(9)) is amended by striking `self-care'.

(e) EFFECTIVE DATE-

(1) The amendments made by this section shall become effective (if at all) in accordance with the provisions of paragraph (2).

(2)(A)(i) The Secretary of Health and Human Services (in this section referred to as the `Secretary') shall establish a demonstration project to begin January 1, 1991, to test the cost-effectiveness of furnishing home hemodialysis staff assistance (as defined in section 1881(h)(1) of the Social Security Act) to eligible patients (as defined in section 1881(h)(3) of such Act) in accordance with the amendments made by this section.

(ii) Any individual who, on the date of the enactment of this Act, is receiving staff assistance under the experimental authority provided under section 1881(f)(2) of the Social Security Act shall be deemed to be an eligible patient for purposes of clause (i).

(B) The number of eligible patients participating in the demonstration project established under subparagraph (A) may not exceed 550 during any month, except that one eligible patient may be admitted to the demonstration for each individual ceasing to participate in the project in any month.

(C) The Secretary may implement the demonstration project established under subparagraph (A) on a nationwide basis or at specific sites.

(D) The demonstration project established under subparagraph (A) shall continue through December 31, 1993 (or the date that occurs the same

number of days after such date as elapsed between January 1, 1991 and the first day on which services were furnished under the project).

(E)(i) The Secretary shall transmit a report of preliminary findings under the demonstration project to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than January 15, 1993.

(ii) The Secretary shall transmit a final report of findings under the demonstration project to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1993.

(iii) If the Secretary determines that it is not cost-effective to furnish home dialysis staff assistance, the demonstration project under this subsection shall terminate as of December 31, 1993.

(F) Any individual participating in the demonstration project established under subparagraph (A) as of December 31, 1993 (or the later date described in subparagraph (D)) shall continue to be eligible for home hemodialysis staff assistance after such date on the same terms and conditions as applied under the demonstration project.

SEC. 6152. MEDICARE AS SECONDARY PAYER.

(a) EXTENSION OF TRANSFER OF DATA-

(1) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking `September 30, 1991' and inserting `September 30, 1995'.

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

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

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

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

(b) EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES- Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking `January 1, 1992' and inserting `October 1, 1995'.

(c) TEMPORARY EXTENSION OF ESRD PERIOD-

(1) IN GENERAL- Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended to read as follows:

`(C) INDIVIDUALS WITH END-STAGE RENAL DISEASE-

`(i) A group health plan (as defined in subparagraph (A)(v)) may not take into account that an individual is entitled to benefits under this title solely by reason of section 226A during the 12-month period that begins with the earlier of--

`(I) the first month in which the individual becomes entitled to benefits under part A under the provisions of section 226A, or

`(II) in the case of an individual who receives a kidney transplant, the first month in which the individual would be eligible for benefits under part A (if the individual had filed an application for such benefits) under the provisions of section 226A(b)(1)(B).

`(ii) A group health plan (as so defined) may not differentiate in the benefits it provides between individuals having end-stage renal disease and other individuals covered by such plan on the basis of the existence of end-stage renal disease, the need for renal

dialysis, or in any other manner. The preceding sentence shall not prohibit a plan from taking into account that an individual is entitled to benefits under this title solely by reason of section 226A during a period occurring before or after the 12-month period described in clause (i).

`(iii) Effective for items and services furnished on or after February 1, 1991, and before January 1, 1996 (with respect to periods beginning on or after February 1, 1990), clauses (i) and (ii) shall be applied by substituting `24-month' for `12-month' each place it appears.'.

(2) STUDY- (A) The Comptroller General shall study and report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the impact of the application of clause (iii) of section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) on individuals entitled to benefits under title XVIII of such Act by reason of section 226A of such Act. The report shall include information relating to--

(i) the number (and geographic distribution) of such individuals for whom medicare is secondary,

(ii) the amount of savings to the medicare program achieved annually by reason of the application of such clause,

(iii) the effect on access to employment, and employment-based health insurance, for such individuals and their family members (including coverage by employment-based health insurance of cost-sharing requirements under medicare after such employment-based insurance becomes secondary),

(iv) the effect on the amount paid for each dialysis treatment under employment-based health insurance, and

(v) the effect on cost-sharing requirements under employment-based health insurance (and on out-of-pocket expenses of such individuals) during the period for which medicare is secondary.

(B) The Comptroller General shall submit a preliminary report under this subsection not later than January 1, 1993, and a final report not later than January 1, 1995.

(d) EFFECTIVE DATES-

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of the enactment of this Act.

(2)(A) The amendment made by subsection (a)(2)(B) shall apply to requests made on or after the date of the enactment of this Act.

(B) Section 1862(b)(1)(C)(i)(I) of the Social Security Act, as amended by subsection (c), and section 1862(b)(1)(C)(iii) of such Act, as added by such subsection, shall apply to periods beginning on or after February 1, 1990.

(C) The amendments made by subsection (d) shall be effective--

(i) on January 1, 1992, with respect to individuals described in clause (ii) of subparagraph (A) of the paragraph added by paragraph (d)(1) who are covered by group health plans contributed to or sponsored by employers with 1,000 or more employees and with respect to all individuals described in clause (ii) of subparagraph (A) of such paragraph;

(ii) on January 1, 1993, with respect to individuals covered by group health plans contributed to or sponsored by employers with 100 or more employees; and

(iii) on January 1, 1994, with respect to all other individuals.

SEC. 6153. HEALTH MAINTENANCE ORGANIZATIONS.

(a) REQUIREMENTS WITH RESPECT TO ACTUARIAL EQUIVALENCE OF AAPCC- (1) Not later than January 1, 1992, the Secretary of Health and Human Services (in this section referred to as the `Secretary') shall submit a proposal to Congress that provides for a modified payment method for organizations with a risk contract under section 1876(g) of the Social Security Act that is more accurate than the current payment methodology in predicting the actual service utilization and annual medical expenditures of the beneficiary population enrolled in a specific organization.

(2) The proposal shall include--

(A)(i) recommendations on modifying the current adjusted average per capita cost formula, by adding predictors of medical utilization such as health status adjustors or prior utilization measures; or

(ii) recommendations for a new payment methodology as an alternative to the adjusted average per capita cost;

(B) data to support any recommended changes in payment methodology for organizations with risk contracts under section 1876(g) of the Social Security Act; and

(C) data demonstrating that any proposed or revised payment methodology under this section is effective in explaining at least 15 percent of the variation in health care utilization and costs (as certified by the American Academy of Actuaries) among individuals enrolled in such organizations.

(3) Not later than March 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule providing for the implementation of the payment methodology specified in the proposal submitted pursuant to paragraph (1).

(4) Not later than May 1, 1992, the Comptroller General shall review the proposal and recommendations made pursuant to paragraphs (1) and (2), and shall report to Congress on appropriate modifications in such payment methodology.

(5) Taking into account the recommendations made pursuant to paragraph (2), on or after August 1, 1992, the Secretary shall issue a final rule implementing a payment methodology that meets the requirements of paragraph (1), effective for contract years beginning on or after January 1, 1993.

(b) WAIVER OF 50-50 REQUIREMENT WITH RESPECT TO CERTAIN ORGANIZATIONS-

(1) IN GENERAL- The Secretary may waive the requirements of section 1876(f) of the Social Security Act with respect to an organization with a risk contract (as described in section 1876(g) of such Act) that--

(A)(i) has demonstrated profitability for the 3 most recent consecutive contract years; or

(ii) if such organization is a new organization the parent company of such organization demonstrates to the satisfaction of the Secretary that the solvency of such new organization is assured;

(B)(i) has had a risk contract in effect under section 1876(g) of the Social Security Act for at least 3 years; or

(ii) if such organization is a new organization, the parent company of such organization has at least 5 years of experience in operating a health maintenance organization and two years experience in operating an organization with a risk contract under section 1876(g)

of the Social Security Act in two or more States;

(C)(i) has a total enrollment of at least 100,000 enrollees (including but not limited to individuals enrolled under title XVIII of such Act); or

(ii) in the case of a new organization, the organization and any affiliated organizations have at least 100,000 of such enrollees;

(D)(i) has no significant quality problems (as determined by the Secretary) identified by internal or external quality review; and

(ii) the organization agrees to an annual quality review conducted by the Secretary;

(E) has agreed to fund an annual membership satisfaction survey to be conducted by an independent survey firm that--

(i) measures satisfaction of enrollees of such organization drawn from 3 population groups including--

(I) the enrolled medicare membership;

(II) medicare members who have been discharged from a hospital within a pervious 30-day period; and

(III) former medicare members; and

(ii) reports such surveys to the Secretary; and

(F) has agreed to, within the amount charged the beneficiary under section 1876(e), provide special services that are uniquely targeted towards elderly individuals receiving benefits under title XVIII of such Act and which are not routinely provided to such individuals and which include--

(i) a multi-disciplinary geriatric assessment (performed by a social worker, physician and a nurse, each who have either a specialty in geriatrics or have completed a geriatric training program) that provides for each new beneficiary enrolled after the date the waiver is approved--

(I) a plan to manage specific medical conditions;

(II) objective criteria that measure--

(aa) impairment of activities of daily living (including toileting, eating, mobility, bathing, continence, and dressing); and

(bb) cognitive impairment; and

(ii) with respect to individuals who are determined to be dependent in 3 or more areas related to activities of daily living for at least 3 months (as described in clause (i)(II)) home and community based long-term care services (nonmedical services provided to prevent or delay an individual entitled to benefits under title XVIII of the Social Security Act from entering a nursing facility) that provide at least one of the following:

(I) Homemaker or chore services.

(II) Personal care services.

(III) Adult day health care.

(IV) Meals on wheels.

(V) Respite care.

(VI) Lifeline telephone assistance.

(VII) Transportation.

(VIII) Geriatric case management.

(IX) Rehabilitation and home adaptation.

(X) Special health education programs targeted to the elderly.

(XI) Geriatric mental health services.

(2) DURATION OF WAIVER- A waiver under this subsection shall be approved for a 3-year period. The additional benefits (described in paragraph (1)) shall be made available to eligible enrollees of an organization (described in paragraph (1)) for a period of at least 3 years.

(3) REVIEW AND WITHDRAWAL BY THE SECRETARY- The Secretary shall review an organization's compliance with the terms of the waiver described in this subsection on an annual basis. The Secretary may withdraw any waiver for an organization which the Secretary finds fails to comply with the provisions of this subsection.

(4) EVALUATION AND REPORT- The Secretary shall evaluate the cost and impact of any waiver granted under this subsection, including any impact on the financial viability of an organization granted such a waiver, and shall report to Congress, no later than 2 years after the date of enactment of this section on whether any changes should be made to the enrollment requirement described in section 1876(f) of the Social Security Act.

(c) TEMPORARY WAIVER FOR RELATED ENTITIES-

(1) For purposes of section 1876(f), the Secretary may combine the enrolled membership of an organization that meets the requirements described in paragraph (2) with the enrollment of an HMO or CMP that has a contract under section 1876 of the Social Security Act for 2 years.

(2) An organization described in this paragraph must--

(A) be related to the organization contracting under this section through common ownership and control;

(B) provide services in the same geographic area through essentially the same physicians and providers as the contracting organization;

(C) utilize a functionally integrated quality assurance program; and

(D) use common grievance procedures, claims, processing systems, common management, and administrative services.

(d) PHYSICIAN INCENTIVE PAYMENTS-

(1) IN GENERAL- Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

`(8)(A) Each contract with an eligible organization under this section shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B) unless the following requirements are met:

`(i) No specific payment is knowingly made under the plan directly to a physician or physician group as an inducement to withhold or limit medically necessary services provided with respect to an identifiable individual enrolled with the organization.

`(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization--

`(I) provides stop-loss protection (or a risk corridor) for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians in the group or under the plan that share the risk and the number of individuals enrolled with the organization who receive services from the physician or the physician group,

`(II) conducts periodic surveys of individuals enrolled or previously enrolled with the organization to determine the degree to which such individuals have access to services provided by the organization and are satisfied with the quality of such services, and

`(III) has an internal quality assurance program that addresses issues of under utilization.

`(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

`(B) In this paragraph, the term `physician incentive plan' means any contractual compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.'.

(2) PENALTIES- Section 1876(i)(6)(A)(vi) (42 U.S.C. 1395mm(i)(6)(A)(vi)) is amended by striking `(g)(6)(A);' and inserting `(g)(6)(A) or paragraph (8);'.

(3) REPEAL OF PROHIBITION- Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended--

(A) by striking `, an eligible organization' and all that follows through `1903(m)',

(B) by adding `and' at the end of subparagraph (A),

(C) by striking subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B), and

(E) by striking `or organization'.

(4) EFFECTIVE DATE- The amendments made by paragraphs (1) and (2) shall apply with respect to contract years beginning on or after January 1, 1992, and the amendments made by paragraph (3) shall take effect on the date of the enactment of this Act.

(e) WAIVER OF CERTAIN HMO REQUIREMENTS-

(1) IN GENERAL- With respect to Managed Care, Inc., an affiliate of CHP, the medical group affiliated with Long Island Jewish Medical Center, such group may include the enrollees of a State licensed health maintenance organization for whom CHP has agreed to assume full financial risk for provision of hospital and physician services for purposes of meeting the risk contracting requirements that at least one-half of the enrolled membership of an eligible organization consists of individuals who are not entitled to benefits under titles XVIII or XIX of the Social Security Act (as described in section 1876(f)(1) of the Social Security Act) and the requirement that such organizations have an enrollment of at least 5,000 members (as described in section 1876(g)(1) of such Act). The members of the health maintenance organization with whom Managed Care, Inc., has an agreement may not be considered for purposes of meeting any such requirements with respect to any other risk contract described in section 1876 of the Social Security Act.

(2) DURATION- The waiver granted under this subsection shall expire 2 years after the date of enactment of this Act.

(f) APPLICATION OF NATIONAL COVERAGE DECISIONS ON RISK CONTRACTS-

(1) IN GENERAL- Section 1876(c)(2) (42 U.S.C. 1395mm(c)(2)) is amended--

(A) by redesignating clauses (i) and (ii) and subparagraphs (A) and (B) as subclauses (I) and (II) and clauses (i) and (ii), respectively;

(B) by inserting `(A)' after `(2)'; and

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

`(B) If there is a national coverage determination made in the period beginning on the date of an announcement under subsection (a)(1)(A) and ending on the date of the next announcement under such subsection that is projected to result in a significant change in the costs to the organization or providing the benefits that are the subject of such national coverage determination (and that has not been taken into account in determining the per capita rate of payment specified in the announcement)--

`(i) such determination shall not apply to risk contracts under this section until the first contract year that begins after the end of such period; and

`(ii) if such coverage determination provides for coverage of additional benefits or under additional circumstances, subsection (a)(6) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances during the period specified in clause (i),

unless otherwise required by law.'.

(2) CONFORMING AMENDMENT- Section 1876(a)(6) of such Act is amended by striking `subsection (c)(7)' and inserting `subsections (c)(2)(B)(ii) and (c)(7)'.

(3) EFFECTIVE DATE- The amendments made by this subsection shall apply with respect to national coverage determinations made on or after September 7, 1990.

(g) PERMITTING CONTINUOUS ENROLLMENT OF CERTAIN INDIVIDUALS-

(1) IN GENERAL- Section 1876(a)(1)(E) (42 U.S.C. 1395mm(a)(1)(E)) is amended--

(A) by striking `(E)' and inserting `(E)(i)': and

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

`(ii) The Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls (and signs a written statement of enrollees' rights provided under subsection (c)(3)(E)) with an eligible organization (which has a risk contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.'.

(2) EFFECTIVE DATE- The amendments made by paragraph (1) shall apply with respect to individuals enrolling with an eligible organization

(which has a risk contract under section 1876 of the Social Security Act) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) on or after January 1, 1991.

(h) EXTENSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS- Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking `September 30, 1992' and inserting `December 31, 1995'.

(i) STUDY OF CHIROPRACTIC SERVICES-

(1) The Secretary shall conduct a study of the extent to which health maintenance organizations with contracts under section 1876 of the Social Security Act (42 U.S.C. 1395mm) make available to enrollees entitled to benefits under title XVIII of such Act chiropractic services that are covered under such title.

(2) The study shall examine the arrangements under which such services are made available and the types of practitioners furnishing such services to such enrollees.

(3) The study shall be based on contracts entered into or renewed on or after January 1, 1991, and before January 1, 1993.

(4) The Secretary shall issue a final report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the study not later than January 1, 1993. The report shall include recommendations with respect to any legislative and regulatory changes that the Secretary determines are necessary to ensure access to such services.

SEC. 6154. PEER REVIEW ORGANIZATIONS.

(a) STANDARDS FOR IMPOSING SANCTIONS- Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended--

(1) by inserting `and, if appropriate, after the practitioner or person has been given a reasonable opportunity to enter into and complete a corrective action plan (which may include remedial education) agreed to by the organization, and has failed successfully to complete such plan,' after `concerned,', and

(2) by inserting after the second sentence the following: `In determining whether a practitioner or person has demonstrated an unwillingness or lack of ability substantially to comply with such obligations, the Secretary shall consider the practitioner's or person's unwillingness or lack of ability, during the period before the organization submits its report and recommendations, to enter into and successfully complete a corrective action plan.'.

(b) CLARIFICATION OF LIMITATION ON LIABILITY- Section 1157(b) (42 U.S.C. 1320c-6(b)) is amended--

(1) by inserting `organization having a contract with the Secretary under this part and no' after `No',

(2) by striking `by him', and

(3) by striking `he has exercised due care' and inserting `due care was exercised in the performance of such duty, function, or activity'.

(c) INVOLVEMENT OF OPTOMETRISTS AND PODIATRISTS- Section 1154 (42 U.S.C. 1320c-3) is amended--

(1) in subsection (a)(7)(A)(i) by inserting `, optometry, and podiatric medicine' after `dentistry', and

(2) in subsection (c) by striking `or dentistry' each place it appears and

inserting `, dentistry, optometry, or podiatric medicine'.

(d) EFFECTIVE DATES-

(1) The amendments made by subsection (a) shall apply to initial determinations made under section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) on or after January 1, 1991.

(2) The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply to contracts entered into on or after the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply to contracts entered into on or after the date of the enactment of this Act.

SEC. 6155. IMPROVEMENTS IN AND SIMPLIFICATION OF MEDIGAP POLICIES.

(a) SIMPLIFICATION OF MEDIGAP POLICIES- Section 1882 (42 U.S.C. 1395ss) is amended--

(1) in subsection (b)(1)(B), by striking `through (4)' and inserting `through (5)';

(2) in subsection (c)--

(A) by striking `and' at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting `; and', and

(C) by inserting after paragraph (4) the following new paragraph:

`(5) meets the requirements of subsection (o).'; and

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

`(o) The requirements of this subsection are as follows:

`(1) Each medicare supplemental policy shall provide for coverage of a group of benefits consistent with standards established pursuant to subsection (p)(2).

`(2) If the medicare supplemental policy provides for coverage of a group of benefits other than the core group of basic benefits identified pursuant to subsection (p)(2)(B), the issuer of the policy must make available to the individual a medicare supplemental policy with only such core group of basic benefits.

`(3) The issuer of the policy has provided, before the sale of the policy, a summary information sheet which describes the benefits (including any optional benefits) under the policy, the average ratio of benefits provided to premiums collected for the most recent 3-year period in which the policy is in effect (or, for a policy that has not been in effect for 3 years, the average ratio of benefits provided to premiums collected that is expected during the 3rd year of the policy) and which allows a direct comparison of benefits and prices among policies.

`(4) In the case of a benefit for which the premium attributable to that benefit is at least 75 percent of the nominal value or maximum payout of such benefit, the insurer shall disclose to any potential buyer the premium and the maximum payout of the benefit.

`(5)(A) Each medicare supplemental policy shall be guaranteed renewable.

`(B) If the medicare supplemental policy is terminated by the group

policyholder and is not replaced as provided under subparagraph (D), the issuer shall offer certificateholders an individual medicare supplemental policy which (at the option of the certificateholder)--

`(i) provides for continuation of the benefits contained in the group policy, or

`(ii) provides for such benefits as otherwise meets the requirements of this section.

`(C) If an individual is a certificateholder in a group medicare supplemental policy and the individual terminates membership in the group, the issuer shall--

`(i) offer the certificateholder the conversion opportunity described in subparagraph (B), or

`(ii) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

`(D) If a group medicare supplemental policy is replaced by another group medicare supplemental policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

`(6)(A) A medicare supplemental policy may not deny a claim for losses incurred for a preexisting condition more than 6 months after the effective date of coverage and may not define a preexisting condition as a condition for which medical advice was given or treatment was recommended by or received from a physician more than 6 months before the effective date of coverage.

`(B) If a medicare supplemental policy or certificate replaces another such policy or certificate, any period under the policy or certificate being replaced during which claims were denied by reason of a preexisting condition, exclusion period, rating period, elimination period, or probationary period shall be credited toward any such period under the new policy or certificate.

`(p)(1) The standards established pursuant to this subsection (in this subsection and subsection (t) referred to as `medicare supplemental insurance simplification standards' or `simplification standards') shall include--

`(A) limitations on the benefits that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection,

`(B) uniform language and format to be used with respect to such benefits for the purposes described in subsection (o)(3), and

`(C) transitional requirements consistent with paragraph (4).

`(2) The simplification standards established pursuant to this subsection shall provide--

`(A) for such groups of basic benefits, or additional, optional benefits, as may be appropriate taking into account the considerations specified in paragraph (3) and the requirements of the succeeding subparagraphs;

`(B) for identification of a core group of basic benefits which includes only the minimum benefits required of a medicare supplemental policy (as of the date of the enactment of this subsection and not including payment of any deductibles); and

`(C) that, subject to paragraph (5)--

`(i) if the simplification standards provide for medicare supplemental insurance benefits to be offered as a core group of basic benefits plus a defined list of optional additional benefits to be offered to consumers on an optional basis, then the total number of defined optional additional benefits offered shall not exceed 10;

`(ii) if the simplification standards provide for medicare supplemental insurance benefits to be offered through defined benefit packages or policies, then the total number of different benefit packages (counting the core group of basic benefits and counting each combination of benefits that may be offered as a separate benefit package) that may be established shall not exceed 10; and

`(iii) if the simplification standards provide for medicare supplemental insurance benefits to be offered through defined benefits that the insurer packages as it deems appropriate, the total number of packages offered by an insurer cannot exceed 4, and the total number of benefits to be packaged may not exceed 10.

`(3) The limitations on benefits under paragraph (2) shall, to the extent possible--

`(A) provide for benefits that offer consumers the ability to purchase the benefits that are available in the market as of the date of the enactment of this subsection; and

`(B) balance the objectives of (i) simplifying the market to facilitate direct comparison of prices and benefits among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, and (iv) promoting market stability.

`(4) The transitional requirements of this paragraph are that the simplification standards shall not apply in the case of a medicare supplemental policy which was issued to a policyholder before the effective date of such standards.

`(5)(A) Except as provided in subparagraph (B), no State with a regulatory program approved under subsection (b)(1) may provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy unless such grouping meets the applicable simplification standards.

`(B)(i) The State may, upon application by an insurer, waive the requirements of this subsection to permit the issuance and sale of a medicare supplemental policy which does not comply with the applicable simplification standards in order to offer new or innovative benefits as part of the policy. Any such new or innovative benefits shall be offered in a manner as approved by the State, which is consistent and practically achievable under the simplification standards. Such new or innovative benefits may include benefits that are not otherwise available and are cost-effective.

`(6)(A) Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups of benefits that may be offered in medicare supplemental policies in the State.

`(B) A State with a regulatory program approved under subsection (b)(1) may not restrict under subparagraph (A) the offering of a medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B).

`(7) The Secretary may waive the application of simplification standards in regard to the limitation of benefits described in paragraph (1)(A) in those States that on the date of enactment of this subsection had in place an alternative simplification program.

`(8) By not later than 4 years after the date of enactment of this subsection, the Comptroller General shall submit to Congress a report describing the impact of the program on consumer protection, health benefit innovation and

value of innovative benefits, consumer choice, and health care costs and shall include in the report such recommendations on the appropriate roles of the Association, States, and the Secretary in carrying out such a program as he deems appropriate.'.

(b) REQUIRING APPROVAL OF STATE FOR SALE IN THE STATE-

(1) IN GENERAL- Section 1882(d)(4)(B) (42 U.S.C. 1395ss(d)(4)(B)) is amended by striking the second sentence.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply to policies mailed, or caused to be mailed, on and after July 1, 1991.

(c) PREVENTING DUPLICATION-

(1) IN GENERAL- Subsection (d)(3) of section 1882 (42 U.S.C. 1395ss) is amended--

(A) in subparagraph (A)--

(i) by striking `Whoever knowingly sells' and inserting `It is unlawful for a person to sell or issue',

(ii) by striking `substantially',

(iii) by inserting `or title XIX' after `other than this title',

(iv) by striking `, shall be fined' and inserting `. Whoever violates the previous sentence shall be fined', and

(v) by striking `$5,000' and inserting `$25,000'; and

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

`(B)(i) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A or enrolled under part B, whether directly, through the mail, or otherwise, unless--

`(I) the person obtains from the individual, as part of the application for the issuance or purchase and on a form described in subclause (II), a written statement signed by the individual stating, to the best of the individual's knowledge, what medicare supplemental policies the individual has, from what source, and whether the individual has applied for and been determined to be entitled to any medical assistance under title XIX, whether as a qualified medicare beneficiary (as described in section 1905(p)(1)) or otherwise, and

`(II) the written statement is accompanied by a written acknowledgment, signed by the seller of the policy, of the request for and receipt of such statement.

The written acknowledgment under subclause (II) does not constitute verification or affirmation by (or on behalf of) the seller or issuer of the truth of any information supplied by an individual in the written statement described in subclause (I).

`(ii) The statement required by clause (i) shall be made on a form that--

`(I) states that a medicare-eligible individual does not need more than one medicare supplemental policy,

`(II) states that individuals 65 years of age or older may be eligible for benefits under the State medicaid program under title XIX and that such individuals who are entitled to benefits under that program usually do not need a medicare supplemental policy and that benefits and premiums under any such policy shall be suspended upon request of the policyholder during the period of entitlement to benefits under such title, and

`(III) includes any telephone number established under section 1889, as

well as the address and local telephone number of any counseling program offered by (or with the assistance of) the State, under its State insurance department, or under a State agency on aging for individuals considering purchase of a medicare supplemental policy and the address and local telephone number of the State medicaid office.

`(iii)(I) Except as provided in subclauses (II) and (III), if the statement required by clause (i) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual is entitled to any medical assistance under title XIX, the sale of such a policy shall be considered to be a violation of subparagraph (A).

`(II) Subclause (I) shall not apply in the case of an individual who has another policy, if the individual indicates in writing, as part of the application for purchase, that the policy being purchased replaces such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective and the issuer or seller certifies in writing that such policy will not, to the best of the issuer or seller's knowledge, duplicate coverage (taking into account any such replacement).

`(III) Subclause (I) also shall not apply if a State medicaid plan under title XIX pays the premiums for the policy, or pays less than an individual's (who is described in section 1905(p)(1)) full liability for medicare cost sharing as defined in section 1905(p)(3)(A).

`(iv) Whoever issues or sells a medicare supplemental policy in violation of this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such failure.'.

(2) SUSPENSION OF POLICIES DURING RECEIPT OF MEDICAID BENEFITS- Section 1882(o) (42 U.S.C. 1395ss(o)), as added by subsection (a), is amended by adding at the end the following new paragraph:

`(7) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder for the period in which the policy or certificate holder indicates that the policy or certificate holder has applied for and been determined to be entitled to medical assistance under title XIX. If such suspension occurs and if the policy or certificate holder loses entitlement to such medical assistance, coverage under such policy shall be automatically reinstituted (effective as of the date of termination of such entitlement) under terms described in subsection (n)(6)(A)(ii) if the policy or certificate holder receives notice of loss of such entitlement from the policy or certificate holder within 90 days after the date of such loss.'.

(3) CONFORMING AMENDMENT- Section 1882(d)(5) is amended by inserting `(3)(B),' after `(3)(A),'.

(4) INCREASE IN OTHER CIVIL MONEY PENALTIES- Paragraphs (1) and (4)(A) of section 1882(d) of such Act are amended by striking `$5,000' and inserting `$25,000'.

(d) LOSS RATIOS AND REFUND OF PREMIUMS-

(1) IN GENERAL- Section 1882 (42 U.S.C. 1395ss) as amended by subsection (a), is further amended--

(A) in subsection (c), by amending paragraph (2) to read as follows:

`(2) meets the requirements of subsection (q);';

(B) by striking the sentence following subsection (c)(4); and

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

`(q)(1) A medicare supplemental policy or health insurance policy may not be issued or sold in any State unless--

`(A) the policy can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such periods and in accordance with accepted actuarial principles and practices and standards developed by the National Association of Insurance Commissioners) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 65 percent in the case of individual policies; and

`(B) the issuer of the policy provides for the issuance of a proportional refund, or a credit against future premiums of a proportional amount, based on the premium paid and in accordance with paragraph (3), of the amount of premiums received necessary to assure that the ratio of aggregate benefits provided to the aggregate premiums collected (net of such refunds or credits) complies with the expectation required under subparagraph (A).

For purposes of applying subparagraph (A) only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

`(2)(A) Paragraph (1)(B) shall be applied with respect to each type of policy by policy number. Paragraph (1)(B) shall not apply to a policy with respect to the first 2 years in which it is in effect. The Comptroller General, in consultation with the National Association of Insurance Commissioners, shall submit to Congress a report containing recommendations on adjustments in the percentages under paragraph (1)(A) that may be appropriate in order to apply paragraph (1)(B) to the first 2 years in which policies are effective.

`(B) A refund or credit required under paragraph (1)(B) shall be made to each policyholder insured under the applicable policy as of the last day of the year involved.

`(C) Such a refund or credit shall include interest from the end of the policy year involved until the date of the refund at a rate as specified by the Secretary for this purpose from time to time which is not less than the average rate of interest for 13-week Treasury notes.

`(D) For purposes of this paragraph and paragraph (1)(B), refunds or credits against premiums due shall be made, with respect to a policy year, not later than the third quarter of the succeeding policy year.

`(3) The provisions of this subsection do not preempt a State from requiring a higher percentage than that specified in paragraph (1)(A).

`(4) The Comptroller General shall periodically, not less often than once every 3 years, perform audits with respect to the compliance of medicare supplemental policies with the requirements of paragraph (1) and shall report the results of such audits to the State involved and to the Secretary.'.

(2) ASSURING ACCESS TO LOSS RATIO INFORMATION- Section 1882(b)(1)(C) (42 U.S.C. 1395ss(b)(1)(C)) is amended by striking the semicolon at the end and inserting a comma and the following:

`and that a copy of each such policy, the most recent premium for each such policy, and a listing of the ratio of benefits provided to premiums collected for the most recent 3-year period for each such policy issued or sold in the State is maintained and made available to interested persons;'.

(3) EFFECTIVE DATE- The amendments made by this subsection shall apply to policies sold or issued more than 1 year after the date of the enactment of this Act.

(e) IMPLEMENTATION OF PROCESS TO APPROVE PREMIUM INCREASES-

Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended--

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

(2) by adding `and' at the end of subparagraph (E);

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

`(F) provides for a process for approving or disapproving proposed premium increases with respect to such policies, and establishes a policy for the holding of public hearings prior to approval of a premium increase,'.

(f) MEDICARE SELECT POLICIES-

(1) Section 1882 (42 U.S.C. 1395ss) as amended by subsection (d), is further amended by adding at the end the following:

`(r) If a policy meets the NAIC Model Standards except that benefits under the policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), the policy shall nevertheless be treated as meeting those standards if--

`(1) full benefits are provided for items and services furnished through a network of entities which have entered into contracts with the issuer of the policy;

`(2) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network;

`(3) the network offers sufficient access; and

`(4) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network.'.

(2) Section 1882(c)(1) (42 U.S.C. 1395ss(c)(1)) is amended by inserting `(except as otherwise provided by subsection (r))' before the semicolon.

(3) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) (as amended by subsection (e) of this Act) is further amended--

(A) in subparagraph (A), by inserting `, except as otherwise provided by subparagraph (G)' before the semicolon;

(B) by striking `and' at the end of subparagraph (E);

(C) by inserting `and' at the end of subparagraph (F); and

(D) by adding after subparagraph (F) the following:

`(G) in the case of a policy that meets the standards under subparagraph (A) except that benefits under the policy are limited to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), provides for the application of requirements equal to or more stringent than the requirements under subsection (r),'.

(4)(A) Section 1882 (42 U.S.C. 1395ss) as amended by paragraph (1), is further amended by adding at the end the following:

`(s) The Secretary may enter into a contract with an entity whose policy has been certified under subsection (r) or has been approved by a State under subsection (b)(1)(G) to determine whether items and services (furnished to individuals entitled to benefits under this title and under that policy) are not allowable under section 1862(a)(1). Payments to the entity shall be in such

amounts as the Secretary may determine, taking into account estimated savings under contracts with carriers and fiscal intermediaries and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(C), paragraph (3)(D), and paragraph (3)(E) of section 1842(b) shall apply to the entity.'.

(B) The first sentence of section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended by inserting `(or subject to review under section 1882(s))' after `section 1876'.

(g) CLARIFICATION CONCERNING MEDICARE HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS- The first sentence of section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting before the period the following: `, nor any such policy or plan under a contract under section 1876'.

(h) MONITORING OF STATE MEDIGAP PROGRAMS-

(1) REVIEW BY SECRETARY- Section 1882 (42 U.S.C. 1395ss) as amended by subsection (f), is further amended--

(A) in subsection (b)(1), in the matter following subparagraph (G), by striking `Panel' and inserting `Secretary';

(B) in subsection (b)(1), by adding at the end the following: `If the Secretary finds that a State regulatory program no longer meets the standards and requirements of this paragraph, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State to continue to meet such standards and requirements.'; and

(C) in subsection (g)(2)(B), by inserting `and whose regulatory program the Secretary finds continues to meet the standards and requirements of subsection (b)(1)' before the period.

(2) REPORTING BY STATES- Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)), as amended by subsection (f), is further amended--

(A) by striking `and' at the end of subparagraph (F);

(B) by inserting `and' at the end of subparagraph (G);

(C) by inserting after subparagraph (G) the following:

`(H) reports to the Secretary on the implementation and enforcement of standards and requirements of this paragraph at intervals established by the Secretary,'; and

(D) by adding at the end the following new sentence: `The report required under subsection (H) shall include information on loss ratios of policies sold in the State, frequency and types of instances in which policies approved by the State fail to meet the standards of this paragraph, actions taken by the State to bring such policies into compliance, and information regarding State programs implementing consumer protection provisions, and such further information as the Secretary in consultation with the National Association of Insurance Commissioners, may specify.'.

(i) DISCLAIMER FOR UNAPPROVED POLICIES- Section 1882(d) (42 U.S.C. 1395ss(d)) is amended--

(1) in paragraph (5), by striking `and (4)(A)' and inserting `(4)(A), (4)(B), and (5)',

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

`(5)(A) If an insurer issues a medicare supplemental policy in a State

without an approved regulatory program, and for which the Secretary has determined that the State does not provide consumer protection as great as would be offered under an approved program, and if that policy does not have a certification in effect under subsection (a), the insurer shall--

`(i) cause to be prominently displayed in at least 12 point type on any advertisement for that policy on each page of the outline of coverage for the policy described in section 1882(o)(3), and on the first page of the policy, the following statement: `This policy has not been certified by the Secretary of the United States Department of Health and Human Services as meeting Federal requirements for Medicare supplemental policies.'; and

`(ii) require the purchaser to sign the following statement: `I understand that this policy has not been certified by the Secretary of the United States Department of Health and Human Services as meeting Federal requirements for Medicare supplemental policies.'.

`(B) An insurer shall be subject to a civil monetary penalty not to exceed $25,000 for each violation of any requirement of subparagraph (A).'.

(j) ADOPTION OF NEW STANDARDS- Section 1882 (42 U.S.C. 1395ss), as amended by subsection (f), is further amended by adding at the end the following:

`(t)(1)(A) If within 9 months after the date of enactment of this subsection, the National Association of Insurance Commissioners revises the NAIC Model Regulation previously promulgated for purposes of this section to incorporate all the requirements and standards of subsections (o), (p), (q), and (r), and other changes in law made by the Omnibus Budget Reconciliation Act of 1990, then subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the NAIC simplification standards.

`(B) If the Association does not promulgate NAIC simplification standards within the 9-month period specified in paragraph (1), the Secretary shall promulgate, not later than 9 months after the end of such period, revised Federal model standards to incorporate all the requirements and standards of subsections (o), (p), (q), and (r), and other changes in law made by the Omnibus Budget Reconciliation Act of 1990, and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the revised Federal model standards.

`(C)(i) Subject to clause (ii), the date specified in this paragraph for a State is the date the State adopts the NAIC simplification standards or the Federal simplification standards or 1 year after the date the Association or the Secretary first adopts such standards, whichever is earlier.

`(ii) In the case of a State which the Secretary identifies, in consultation with the Association, as--

`(I) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the NAIC or Federal simplification standards, but

`(II) having a legislature which is not scheduled to meet in 1991 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1991. 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) By not later than 2 years after the date of enactment of this subsection,

the Secretary shall report to the Congress on the adoption of the standards and requirements of this section, including the identification of those States which do and do not have regulatory programs that meet the requirements of this section, and the reasons for the failure of any States to adopt some or all of the standards and requirements of this section.

`(3) In promulgating simplification standards under subsection (p)(1), the Association or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

`(4)(A) Every 3 years the Secretary shall, in consultation with the NAIC, evaluate the appropriateness of new or innovative benefits offered pursuant to subsection (p)(5)(B), and determine whether the incorporation of such new or innovative benefits into the simplification standards would further the purposes of such standards. If within 90 days after a request from the Secretary, the Association--

`(i) makes a determination that modification of the NAIC or Federal simplification standards is appropriate; and

`(ii) modifies the NAIC or Federal simplification standards to include such additional group of benefits (including accompanying language and format with respect to such benefits),

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on or after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979 included a reference to the NAIC or Federal simplification standards as modified. If the Association fails to make a determination with respect to appropriateness of modifying the NAIC or Federal simplification standards, then the Secretary may make such determination and may modify the NAIC or Federal simplification standards to include such additional benefits (including accompanying language and format with respect to such benefits) as may be appropriate. In such a case, subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on or after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979 included a reference to the NAIC or Federal simplification standards as modified.

`(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts the modifications to the NAIC or Federal simplification standards or 1 year after the date the Association or the Secretary first adopts the modifications to such standards, except that, in the case of a State that the Secretary identifies, in consultation with the Association, as--

`(i) requiring State legislation (other than appropriating funds) in order for medicare supplemental policies to meet the modified NAIC or Federal simplification standards, but

`(ii) having a legislature which is not scheduled to meet within the 1-year period after the date the Association or Secretary first adopts the modifications to such standards,

the date specified in this subparagraph is the first day of the first calendar year after the close of the first legislative session of the State legislature that begins after the date the Association or the Secretary first adopts such modifications. For the purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the legislative session shall be deemed to be a separate regular session of the State legislature.

`(5) If benefits under this title are changed and the Secretary determines, in consultation with the Association, that changes in the simplification standards are needed to reflect such changes in benefits, the provisions for the modification of simplification standards outlined in paragraph (4)(A) will

be applied.'.

(k) HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS-

(1) GRANTS- The Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall make grants to States that submit applications to the Secretary that meet the requirements of this subsection for the purpose of providing information, counseling, and assistance relating to the procurement of adequate and appropriate health insurance coverage to individuals who are eligible to receive benefits under title XVIII of the Social Security Act (hereafter in this section referred to as `eligible individuals'). The Secretary shall prescribe regulations to establish a minimum level of funding for a grant issued under this section.

(2) GRANT APPLICATIONS- (A) In submitting an application under this subsection, a State may consolidate and coordinate an application that consists of parts prepared by more than one agency or department of such State.

(B) As part of an application for a grant under this section, a State shall submit a plan for a State-wide health insurance information, counseling, and assistance program. Such program shall--

(i) establish or improve upon a health insurance information, counseling, and assistance program that provides counseling (including direct counseling) and assistance to eligible individuals in need of health insurance information, including--

(I) information that may assist individuals in obtaining benefits and filing claims under titles XVIII and XIX of the Social Security Act;

(II) policy comparison information for medicare supplemental policies (as described in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)) and information that may assist individuals in filing claims under such medicare supplemental policies;

(III) information regarding long-term care insurance; and

(IV) information regarding other types of health insurance benefits that the Secretary determines to be appropriate;

(ii) in conjunction with the health insurance information, counseling, and assistance program described in clause (i), establish a system of referral to appropriate Federal or State departments or agencies for assistance with problems related to health insurance coverage (including legal problems), as determined by the Secretary;

(iii) provide for a sufficient number of staff positions (including volunteer positions) necessary to provide the services of the health insurance information, counseling, and assistance program;

(iv) provide assurances that staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program have no conflict of interest in providing the services described in clause (i);

(v) provide for the collection and dissemination of timely and accurate health care information to staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program and regular staff meetings and continuing education programs for the purpose of informing the staff of current developments in legal and economic issues relating to the provision of health insurance;

(vi) provide for training programs for staff members (including

volunteer staff members);

(vii) provide for the coordination of the exchange of health insurance information between the staff of departments and agencies of the State government and the staff of the health insurance information, counseling, and assistance program;

(viii) make recommendations concerning consumer issues and complaints related to the provision of health care to agencies and departments of the State government and the Federal Government responsible for providing or regulating health insurance;

(ix) establish an outreach program to provide the health insurance information and counseling described in clause (i) and the assistance described in clause (ii) to eligible individuals; and

(x) demonstrate, to the satisfaction of the Secretary, an ability to provide the counseling and assistance required under this subsection.

(3) SPECIAL GRANTS- (A) A State that is conducting a health insurance information, counseling, and assistance program that is substantially similar to a program described in paragraph (2)(B), shall, as a requirement for eligibility for a grant under this section, demonstrate, to the satisfaction of the Secretary, that such State shall maintain the activities of such program at least at the level that such activities were conducted immediately preceding the date of the issuance of any grant during the period of time covered by such grant under this section and that such activities will continue to be maintained at such level.

(B) If the Secretary determines that the existing health insurance information, counseling, and assistance program is substantially similar to a program described in paragraph (2)(B), the Secretary may waive some or all of the requirements described in paragraph (2)(B), and issue a grant to the State for the purpose of increasing the number of services offered by the health insurance information, counseling, and assistance program, experimenting with new methods of outreach in conducting such program, or expanding such program to geographic areas of the State not previously served by the program.

(4) CRITERIA FOR ISSUING GRANTS- In issuing a grant under this section, the Secretary shall consider--

(A) the commitment of the State to carrying out the health insurance information, counseling, and assistance program described in paragraph (2)(B), including the level of cooperation demonstrated--

(i) by the office of the chief insurance regulator of the State, or the equivalent State entity;

(ii) other officials of the State responsible for overseeing insurance plans issued by nonprofit hospital and medical service associations; and

(iii) departments and agencies of such State responsible for--

(I) administering funds under title XIX of the Social Security Act, and

(II) administering funds appropriated under the Older Americans Act;

(B) the population of eligible individuals in such State as a percentage of the population of such State; and

(C) in order to ensure the needs of rural areas in such State, the relative costs and special problems associated with addressing the special problems of providing health care information, counseling,

and assistance to the rural areas of such State.

(5) ANNUAL STATE REPORT- A State that receives a grant under paragraph (3) or (4) shall, not later than 180 days after receiving such grant, and annually thereafter, issue an annual report to the Secretary that includes information concerning--

(A) the number of individuals served by the State-wide health insurance information, counseling and assistance program of such State;

(B) an estimate of the amount of funds saved by the State, and by eligible individuals in the State, in the implementation of such program; and

(C) the problems that eligible individuals in such State encounter in procuring adequate and appropriate health care coverage.

(6) REPORT TO CONGRESS- Not later than 180 days after the date of the enactment of this section, and annually thereafter, the Secretary shall issue a report to the Committee on Finance of the Senate, the Special Committee on Aging of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging of the House of Representatives that--

(A) summarizes the allocation of funds authorized for grants under this section and the expenditure of such funds;

(B) summarizes the scope and content of training conferences convened under subsection (f);

(C) outlines the problems that eligible individuals encounter in procuring adequate and appropriate health care coverage;

(D) makes recommendations that the Secretary determines to be appropriate to address the problems described in subparagraph (C); and

(E) in the case of the report issued 2 years after the date of enactment of this section, evaluates the effectiveness of counseling programs established under this program, and makes recommendations regarding continued authorization of funds for these purposes.

(7) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS- There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $10,000,000 for each of fiscal years 1991, 1992, and 1993, to fund the grant programs described in this subsection.

(l) MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE- (1) Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following:

`MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE

`SEC. 1889. The Secretary shall provide information via a toll-free telephone number on the programs under this title and on medicare supplemental policies as defined in section 1882(g)(1) (including the relationship of State programs under title XIX to such policies).'.

(2) The Secretary is authorized to conduct demonstration projects in up to 5 States for the purpose of establishing statewide toll-free telephone numbers for providing information on medicare benefits, medicare supplemental policies available in the State, and benefits under the State medicaid

program.

SEC. 6156. TECHNICAL AND MISCELLANEOUS PROVISIONS RELATING TO PARTS A AND B.

(a) EXTENSIONS OF EXPIRING AUTHORITIES-

(1) PROHIBITION OF PAYMENT CYCLE CHANGES- Notwithstanding any other provision of law, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down or speeding up claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

(2) WAIVER OF LIABILITY FOR HOME HEALTH AGENCIES- Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking `November 1, 1990' and inserting `December 31, 1995'.

(b) APPLICATION OF HOSPITAL WAGE INDEX TO HOME HEALTH AGENCIES-

(1) IN GENERAL- Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended to read as follows:

`(iii) In establishing limits under this subparagraph for portions of a cost reporting period occurring during a fiscal year, the Secretary shall utilize a wage index equal to the area wage index applicable under section 1886(d)(3)(E) during the fiscal year to hospitals located in the geographic area in which the home health agency is located, in updating the wage index for establishing such limits the Secretary shall provide that payments to home health agencies will be no greater or lesser than such payments would have been without regard to the update of such wage index.'.

(2) TRANSITION PROVISION- Notwithstanding section 1861(v)(1)(L)(iii) of the Social Security Act, the Secretary of Health and Human Services shall, in determining the limits of reasonable costs under title XVIII of such Act with respect to services furnished by a home health agency for portions of a cost reporting period occurring during a fiscal year, utilize a wage index equal to--

(A) for portions of cost reporting periods beginning on or after July 1, 1991, and on or before June 30, 1992, a combined area wage index consisting of--

(i) 67 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 33 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for portions of cost reporting periods beginning on or after July 1, 1992, and on or before June 30, 1993, a combined area wage index consisting of--

(i) 33 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 67 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic

area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(3) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply with respect to home health agency cost reporting periods beginning on or after July 1, 1993.

(c) RECOGNITION OF COSTS OF HOSPITAL SUPPORTED NURSING AND ALLIED HEALTH EDUCATIONAL PROGRAMS AS ALLOWABLE REASONABLE COSTS-

(1) IN GENERAL- (A) Beginning on or after October 1, 1990, all costs related to clinical training, as defined by the Secretary, on a hospital's premises for a hospital supported education program and which are incurred by a hospital or by an educational institution related to the hospital by common ownership or common control, shall be considered costs incurred for approved educational activities for purposes of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)). Subject to subparagraph (B), such costs shall be allowable to a hospital on a reasonable cost basis and shall be considered to be pass-through costs under title XVIII of such Act. An education program shall be deemed to be hospital supported if the program is--

(i) an approved nursing or allied health education program;

(ii) is not a hospital operated program; and

(iii) the hospital participates in the program in conjunction with an educational institution.

(B) For purposes of subparagraph (A), section 1886(a)(4) of the Social Security Act, and section 1861(v) of such Act, costs relating to a hospital supported education program shall be deemed to be reimbursable--

(i) only to the extent that the proportion of costs claimed by a hospital for a hospital supported education program (which proportion shall be expressed as a ratio, the numerator of which is the dollar amount of support given by the hospital to the school in the specific 12-month period covered by the hospital's cost report and the denominator of which is the total allowable costs for inpatients hospital services irrespective of how such costs are paid under this title) are not greater than such proportion of costs claimed by such hospital (subject to the review described in paragraph (2)), in the cost reporting period prior to the cost reporting period beginning on or after October 1, 1990;

(ii) only if the hospital is receiving a benefit for the support it furnishes to such program through the provision of clinical services by nursing or allied health students incidental to their training, or the hospital hires graduates from the hospital supported education program; and

(iii) only to the extent that the cost is less than the cost the hospital would be expected to incur were such a hospital to operate its own similar program.

(2) SPECIAL AUDIT RULE- For purposes of paragraph (1)(B)(i), the Secretary's determination of the initial proportion of costs (that is, those costs claimed in the cost reporting period prior to the cost reporting period beginning on or after October 1, 1990) shall be accomplished by a special audit (or other appropriate mechanism), which audit (or mechanism) shall ensure that each hospital has appropriately reported its level of support during such period.

(3) PROHIBITION ON RECOUPMENT OF CERTAIN NURSING AND ALLIED EDUCATIONAL COSTS- (A) The Secretary of Health and Human Services (hereinafter referred to as the `Secretary') shall not disallow, recoup from, or otherwise reduce or adjust payments under title XVIII of the

Social Security Act to hospitals with respect to claims by a hospital on its medicare costs reports for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1990, relating to hospital supported education programs on the grounds that the costs of such programs were not allowable costs or were included in the definition of `operating costs of inpatient services' pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under that section.

(B) The Secretary shall provide that if any disallowance, recoupment, adjustment, or reduction in payments described in subparagraph (A) has occurred prior to the date of enactment of this Act, such actions shall be reversed and any necessary refunds or administrative adjustments shall be promptly made.

(3) CONFORMING AMENDMENT- (A) Section 6205(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking `(a)' and the subsection heading.

(B) Section 6205(b) of such Act is hereby repealed.

(4) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed as requiring the Secretary of Health and Human Services to modify those existing regulations or instructions which pertain to the determination of reasonable costs for a hospital-operated education program.

(d) CASE MANAGEMENT DEMONSTRATION PROJECTS RESUMED-

(1) IN GENERAL- Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the `Secretary') shall resume the 3 case management demonstration projects described in paragraph (2) and approved under section 425 of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as `MCCA').

(2) PROJECT DESCRIPTIONS- The demonstration projects referred to in paragraph (1) are--

(A) the project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization as described in Project No. 18-P-99379/5-01;

(B) the project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-99399/4-01; and

(C) the project proposed to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost medicare beneficiaries as described in Project No. 18-P-99396/5.

(3) TERMS AND CONDITIONS- The demonstration projects resumed pursuant to paragraph (1) shall be subject to the same terms and conditions established under section 425 of MCCA. In determining the 2-year duration period of a project resumed pursuant to paragraph (1), the Secretary may not take into account any period of time for which the project was in effect under section 425 of MCCA.

(e) TREATMENT OF CERTAIN HOSPITALS WITH RESPECT TO PAYMENTS FOR GRADUATE MEDICAL EDUCATION COSTS- Section 1886(h)(2) (42 U.S.C. 1395ww(h)(2)) is amended--

(1) by inserting `(i)' after `(E)'; and

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

`(ii) In the case of a hospital which did have an approved medical residency

training program for a cost reporting period beginning during fiscal year 1984, but which made a commitment to substantially expand its program that was not fully reflected in costs incurred during cost reporting periods beginning in such fiscal year, such hospital may request the use of an alternative cost reporting period other than that which began during fiscal year 1984 for purposes of determining the average amount recognized as reasonable medical education costs of the hospital for each full-time equivalent resident. The Secretary shall review each such request and determine whether it would be appropriate to provide for an FTE resident amount based on an alternative cost reporting period, based on approved FTE resident amounts for comparable programs. If the Secretary approves a request under this clause, payments based on alternative cost reporting periods for a hospital described under this clause, shall begin for the first cost reporting period for which the Secretary determines the hospital has substantially implemented its program expansion.'.

(f) HCFA SERVICE FELLOWS PROGRAM-

(1) IN GENERAL- Section 1117 (42 U.S.C. 1317) is amended--

(A) by inserting `; HCFA SERVICE FELLOWS PROGRAM' at the end of the heading,

(B) by inserting `(a)' after `SEC. 1117.', and

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

`(b)(1) The Administrator may establish an HCFA Service Fellows Program under which up to 10 individuals from the private sector or academia who have demonstrated exceptional competence or highly specialized skills or knowledge may conduct health-care related research, studies, and investigations within the Health Care Financing Administration.

`(2) Qualified individuals may be appointed by the Administrator (without regard to rules respecting appointments, classification, and pay rates in the competitive service) to serve as HCFA Service Fellows for a period of not to exceed 2 years (which may, in individual cases under exceptional circumstances, be extended for up to 2 additional years).

`(3) Individuals appointed as HCFA Service Fellows shall not be included in any determination of the number of full-time equivalent employees of the Department for the purpose of any limitation on the number of such employees established by any law.

`(4) The Administrator is not authorized to expend more than $750,000 annually on the costs of the HCFA Service Fellows Program (including the costs of salaries under the program)'.

(g) SELF-REFERRAL TECHNICAL- (1) Section 1877(b) (42 U.S.C. 1395nn(b)) is amended by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (3) the following:

`(4) SERVICES UNRELATED TO INVESTMENT INTEREST OR COMPENSATION ARRANGEMENT- In the case of clinical laboratory services furnished by a hospital pursuant to a referral by a physician who has a financial relationship with the hospital that does not involve the provision of such services.'.

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 6157. LIVING WILLS AND OTHER ADVANCE DIRECTIVES.

(a) MEDICARE PROVIDER AGREEMENTS-

(1) IN GENERAL- Section 1866 (42 U.S.C. 1395cc(a)(1)) is amended--

(A) in subsection (a)(1)--

(i) by striking `and' at the end of subparagraph (O),

(ii) by striking the period at the end of subparagraph (P) and inserting `, and', and

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

`(Q) in the case of hospitals, skilled nursing facilities, home health agencies, and hospice programs, to comply with the requirement of subsection (f) (relating to maintaining written policies and procedures respecting advance directives).'; and

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

`(f)(1) For purposes of subsection (a)(1)(Q) and sections 1819(c)(1)(E), 1833(r), 1876(c)(8), and 1891(a)(6), the requirement of this subsection is that a provider of services or prepaid or eligible organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization--

`(A) to provide written information to each such individual concerning--

`(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

`(ii) the policies of the provider or organization respecting the implementation of such rights;

`(B) to inquire of an individual (or a family member) whether the individual has executed an advance directive and document in the individual's medical record the response to the inquiry;

`(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

`(D) to ensure compliance with requirements of State law respecting advance directives at facilities of the provider or organization; and

`(E) to provide (individually or with others) for education for staff on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

`(2) In this subsection, the term `advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.'.

(2) APPLICATION TO PREPAID ORGANIZATIONS-

(A) ELIGIBLE ORGANIZATIONS- Section 1876(c) (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

`(8) A contract under this section shall provide that the eligible organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).'.

(B) OTHER PREPAID ORGANIZATIONS- Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

`(r) The Secretary may not provide for payment under subsection (a)(1)(A) with respect to an organization unless the organization provides assurances satisfactory to the Secretary that the organization meets the requirement of

section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).'.

(3) CONFORMING AMENDMENTS-

(A) Section 1819(c)(1) (42 U.S.C. 1395i-3(c)(1)) is amended by adding at the end the following new subparagraph:

`(E) INFORMATION RESPECTING ADVANCE DIRECTIVES- A skilled nursing facility must comply with the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).'.

(B) Section 1891(a) (42 U.S.C. 1395bbb(a)) is amended by adding at the end the following:

`(6) The agency complies with the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).'.

(4) EFFECTIVE DATES-

(A) The amendments made by paragraphs (1) and (3) shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(B) The amendments made by paragraph (2) shall apply to contracts under section 1876 of the Social Security Act and payments under section 1833(a)(1)(A) of such Act as of the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(b) MEDICAID STATE PLAN REQUIREMENTS-

(1) IN GENERAL- Section 1902 (42 U.S.C. 1396a(a)) is amended--

(A) in subsection (a)--

(i) by striking `and' at the end of paragraph (52),

(ii) by striking the period at the end of paragraph (53), and

(iii) by inserting after paragraph (53) the following new paragraphs:

`(54) provide that each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A)) receiving funds under the plan shall comply with the requirement of subsection (s); and

`(55) provide that the State, acting through a State agency, association, or other private entity, develop a written description of the law of the State (whether statutory or common law) concerning advance directives that would be distributed by providers under the requirements of subsections.'; and

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

`(s)(1) For purposes of subsection (a)(54) and sections 1903(m)(1)(A) and 1919(c)(2)(E), the requirement of this subsection is that a provider or organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization--

`(A) to provide information to each such individual concerning--

`(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or

surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

`(ii) the hospital's written policies respecting the implementation of such rights;

`(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

`(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

`(D) to ensure compliance with requirements of State law respecting advance directives; and

`(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

`(2) In this subsection, the term `advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.'.

(2) CONFORMING AMENDMENTS-

(A) Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)) is amended--

(i) by inserting `meets the requirement of section 1902(s)' after `which' the first place it appears, and

(ii) by inserting `meets the requirement of section 1902(a) and' after `which' the second place it appears.

(B) Section 1919(c)(2) of such Act (42 U.S.C. 1396r(c)(2)) is amended by adding at the end the following new subparagraph:

`(E) INFORMATION RESPECTING ADVANCE DIRECTIVES- A nursing facility must comply with the requirement of section 1902(s) (relating to maintaining written policies and procedures respecting advance directives).'.

(3) EFFECTIVE DATE- The amendments made by this subsection shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(c) STUDY-

(1) IN GENERAL- The Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall conduct a study or enter into an agreement with a private entity to conduct a study and submit a report to Congress with respect to the implementation of directed health care decisions. Such study shall--

(A) evaluate the experience of practitioners, providers, and government regulators in complying with the provisions of this section;

(B) assess the awareness and utilization of advance directives as a result of this section;

(C) investigate methods of encouraging reciprocity among States in the enforcement of advance directives;

(D) report on the manner in which treatment decisions are made in the absence of an advance directive; and

(E) make such recommendations for legislation as may be appropriate to carry out the purposes of this Act.

(2) EFFECTIVE DATE- The study and report provided for in this subsection shall be submitted to Congress no later than the date which is 4 years after the date of enactment of this section.

(d) PUBLIC EDUCATION CAMPAIGN-

(1) IN GENERAL- The Secretary, no later than 6 months after the date of enactment of this section, shall develop and implement a national campaign to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions.

(2) DEVELOPMENT AND DISTRIBUTION OF INFORMATION- The Secretary shall develop or approve nationwide informational materials that would be distributed by providers under the requirements of this section, to inform the public and the medical and legal profession of each person's right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the existence of advance directives.

(3) PROVIDING ASSISTANCE TO STATES- The Secretary shall assist appropriate State agencies, associations, or other private entities in developing the State-specific documents that would be distributed by providers under the requirements of this section. The Secretary shall further assist appropriate State agencies, associations, or other private entities in ensuring that providers are provided a copy of the documents that are to be distributed under the requirements of the section.

(4) DUTIES OF SECRETARY- The Secretary shall mail information to Social Security recipients, add a page to the medicare handbook with respect to the provisions of this section, and provide for and install a nationwide, toll-free informational number to provide State agencies, private entities, and medicare and medicaid eligible individuals with information regarding the option to execute advance directives and the rights of individuals under the provisions of this section.

PART 4--PROVISIONS RELATING TO PREMIUMS, DEDUCTIBLES, AND COINSURANCE

SEC. 6161. PART B PREMIUM.

Section 1839(e) is amended by inserting `and for each month after December 1992 and before January 1996' after `January 1991' each time it appears.

SEC. 6162. CHANGE IN PART B DEDUCTIBLE.

Section 1833(b) (42 U.S.C. 1395l) is amended by inserting after `$75' the following: `for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996'.

SEC. 6163. 20 PERCENT COINSURANCE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) IN GENERAL- Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended--

(1) in subsection (a)(1)(D)(i)), by striking `in the case of' and all that follows through `basis, or',

(2) in subsection (a)(2)(D)(i), by striking `in the case of' and all that follows through `1866, or', and

(3) in subsection (b)(3), by striking `(A) under subsection (a)(1)(D)' and all that follows through `(B)'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1991.

Subtitle C--Medicaid

PART I--PRESCRIPTION DRUG DISCOUNTS

SEC. 6201. REIMBURSEMENT FOR PRESCRIBED DRUGS UNDER MEDICAID.

(a) IN GENERAL-

(1) DENIAL OF FEDERAL FINANCIAL PARTICIPATION UNLESS REBATE AGREEMENTS AND DRUG USE REVIEW IN EFFECT- Section 1903(i) (42 U.S.C. 1396b(i)) is amended--

(A) by striking the period at the end of paragraph (9) and inserting `; or', and

(B) by inserting after paragraph (9) the following new paragraph:

`(10) with respect to covered outpatient drugs of a manufacturer dispensed in any State unless, (A) except as provided in section 1927(a)(3), the manufacturer complies with the rebate requirements of section 1927(a) with respect to the drugs so dispensed in all States, and (B) effective January 1, 1993, the State provides for drug use review in accordance with section 1927(g).'.

(2) PROHIBITING STATE PLAN DRUG ACCESS LIMITATIONS FOR DRUGS COVERED UNDER A REBATE AGREEMENT- Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended--

(A) by striking `and' at the end of paragraph (52),

(B) by striking the period at the end of paragraph (53) and inserting `; and', and

(C) by inserting after paragraph (53) the following new paragraph:

`(54)(A) provide that, any formulary or similar restriction (except as provided in section 1927(d)) on the coverage of covered outpatient drugs under the plan shall permit the coverage of covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under section 1927(a), which are prescribed for a medically accepted indication (as defined in subsection 1927(k)(6)), and

`(B) comply with the reporting requirements of section 1927(b)(2)(A) and the requirements of subsections (d) and (g) of section 1927.'.

(3) REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS, DRUG USE REVIEW, AND RELATED PROVISIONS- Title XIX of the Social Security Act is amended by redesignating section 1927 as section 1928 and by inserting after section 1926 the following new section:

`PAYMENT FOR PRESCRIBED DRUGS

`SEC. 1927. (a) REQUIREMENT FOR REBATE AGREEMENT-

`(1) IN GENERAL- In order for payment to be available under section 1903(a) for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of States (except that, the Secretary may authorize a State to enter directly into agreements

with manufacturer). If a manufacturer has not entered into such an agreement before January 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

`(2) EFFECTIVE DATE- Paragraph (1) shall first apply to drugs dispensed under this title on or after January 1, 1991.

`(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS- Paragraph (1), and section 1903(i)(10)(A), shall not apply to the dispensing of a single source drug or innovator multiple source drug if (A) the State has made a determination that the availability of the drug is essential to the health of beneficiaries under the State plan for medical assistance; and (B)(i) the physician has obtained approval for use of the drug in advance of its dispensing in accordance with a prior authorization program described in subsection (d), or (ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).

`(4) EFFECT ON EXISTING AGREEMENTS- In the case of a rebate agreement in effect between a State and a manufacturer on the date of the enactment of this section, such agreement, for the initial agreement period specified therein, shall be considered to be a rebate agreement in compliance with this section with respect to that State, if the State agrees to report to the Secretary any rebates paid pursuant to the agreement. If the State establishes to the satisfaction of the Secretary that the agreement provides for rebates that are at least as large as the rebates otherwise required under this section, and the State agrees to report any rebates under the agreement to the Secretary, the agreement shall be considered to be a rebate agreement in compliance with the section for the renewal periods of such agreement.

`(b) TERMS OF REBATE AGREEMENT-

`(1) PERIODIC REBATES-

`(A) IN GENERAL- A rebate agreement under this subsection shall require the manufacturer to provide, to each State plan approved under this title, a rebate each calendar quarter (or periodically in accordance with a schedule specified by the Secretary) in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed under the plan during the quarter (or such other period as the Secretary may specify). Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

`(B) OFFSET AGAINST MEDICAL ASSISTANCE- Amounts received by a State under this section (or under an agreement authorized by the Secretary under subsection (a)(1) or an agreement described in subsection (a)(4)) in any quarter shall be considered to be a reduction in the amount expended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1).

`(2) STATE PROVISION OF INFORMATION-

`(A) STATE RESPONSIBILITY- Each State agency under this title shall report to each manufacturer not later than 60 days after the end of each calendar quarter and in a form consistent with a standard reporting format established by the Secretary, information on the total number of dosage units of each covered outpatient drug dispensed under the plan during the quarter, and shall promptly transmit a copy of such report to the Secretary.

`(B) AUDITS- A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that

utilization was greater or less than the amount previously specified.

`(C) NOTICE TO SECRETARY- Each State agency shall notify the Secretary within 30 days after the date each rebate is received under this section.

`(3) MANUFACTURER PROVISION OF PRICE INFORMATION-

`(A) IN GENERAL- Each manufacturer with an agreement in effect under this section shall report to the Secretary--

`(i) not later than 30 days after the last day of each quarter (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (k)(1)) and, effective for quarters beginning on or after January 1, 1994 (for single source drugs and innovator multiple source drugs), the manufacturer's best price (as defined in subsection (c)(2)(B)) for covered outpatient drugs for the quarter, and

`(ii) not later than 30 days after the date of entering into an agreement under this section on the average manufacturer price (as defined in subsection (k)(1)) as of October 1, 1990 for each of the manufacturer's covered outpatient drugs.

`(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE- The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify average manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information about charges or prices by the Secretary in connection with a survey under this subparagraph or knowingly provides false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

`(C) PENALTIES-

`(i) FAILURE TO PROVIDE TIMELY INFORMATION- In the case of a manufacturer with an agreement under this section that fails to provide information required under subparagraph (A) on a timely basis, the amount of the rebate required under the agreement shall be increased by $10,000 for each day in which such information has not been provided, and, if such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

`(ii) FALSE INFORMATION- Any manufacturer with an agreement under this section that knowingly provides false information is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Such civil money penalties are in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

`(D) CONFIDENTIALITY OF INFORMATION- Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph is confidential and shall not be disclosed by the Secretary or a State agency (or contractor

therewith) in a form which discloses the identity of a specific manufacturer or wholesaler, except as the Secretary determines to be necessary to carry out this section and to permit the Comptroller General to review the information provided.

`(4) LENGTH OF AGREEMENT-

`(A) IN GENERAL- A rebate agreement shall be effective for an initial period of no less than 1 year and shall be automatically renewed for a period of no less than one year unless terminated under subparagraph (B).

`(B) TERMINATION-

`(i) BY THE SECRETARY- The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

`(ii) BY A MANUFACTURER- A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until such period after the date of the notice as the Secretary may provide (but not beyond the term of the agreement).

`(iii) EFFECTIVENESS OF TERMINATION- Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

`(C) DELAY BEFORE REENTRY- In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

`(c) Amount of Rebate-

`(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS- Except as otherwise provided in this subsection, the amount of the rebate to a State for a calendar quarter (or other period specified by the Secretary) with respect to single source drugs and innovator multiple source drugs shall be equal to the product of--

`(A)(i) for quarters (or periods) beginning after December 31, 1990, and before January 1, 1994, 15 percent of the average manufacturer price for each dosage form and strength of such drugs (after deducting customary prompt payment discounts) for the quarter (or other period), and

`(ii) for quarters (or other periods) beginning after December 31, 1993, the greater of--

`(I) the difference between the average manufacturer price for a drug and 85 percent of such price, or

`(II) the difference between the average manufacturer price for a drug and the best price (as defined in paragraph (2)(B)) for such quarter (or period) for such drug, and

`(B) the number of units of such form and dosage dispensed under the plan under this title in the quarter (or other period) reported by the State under subsection (b)(2).

`(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS- (A) The Secretary shall establish a method of adjusting the basic rebate specified under paragraph (1) for single source and innovator multiple source drugs of a manufacturer to ensure that a manufacturer's prices for such drugs to a State plan approved under this title, determined on an aggregate weighted average basis, using the average manufacturer price for each such drug, do not increase by a percentage that is greater than the increase in the Consumer Price Index for all urban consumers (U.S. average) from October 1, 1990 to the month before the beginning of the calendar quarter (or other period) involved.

`(B) In this subsection, the term `best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer to any wholesaler, retailer, nonprofit entity, or governmental entity within the United States (excluding depot prices of any agency of the Federal Government). The best price shall be inclusive of cash discounts, free goods, volume discounts, and rebates (other than rebates under this section) and shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package, and shall not take into account prices that are merely nominal in amount.

`(3) REBATE FOR OTHER DRUGS- The amount of the rebate to a State for a calendar quarter (or other period specified by the Secretary) with respect to covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of--

`(A) 12 percent of the average manufacturer price for each dosage form and strength of such drugs (after deducting customary prompt payment discounts) for the quarter (or other period), and

`(B) the number of units of such form and dosage dispensed under the plan under this title in the quarter (or other period) reported by the State under subsection (b)(2).

`(d) LIMITATIONS ON COVERAGE OF DRUGS-

`(1) PERMISSABLE RESTRICTIONS- (A) Except as provided in paragraph (6), but subject to paragraph (5), a State may subject to prior authorization any covered outpatient drug.

`(B) A State may exclude or otherwise restrict coverage of a covered patient drug if--

`(i) the prescribed use is not for a medically accepted indication (as defined in (k)(6));

`(ii) the drug is contained in the list referred to in paragraph (2); or

`(iii) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4).

`(2) LIST OF DRUGS SUBJECT TO RESTRICTION- The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

`(A) Agents when used for anorexia or weight gain that are not approved for such use by the FDA.

`(B) Agents when used to promote fertility.

`(C) Agents when used for cosmetic purposes or hair growth.

`(D) Agents when used for the symptomatic relief of cough and colds.

`(E) Agents when used to promote smoking cessation.

`(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

`(G) Nonprescription drugs.

`(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

`(I) Drugs described in section 107(c)(3) of the Drug Amendments of 1962 and identical, similar, or related drugs (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations (`DESI' drugs)).

`(J) Barbiturates.

`(3) UPDATE OF DRUG LISTINGS- The Secretary shall (except with respect to new drugs approved by the FDA for the first 12 months following the date of approval of such drugs shall not be subject to being listed in paragraph (2) under the provisions of this paragraph), by regulation, periodically update the list of drugs described in paragraph (2) or classes of drugs, or their medical uses, which the Secretary, in consultation with the Commissioner of the Food and Drug Administration, has determined to be of marginal clinical value to beneficiaries, or, based on data collected by a State's medical assistance program's surveillance and utilization review program, to be subject to clinical abuse or inappropriate use.

`(4) INNOVATOR MULTIPLE-SOURCE DRUGS- Innovator multiple-source drugs shall be treated as under otherwise applicable law and regulation.

`(5) PRIOR AUTHORIZATION PROGRAMS- A State plan under this title may not require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (k)(6)) unless the system providing for such approval--

`(A) is available to physicians at least 10 hours each weekday, and provides for appropriate accommodations for obtaining prior authorization during other times;

`(B) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

`(C) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

`(6) TREATMENT OF NEW DRUGS- A State may not exclude for coverage, subject to prior authorization, or otherwise restrict any new biological or drug approved by the Food and Drug Administration after the date of enactment of this section, for a period of 1 year after such approval.

`(7) OTHER PERMISSIBLE RESTRICTIONS- A State may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, provided such limitations are necessary to discourage waste.

Nothing in this section shall restrict the ability of a State to address individual instances of fraud or abuse in any manner authorized under the Social Security Act.

`(8) DELAYED EFFECTIVE DATE- The provisions of paragraph (5) shall become effective with respect to drugs dispensed under this title on or

after July 1, 1991.

`(e) DENIAL OF FEDERAL FINANCIAL PARTICIPATION IN CERTAIN CASES- The Secretary shall provide that no payment shall be made to a State under section 1903(a) for an innovator multiple-source drug dispensed on or after July 1, 1991, if, under applicable State law, a less expensive noninnovator multiple source drug (other than the innovator multiple-source drug) could have been dispensed consistent with such law.

`(f) PHARMACY REIMBURSEMENT-

`(1) PAYMENT TO PHARMACISTS-

`(A) IN GENERAL- Beginning fiscal year 1991 and ending September 30, 1993, each State plan under this title shall provide, after the end of each fiscal year and a lump-sum payment, for a payment to pharmacies dispensing covered outpatient drugs under this title during the fiscal year.

`(B) AMOUNT OF PAYMENT- The amount of the payment under this subsection for any fiscal year to a pharmacist shall bear the same ratio to 5 percent of the total amount of rebates received under this section by the State in the fiscal year involved, as the ratio of the number of prescriptions filled by the pharmacy under this title in the fiscal year bears to the total of such number for all pharmacies in the State in the fiscal year, and will be made within 60 days after the end of each fiscal year.

`(2) NO REDUCTIONS IN REIMBURSEMENT LIMITS- Prior to April 1, 1993, no changes may be made by the Secretary or a State to the formula used to determine the reimbursement limits in effect under this title as of August 1, 1990, which would result in a reduction in the limit relative to either the ingredient cost portion or the dispensing fee portion of the formula, for covered outpatient drugs.

`(3) ESTABLISHMENT OF UPPER PAYMENT LIMITS- HCFA shall establish Federal upper limits for all multiple source drugs for which the FDA has rated three or more therapeutically and pharmaceutically equivalent, regardless of whether all such additional formulations are rated as such.

`(g) DRUG USE REVIEW-

`(1) IN GENERAL-

`(A) In order to meet the requirement of section 1903(i)(10)(B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse.

`(B) The program shall assess data on drug use against predetermined standards, consistent with the following:

`(i) compendia which shall consist of the following:

`(I) American Hospital Formulary Service Drug Information;

`(II) United States Pharmacopeia-Drug Information; and

`(III) American Medical Association Drug Evaluations; and

`(ii) the peer-reviewed medical literature.

`(C) The Secretary, under the procedures established in section 1903, shall pay to each State an amount equal to 75 per centum of so much of the sums expended by the State plan during calendar years 1991 through 1993 as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of this subsection.

`(D) States shall not be required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities which are in compliance with the drug regimen review procedures prescribed by the Secretary for such facilities in regulations implementing section 1919, currently at section 483.60 of title 42, Code of Federal Regulations.

`(2) DESCRIPTION OF PROGRAM- Each drug use review program shall meet the following requirements for covered outpatient drugs:

`(A) PROSPECTIVE DRUG REVIEW- (i) The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title, typically at the point-of-sale or point of distribution. The review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Each State shall use the compendia and literature referred to in paragraph (1)(B) as its source of standards for such review.

`(ii) As part of the State's prospective drug use review program under this subparagraph applicable State law shall establish standards for counseling of individuals receiving benefits under this title by pharmacists which includes at least the following:

`(I) A reasonable effort must be made by the pharmacist to counsel such individual or caregiver of such individual face-to-face whenever possible, and otherwise to do so by telephone.

`(II) The pharmacist must offer to discuss with each individual receiving benefits under this title or caregiver of such individual (in person, whenever practicable, or through access to a telephone service which is toll-free for long-distance calls) who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provision of such information), the pharmacist deems significant including the following:

`(aa) The name and description of the medication.

`(bb) The route, dosage form, dosage, route of administration, and duration of drug therapy.

`(cc) Special directions and precautions for preparation, administration and use by the patient.

`(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

`(ee) Techniques for self-monitoring drug therapy.

`(ff) Proper storage.

`(gg) Prescription refill information.

`(hh) Action to be taken in the event of a missed dose.

`(III) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

`(aa) Name, address, telephone number, date of birth (or age) and gender.

`(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

`(cc) Pharmacist comments relevant to the individuals drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when a individual receiving benefits under this title or caregiver of such individual refuses such consultation.

`(B) RETROSPECTIVE DRUG USE REVIEW- The program shall provide, through its mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

`(C) APPLICATION OF STANDARDS- The program shall, on an ongoing basis, assess data on drug use against explicit predetermined standards (using the compendia and literature referred to in subsection (1)(B) as the source of standards for such assessment) including but not limited to monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse/misuse and, as necessary, introduce remedial strategies, in order to improve the quality of care and to conserve program funds or personal expenditures.

`(D) EDUCATIONAL PROGRAM- The program shall, through its State drug use review board established under paragraph (3), either directly or through contracts with accredited health care educational institutions, State medical societies or State pharmacists associations/societies or other organizations as specified by the State, and using data provided by the State drug use review board on common drug therapy problems, provide for active and ongoing educational outreach programs (including the activities described in paragraph (3)(C)(iii) of this subsection) to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices.

`(3) STATE DRUG USE REVIEW BOARD-

`(A) ESTABLISHMENT- Each State shall provide for the establishment of a drug use review board (hereinafter referred to as the `DUR Board') either directly or through a contract with a private organization.

`(B) MEMBERSHIP- The membership of the DUR Board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

`(i) The clinically appropriate prescribing of covered outpatient drugs.

`(ii) The clinically appropriate dispensing and monitoring of covered outpatient drugs.

`(iii) Drug use review, evaluation, and intervention.

`(iv) Medical quality assurance.

The membership of the DUR Board shall be made up at least 1/3 but no more than 51 percent practicing physicians and at least 1/3 practicing pharmacists.

`(C) ACTIVITIES- The activities of the DUR Board shall include but not be limited to the following:

`(i) Retrospective DUR as defined in section (2)(B).

`(ii) Application of standards as defined in section (2)(C).

`(iii) Ongoing interventions for physicians and pharmacists, targeted toward therapy problems or individuals identified in the course of retrospective drug use reviews performed under this subsection. Intervention programs shall include, in appropriate instances, at least:

`(I) information dissemination sufficient to ensure the ready availability to physicians and pharmacists in the State of information concerning its duties, powers, and basis for its standards;

`(II) written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information;

`(III) use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention, including discussion of optimal prescribing, dispensing, or pharmacy care practices, and follow-up face-to-face discussions; and

`(IV) intensified review or monitoring of selected prescribers or dispensers.

The Board shall re-evaluate interventions after an appropriate period of time to determine if the intervention improved the quality of drug therapy, to evaluate the success of the interventions and make modifications as necessary.

`(D) ANNUAL REPORT- Each State shall require the DUR Board to prepare a report on an annual basis. The State shall submit a report on an annual basis to the Secretary which shall include a description of the activities of the Board, including the nature and scope of the prospective and retrospective drug use review programs, a summary of the interventions used, an assessment of the impact of these educational interventions on quality of care, and an estimate of the cost savings generated as a result of such program. The Secretary shall utilize such report in evaluating the effectiveness of each State's drug use review program.

`(h) ELECTRONIC CLAIMS MANAGEMENT-

`(1) IN GENERAL- In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State agency to establish, as its principal

means of processing claims for covered outpatient drugs under this title, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

`(2) ENCOURAGEMENT- In order to carry out paragraph (1)--

`(A) for calendar quarters during fiscal years 1991 and 1992, expenditures under the State plan attributable to development of a system described in paragraph (1) shall receive Federal financial participation under section 1903(a)(3)(A)(i) (at a matching rate of 90 percent) if the State acquires, through applicable competitive procurement process in the State, the most cost-effective telecommunications network and automatic data processing services and equipment; and

`(B) the Secretary may permit, in the procurement described in subparagraph (A) in the application of part 433 of title 42, Code of Federal Regulations, and parts 95, 205, and 307 of title 45, Code of Federal Regulations, the substitution of the State's request for proposal in competitive procurement for advance planning and implementation documents otherwise required.

`(i) ANNUAL REPORT-

`(1) IN GENERAL- Not later than May 1 of each year the Secretary shall transmit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives a report on the operation of this section in the preceding fiscal year.

`(2) DETAILS- Each report shall include information on--

`(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

`(B) the total value of rebates received and number of manufacturers providing such rebates;

`(C) how the size of such rebates compare with the size of rebates offered to other purchasers of covered outpatient drugs;

`(D) the effect of inflation on the value of rebates required under this section; and

`(E) trends in prices paid under this title for covered outpatient drugs.

`(j) EXEMPTION OF ORGANIZED HEALTH CARE SETTINGS- (1) Health Maintenance Organizations that operate drug formularies or drug formulary systems specifically designed to provide outpatient prescription drug benefits, including those organizations that contract under section 1903(m), are not subject to the requirements of this section.

`(2) The State plan shall provide that hospitals providing medical assistance under such plan that such hospitals which bill the plan no more than the hospital's acquisition costs for covered outpatient drugs are not subject to the requirements of this section.

`(3) Nothing in this subsection shall be construed as providing that amounts for covered outpatient drugs paid by the institutions described in this subsection should not be taken into account for purposes of determining the best price as described in subsection (c).

`(k) DEFINITIONS- In this section--

`(1) AVERAGE MANUFACTURER PRICE- The term `average manufacturer

price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade.

`(2) COVERED OUTPATIENT DRUG- Subject to the exceptions in paragraph (3), the term `covered outpatient drug' means--

`(A) of those drugs which are treated as prescribed drugs for purposes of section 1905(a)(12), a drug which may be dispensed only upon prescription (except as provided in paragraph (5)), and--

`(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

`(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a `new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

`(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling; and

`(B) a biological product, other than a vaccine which--

`(i) may only be dispensed upon prescription,

`(ii) is licensed under section 351 of the Public Health Service Act, and

`(iii) is produced at an establishment licensed under such section to produce such product; and

`(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

`(3) LIMITING DEFINITION- The term `covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to, and in the same setting as, any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):

`(A) Inpatient hospital services.

`(B) Hospice services.

`(C) Dental services, except that drugs for which the State plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

`(D) Physician office visits.

`(E) Outpatient hospital emergency room visits.

`(F) Outpatient surgical procedures.

Such term also does not include any such drug or product which is used for a medical indication which is not a medically accepted indication.

`(4) NONPRESCRIPTION DRUGS- If a State plan for medical assistance under this title includes coverage of prescribed drugs as described in section 1905(a)(12) and permits coverage of drugs which may be sold without a prescription (commonly referred to as `over-the-counter' drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug shall be regarded as a covered outpatient drug.

`(5) MANUFACTURER- The term `manufacturer' means any entity which is engaged in--

`(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

`(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

`(6) MEDICALLY ACCEPTED INDICATION- The term `medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, which appears in peer-reviewed medical literature or which is accepted by one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopeia-Drug Information.

`(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG-

`(A) DEFINED-

`(i) MULTIPLE SOURCE DRUG- The term `multiple source drug' means, with respect to a calendar quarter, a covered outpatient drug (not including any drug described in paragraph (5)) for which there are 2 or more drug products which--

`(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of `Approved Drug Products with Therapeutic Equivalence Evaluations'),

`(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

`(III) are sold or marketed in the State during the period.

`(ii) INNOVATOR MULTIPLE SOURCE DRUG- The term `innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

`(iii) NONINNOVATOR MULTIPLE SOURCE DRUG- The term `noninnovator multiple source drug' means a multiple source

drug that is not an innovator multiple source drug.

`(iv) SINGLE SOURCE DRUG- The term `single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributers operating under the new drug application.

`(B) EXCEPTION- Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

`(C) DEFINITIONS- For purposes of this paragraph--

`(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

`(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

`(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, provided that the listed product is generally available to the public through retail pharmacies in that State.

`(8) STATE AGENCY- The term `State agency' means the agency designated under section 1902(a)(5) to administer or supervise the administration of the State plan for medical assistance.'.

(b) FUNDING-

(1) DRUG USE REVIEW PROGRAMS- Section 1903(a)(3) (42 U.S.C. 1936b(a)(3)) is amended--

(A) by striking `plus' at the end of subparagraph (C) and inserting `and', and

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

`(D) 75 percent of so much of the sums expended by the State plan during a quarter in 1991, 1992, or 1993, as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(g); plus'.

(2) TEMPORARY INCREASE IN FEDERAL MATCH FOR ADMINISTRATIVE COSTS- The per centum to be applied under section 1903(a)(7) of the Social Security Act for amounts expended during calendar quarters in fiscal year 1991 which are attributable to administrative activities necessary to carry out section 1927 (other than subsection (g)) of such Act shall be 75 percent, rather than 50 percent; after fiscal year 1991, the match shall revert back to 50 percent.

(c) DEMONSTRATION PROJECTS-

(1) PROSPECTIVE DRUG UTILIZATION REVIEW-

(A) The Secretary of Health and Human Services shall provide, through competitive procurement by not later than January 1, 1992,

for the establishment of at least 10 statewide demonstration projects to evaluate the efficiency and cost-effectiveness of prospective drug utilization review (as a component of on-line, real-time electronic point-of-sales claims management) in fulfilling patient counseling and in reducing costs for prescription drugs.

(B) Each of such projects shall establish a central electronic repository for capturing, storing, and updating prospective drug utilization review data and for providing access to such data by participating pharmacists (and other authorized participants).

(C) Under each project, the pharmacist or other authorized participant shall assess the active drug regimens of recipients in terms of duplicate drug therapy, therapeutic overlap, allergy and cross-sensitivity reactions, drug interactions, age precautions, drug regimen compliance, prescribing limits, and other appropriate elements.

(D) Not later than January 1, 1994, the Secretary shall submit to Congress a report on the demonstration projects conducted under this paragraph.

(2) DEMONSTRATION PROJECT ON COST-EFFECTIVENESS OF REIMBURSEMENT FOR PHARMACISTS' COGNITIVE SERVICES-

(A) The Secretary of Health and Human Services shall conduct a demonstration project to evaluate the impact on quality of care and cost-effectiveness of paying pharmacists under title XIX of the Social Security Act, whether or not a drug is dispensed, for drug use review services. For this purpose, the Secretary shall provide for no fewer than 5 demonstration sites in different States and the participation of a significant number of pharmacists.

(B) Not later than January 1, 1995, the Secretary shall submit a report to the Congress on the results of the demonstration project conducted under subparagraph (A).

(d) STUDIES-

(1) STUDY OF DRUG PURCHASING AND BILLING ACTIVITIES OF VARIOUS HEALTH CARE SYSTEMS-

(A) The Comptroller General shall conduct a study of the drug purchasing and billing practices of hospitals, other institutional facilities, and managed care plans which provide covered outpatient drugs in the medicaid program. The study shall compare the ingredient costs of drugs for medicaid prescriptions to these facilities and plans and the charges billed to medical assistance programs by these facilities and plans compared to retail pharmacies.

(B) The study conducted under this subsection shall include an assessment of--

(i) the prices paid by these institutions for covered outpatient drugs compared to prices that would be paid under this section,

(ii) the quality of outpatient drug use review provided by these institutions as compared to drug use review required under this section, and

(iii) the efficiency of mechanisms used by these institutions for billing and receiving payment for covered outpatient drugs dispensed under this title.

(C) By not later than May 1, 1991, the Comptroller General shall report to the Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary'), the Committee on Finance of the Senate, the Committee on Energy and Commerce of

the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the study conducted under subparagraph (A).

(2) REPORT ON DRUG PRICING- By not later than May 1 of each year, the Comptroller General shall submit to the Secretary, the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and House of Representatives an annual report on changes in prices charged by manufacturers for prescription drugs to the Department of Veterans Affairs, other Federal programs, retail and hospital pharmacies, and other purchasing groups and managed care plans.

(3) STUDY ON PRIOR APPROVAL PROCEDURES-

(A) The Secretary, acting in consultation with the Comptroller General, shall study prior approval procedures utilized by State medical assistance programs conducted under title XIX of the Social Security Act, including--

(i) the appeals provisions under such programs; and

(ii) the effects of such procedures on beneficiary and provider access to medications covered under such programs.

(B) By not later than December 31, 1991, the Secretary and the Comptroller General shall report to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the results of the study conducted under subparagraph (A) and shall make recommendations with respect to which procedures are appropriate or inappropriate to be utilized by State plans for medical assistance.

(4) STUDY ON REIMBURSEMENT RATES TO PHARMACISTS-

(A) The Secretary shall conduct a study on (i) the adequacy of current reimbursement rates to pharmacists under each State medical assistance programs conducted under title XIX of the Social Security Act; and (ii) the extent to which reimbursement rates under such programs have an effect on beneficiary access to medications covered and pharmacy services under such programs.

(B) By not later than December 31, 1991, the Secretary shall report to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the results of the study conducted under subparagraph (A).

(5) STUDY OF PAYMENTS FOR VACCINES- The Secretary of Health and Human Services shall undertake a study of the relationship between State medical assistance plans and Federal and State acquisition and reimbursement policies for vaccines and the accessibility of vaccinations and immunization to children provided under this title. The Secretary shall report to the Congress on the Study not later than one year after the date of the enactment of this Act.

(6) STUDY ON APPLICATION OF DISCOUNTING OF DRUGS UNDER MEDICARE- The Comptroller General shall conduct a study examining methods to encourage providers of items and services under title XVIII of the Social Security Act to negotiate discounts with suppliers of prescription drugs to such providers. The Comptroller General shall submit to Congress a report on such study no later than 1 year after the date of enactment of this subsection.

PART II--PURCHASE OF PRIVATE INSURANCE

SEC. 6211. STATES REQUIRED TO PAY PREMIUMS, DEDUCTIBLES, AND COINSURANCE FOR PRIVATE HEALTH INSURANCE COVERAGE FOR MEDICAID BENEFICIARIES WHERE COST EFFECTIVE.

(a) STATE PLAN REQUIREMENT- Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 6201, is further amended--

(1) by striking `and' at the end of paragraph (53);

(2) by striking the period at the end of paragraph (54) and inserting `; and'; and

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

`(55) meet the requirements of section 1928 (relating to payment of premiums, deductibles, and coinsurance for private health insurance).'.

(b) DESCRIPTION OF REQUIREMENT- Title XIX (42 U.S.C. 1396 et seq.), as amended by section 6201, is further amended--

(1) by redesignating section 1928 as section 1929; and

(2) by inserting after section 1927 the following new section:

`PAYMENT OF PREMIUMS FOR PRIVATE HEALTH INSURANCE

`SEC. 1928. (a) REQUIREMENT- Notwithstanding any other provision of this title, each State plan approved under this title shall provide that with respect to individuals eligible for medical assistance under this title that the State shall pay premiums, deductibles, and coinsurance for private health insurance policies (as defined in subsection (d)) on behalf of such individuals and, where appropriate, the individuals' family members, when it is cost effective to do so.

`(b) DETERMINATION OF COST EFFECTIVENESS- The Secretary shall promulgate regulations providing criteria for determining cost effectiveness for purposes of this section. In promulgating regulations under this subsection the Secretary shall consider:

(1) the duration of the time period to be considered by States in determining cost effectiveness;

(2) whether States in determining cost effectiveness, may base such determination on individual circumstances or actuarial categories, and, if based on actuarial categories whether States should be permitted to categorize actuarial groups on the basis of diagnosis; and

(3) the circumstances under which States should pay premiums, deductibles, and coinsurance for non-medicaid eligible family members of individuals eligible for medical assistance under this title.

`(c) SCOPE OF COVERAGE- Each State shall ensure that as part of its State plan approved under this title that where the State makes payments for premiums, deductibles, or coinsurance for private health insurance coverage on behalf of an individual who is eligible for medical assistance under this section, that if such private health coverage does not cover an item or service or does not cover an item or service to the same extent as such item or service is covered under the State plan approved under this title that the State shall provide under such State plan any additional benefits necessary to provide such individual with coverage as comprehensive in amount, duration, and scope as medical assistance provided under the State plan approved under this title.

`(d) PRIVATE HEALTH INSURANCE DEFINED- For purposes of this section, the

term `private health insurance policy' includes employment-related health insurance, group health insurance, membership in private health maintenance organizations, or such other private health insurance as the Secretary may specify.'.

(c) CONFORMING AMENDMENTS-

(1) LIMITATION ON AMOUNT, DURATION, AND SCOPE OF BENEFITS MODIFIED- Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (E)--

(A) by striking `and' at the end of subdivision (IX);

(B) by inserting `and' at the end of subdivision (X); and

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

`(XI) the making available of medical assistance to cover the costs of premiums, deductibles, and coinsurance for certain individuals for private health coverage as described in section 1928 shall not, by reason of paragraph (10), require the making available of any such benefits or the making available of services of the same amount, duration, and scope of such private coverage to any other individuals;'.

(2) PREMIUMS INCLUDED AS MEDICAL ASSISTANCE- Section 1905(a) (42 U.S.C. 1396d(a)) is amended--

(A) by striking `and' at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

`(22) premiums, deductibles, and coinsurance for private health insurance coverage where cost effective (as provided in section 1928); and'.

(d) EFFECTIVE DATE- (1) The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART III--LOW-INCOME ELDERLY

SEC. 6221. 1-YEAR ACCELERATION OF AND INCREASE IN OPTION AMOUNT FOR BUY-IN OF PREMIUMS AND COST SHARING FOR INDIGENT MEDICARE BENEFICIARIES.

(a) OPTION UP TO 133 PERCENT OF POVERTY LINE- Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended by striking `100' and inserting `133'.

(b) REQUIRED 1-YEAR ACCELERATION TO 100 PERCENT OF POVERTY LINE- Section 1905(p)(2) (42 U.S.C. 1396d(p)(2)) is further amended--

(1) in subparagraph (B)--

(A) by adding `and' at the end of clause (ii);

(B) in clause (iii), by striking `95 percent, and' and inserting `100 percent.'; and

(C) by striking clause (iv); and

(2) in subparagraph (C)--

(A) in clause (iii), by striking `90' and inserting `95';

(B) by adding `and' at the end of clause (iii);

(C) in clause (iv), by striking `95 percent, and' and inserting `100 percent.'; and

(D) by striking clause (v).

(c) EFFECTIVE DATE- (1) The amendment made by subsection (a) and, except as provided in paragraph (2), the amendments made by subsection (b) shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by 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 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. 6222. DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES IMPLEMENTED.

(a) IN GENERAL- Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended--

(1) in subparagraph (B) of paragraph (1), by inserting `, except as provided in paragraph (2)(D) of this subsection,' after `supplementary security income program'; and

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

`(D)(i) In making a determination or redetermination of income under this subsection for a transition month (as defined in clause (ii) of this subparagraph) for an individual who is eligible to receive insurance benefits under title II of this Act, such determination or redetermination shall exclude any amount of income attributable to a cost-of-living increase in the level of monthly insurance benefits under title II (as described in section 215(i)) received or anticipated to be received for that calendar year for which the determination or redetermination is made.

`(ii) For purposes of this subparagraph, the term `transition month' means each month in a calendar year during a period beginning January 1 and ending the last day of the month in which the State agency implements the annual revision of the official poverty line (as described in subparagraph (A)) published during that calendar year.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to

determinations or redeterminations of income for months beginning on or after January 1, 1991.

PART IV--CHILD HEALTH

SEC. 6231. MEDICAID CHILD HEALTH PROVISIONS.

(a) PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 Percent of Poverty Level-

(1) IN GENERAL- Section 1902 (42 U.S.C. 1396a) is amended--

(A) in subsection (a)(10)(A)(i)--

(i) by striking `or' at the end of subclause (V),

(ii) by striking the semicolon at the end of subclause (VI) and inserting `, or', and

(iii) by adding at the end the following new subclause:

`(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;';

(B) in subsection (a)(10)(A)(ii)(IX), by striking `or clause (i)(VI)' and inserting `, clause (i)(VI), or clause (i)(VII)';

(C) in subsection (l)--

(i) in subparagraph (C) of paragraph (1) by inserting `children' after `(C)';

(ii) by striking subparagraph (D) of paragraph (1) and inserting the following:

`(D) children born after September 30, 1983, who have attained 6 years of age but have not attained 19 years of age,';

(iii) by striking subparagraph (C) of paragraph (2) and inserting the following:

`(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.';

(iv) in paragraph (3) by inserting `, (a)(10)(A)(i)(VII),' after `(a)(10)(A)(i)(VI)';

(v) in paragraph (4)(A), by inserting `or subsection (a)(10)(A)(i)(VII)' after `(a)(10)(A)(i)(VI)'; and

(vi) in paragraph (4)(B), by striking `or (a)(10)(A)(i)(VI)' `, and inserting `(a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)'; and

(D) in subsection (r)(2)(A), by inserting `(a)(10)(A)(i)(VII),' after `(a)(10)(A)(i)(VI),'.

(2) CONFORMING AMENDMENT TO QUALIFIED CHILDREN- Section 1905(n)(2) (42 U.S.C. 1396d(n)(2)) is amended by striking `age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)' and inserting `age of 19'.

(3) ADDITIONAL CONFORMING AMENDMENTS-

(A) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended--

(i) by striking `1902(a)(10)(A)(i)(IV),' and inserting `1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),', and

(ii) by inserting `1902(a)(10)(A)(i)(VII),' after `1902(a)(10)(A)(i)(VI),'.

(B) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of such Act (42 U.S.C. 1396r-6), as amended by section 6411(i)(3) of the Omnibus Budget Reconciliation Act of 1989, are each amended by inserting `(i)(VII),' after `(i)(VI)'.

(4) EFFECTIVE DATE- (A) The amendments made by this subsection apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(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 authorizing or 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) OPTIONAL COVERAGE OF CHILDREN WITH INCOME BELOW 185 Percent of the Poverty Level-

(1) FLEXIBILITY ON INCOME LIMIT- Section 1902, as amended by subsection (a) of this section, is amended--

(A) in subclauses (VI) and (VII) of subsection (a)(10)(A)(i), by inserting `minimum' before `income level',

(B) in subsection (l)(2)(B), by striking `133 percent' and inserting `a percentage (established by the State, which is not less than 133 percent and not more than 185 percent)'; and

(C) in subsection (l)(2)(C), by striking `100 percent' and inserting `a percentage (established by the State, which is not less than 100 percent and not more than 185 percent)'.

(2) FLEXIBILITY ON AGE- Section 1902(l)(1) of such Act is amended--

(A) by striking `and' at the end of subparagraph (C),

(B) by inserting `and' at the end of subparagraph (D), and

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

`(E) at the option of the State, children born after October 1, 1983, who have attained 6 years of age but have not attained 19 years of age or a lesser age as selected by the State,'.

(3) EFFECTIVE DATE- (A) The amendments made by this subsection shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(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 authorizing or 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.

(c)(1) CONTINUOUS ELIGIBILITY FOR MEDICAID BENEFITS FOR A PERIOD OF 1 YEAR PROVIDED FOR INFANTS BORN TO MEDICAID ELIGIBLE WOMEN- Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended--

(A) in the first sentence, by striking `and the woman remains eligible for such assistance' and inserting `if the woman would have remained eligible for such assistance were it not for the termination of her pregnancy or post-partum period'; and

(B) in the second sentence--

(i) by striking `unless' and inserting `if'; and

(ii) by striking `expires' and inserting `expires no new application for such child shall be required'.

(2) EFFECTIVE DATE- (A) The amendment made by paragraph (1), shall become effective with respect to eligibility determinations for medical assistance under title XIX of the Social Security Act on or after July 1, 1991.

(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 authorizing or 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.

(d) Adjustment in Payment for Hospital Services Furnished to Low-Income Children-

(1) IN GENERAL- Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

`(s) In order to meet the requirements of subsection (a)(54), the State plan must provide that payments to hospitals under the plan for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 19 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1), 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 with respect to the delivery of such services to such individuals, and

`(3) not be limited by the imposition of dollar limits (other than such limits resulting from prospective payments as adjusted pursuant to paragraph (1)) with respect to the delivery of such services to any such individual who has not attained their first birthday (or in the case of such

an individual who is an inpatient on his first birthday until such individual is discharged).'.

(2) CONFORMING AMENDMENT- Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 6211(a), is further amended--

(A) by striking `and' at the end of paragraph (54);

(B) by striking the period at the end of paragraph (55) and by inserting `; and'; and

(C) by inserting after paragraph (56) and before the end matter the following new paragraph:

`(56) provide, in accordance with subsection (s), for adjusted payments for certain inpatient hospital services.'.

(3) PROHIBITION ON WAIVER- Section 1915(b) (42 U.S.C. 1396n(b)) is amended in the matter preceding paragraph (1) by inserting `(other than subsection (s))' after `Section 1902'.

(4) EFFECTIVE DATE- (A) The amendments made by this subsection shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(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 authorizing or 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.

PART V--HOME AND COMMUNITY-BASED SERVICES

SEC. 6241. HOME AND COMMUNITY-BASED CARE AS OPTIONAL SERVICE.

(a) PROVISION AS OPTIONAL SERVICE- Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 6201, is further amended--

(1) by striking `and' at the end of paragraph (22);

(2) by redesignating paragraph (23) as paragraph (24); and

(3) by inserting after paragraph (22) the following new paragraph:

`(23) home community care (to the extent allowed and as defined in section 1929) for functionally disabled elderly individuals; and'.

(b) HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS- Title XIX (42 U.S.C. 1396 et seq.) as amended by section 6211 is further amended--

(1) by redesignating section 1929 as section 1930; and

(2) by inserting after section 1928 the following new section:

`HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS

`SEC. 1929. (a) HOME AND COMMUNITY CARE DEFINED- In this title, the term `home and community care' means one or more of the following services furnished to an individual who has been determined, after an assessment under subsection (c), to be a functionally disabled elderly individual, furnished in accordance with an individual community care plan (established and periodically reviewed and revised by a qualified community care case manager under subsection (d)):

`(1) Homemaker/home health aide services.

`(2) Chore services.

`(3) Personal care services.

`(4) Nursing care services provided by, or under the supervision of, a registered nurse.

`(5) Respite care.

`(6) Training for family members in managing the individual.

`(7) Adult day health services.

`(8) In the case of an individual with chronic mental illness, day treatment or other partial hospitalization, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility).

`(9) Such other home and community-based services (other than room and board) as the Secretary may approve.

`(b) FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL DEFINED-

`(1) IN GENERAL- In this title, the term `functionally disabled elderly individual' means an individual who--

`(A) is 65 years of age or older,

`(B) is determined to be a functionally disabled individual under subsection (c), and

`(C) subject to section 1902(f) (as applied consistent with section 1902(r)(2)), is receiving supplemental security income benefits under title XVI (or under a State plan approved under title XVI) or, at the option of the State, is described in section 1902(a)(10)(C).

`(2) TREATMENT OF CERTAIN INDIVIDUALS PREVIOUSLY COVERED UNDER A WAIVER- (A) In the case of a State which--

`(i) at the time of its election to provide coverage for home and community care under this section has a waiver approved under section 1915(c) or 1915(d) with respect to individuals 65 years of age or older, and

`(ii) subsequently discontinues such waiver, individuals who were eligible for benefits under the waiver as of the date of its discontinuance and who would, but for income or resources, be eligible for medical assistance for home and community care under the plan shall, notwithstanding any other provision of this title, be deemed a functionally disabled elderly individual for so long as the individual would have remained eligible for medical assistance under such waiver.

`(B) In the case of a State which, as of December 31, 1990, had in effect a waiver under section 1115 that provides under the State plan under this title for personal care services for functionally disabled individuals, the term `functionally disabled elderly individual' may include, at the option of the State, an individual who--

`(i) is 65 years of age or older or is disabled (as determined under

the supplemental security income program under title XVI);

`(ii) is determined to meet the test of functional disability applied under the waiver as of such date; and

`(iii) meets the resource requirement and income standard that apply in the State to individuals described in section 1902(a)(10)(A)(ii)(V).

`(3) USE OF PROJECTED INCOME- In applying section 1903(f)(1) in determining the eligibility of an individual (described in section 1902(a)(10)(C)) for medical assistance for home and community care, a State may, at its option, provide for the determination of the individual's anticipated medical expenses (to be deducted from income) over a period of up to 6 months.

`(c) DETERMINATIONS OF FUNCTIONAL DISABILITY-

`(1) IN GENERAL- In this section, an individual is `functionally disabled' if the individual--

`(A) is unable to perform without substantial assistance from another individual at least 2 of the following 3 activities of daily living: toileting, transferring, and eating; or

`(B) has a primary or secondary diagnosis of Alzheimer's disease and is (i) unable to perform without substantial human assistance (including verbal reminding or physical cueing) or supervision at least 2 of the following 5 activities of daily living: bathing, dressing, toileting, transferring, and eating; or (ii) cognitively impaired so as to require substantial supervision from another individual because he or she engages in inappropriate behaviors that pose serious health or safety hazards to himself or herself or others.

`(2) ASSESSMENTS OF FUNCTIONAL DISABILITY-

`(A) REQUESTS FOR ASSESSMENTS- If a State has elected to provide home and community care under this section, upon the request of an individual who is 65 years of age or older and who meets the requirements of subsection (b)(1)(C) (or another person on such individual's behalf), the State shall provide for a comprehensive functional assessment under this subparagraph which--

`(i) is used to determine whether or not the individual is functionally disabled,

`(ii) is based on a uniform minimum data set specified by the Secretary under subparagraph (C)(i), and

`(iii) uses an instrument which has been specified by the State under subparagraph (B).

No fee may be charged for such an assessment.

`(B) SPECIFICATION OF ASSESSMENT INSTRUMENT- The State shall specify the instrument to be used in the State in complying with the requirement of subparagraph (A)(iii) which instrument shall be--

`(i) one of the instruments designated under subparagraph (C)(ii); or

`(ii) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary in subparagraph (C)(i).

`(C) SPECIFICATION OF ASSESSMENT DATA SET AND INSTRUMENTS- The Secretary shall--

`(i) not later than July 1, 1991--

`(I) specify a minimum data set of core elements and common definitions for use in conducting the assessments required under subparagraph (A); and

`(II) establish guidelines for use of the data set; and

`(ii) by not later than July 1, 1991, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subparagraph (B) for use in complying with the requirements of subparagraph (A).

`(D) PERIODIC REVIEW- Each individual who qualifies as a functionally disabled elderly individual shall have the individual's assessment periodically reviewed and revised not less often than once every 12 months.

`(E) CONDUCT OF ASSESSMENT BY INTERDISCIPLINARY TEAMS- An assessment under subparagraph (A) and a review under subparagraph (D) must be conducted by an interdisciplinary team designated by the State. The Secretary shall permit a State to provide for assessments and reviews through teams under contracts--

`(i) with public organizations; or

`(ii) with nonpublic organizations which do not provide home and community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facility services.

`(F) CONTENTS OF ASSESSMENT- The interdisciplinary team must--

`(i) identify in each such assessment or review each individual's functional disabilities and need for home and community care, including information about the individual's health status, home and community environment, and informal support system; and

`(ii) based on such assessment or review, determine whether the individual is (or continues to be) functionally disabled.

The results of such an assessment or review shall be used in establishing, reviewing, and revising the individual's ICCP under subsection (d)(1).

`(G) APPEAL PROCEDURES- Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (F).

`(d) INDIVIDUAL COMMUNITY CARE PLAN (ICCP)-

`(1) INDIVIDUAL COMMUNITY CARE PLAN DEFINED- In this section, the terms `individual community care plan' and `ICCP' mean, with respect to a functionally disabled elderly individual, a written plan which--

`(A) is established, and is periodically reviewed and revised, by a qualified case manager after a face-to-face interview with the individual or primary caregiver and based upon the most recent comprehensive functional assessment of such individual conducted under subsection (c)(2);

`(B) specifies, within any amount, duration, and scope limitations imposed on home and community care provided under the State

plan, the home and community care to be provided to such individual under the plan, and indicates the individual's preferences for the types and providers of services; and

`(C) may specify other services required by such individual.

An ICCP may also designate the specific providers (qualified to provide home and community care under the State plan) which will provide the home and community care described in subparagraph (B).

`(2) QUALIFIED CASE MANAGEMENT ENTITY DEFINED- In this section, the term `qualified case management entity' means a nonprofit or public agency or organization which--

`(A) has experience or has been trained in establishing, and in periodically reviewing and revising, individual community care plans and in the provision of case management services to the elderly;

`(B) is responsible for (i) assuring that home and community care covered under the State plan and specified in the ICCP is being provided, (ii) visiting each individual's home or community setting where care is being provided not less often than once every 90 days, and (iii) informing the elderly individual or primary caregiver on how to contact the case manager if service providers fail to properly provide services or other similar problems occur;

`(C) in the case of a nonpublic agency, does not provide home and community care or nursing facility services and does not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, home and community care or nursing facility services;

`(D) has procedures for assuring the quality of case management services that includes a peer review process;

`(E) completes the ICCP in a timely manner and reviews and discusses new and revised ICCPs with elderly individuals or primary caregivers; and

`(F) meets such other standards, established by the Secretary, as to assure that--

`(i) such a manager is competent to perform case management functions;

`(ii) individuals whose home and community care they manage are not at risk of financial exploitation due to such a manager; and

`(iii) meets such other standards as the State may establish.

`(3) APPEALS PROCESS- Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals who disagree with the ICCP established.

`(e) CEILING ON PAYMENT AMOUNTS AND MAINTENANCE OF EFFORT-

`(1) CEILING ON PAYMENT AMOUNTS- Payments may not be made under section 1903(a) to a State for home and community care provided under this section in a quarter to the extent that the medical assistance for such care in the quarter exceeds 50 percent of the product of--

`(A) the average number of individuals in the quarter receiving such care under this section;

`(B) the average per diem rate of payment which the Secretary has determined (before the beginning of the quarter) will be payable under title XVIII (without regard to coinsurance) for extended care services to be provided in the State during such quarter; and

`(C) the number of days in such quarter.

`(2) MAINTENANCE OF EFFORT-

`(A) ANNUAL REPORTS- As a condition for the receipt of payment under section 1903(a) with respect to medical assistance provided by a State for home and community care, the State shall report to the Secretary, with respect to each Federal fiscal year (beginning with fiscal year 1990) and in a format developed or approved by the Secretary, the amount of funds obligated by the State (including funds obligated by localities in the State) with respect to the provision of home and community care to the elderly in that fiscal year.

`(B) REDUCTION IN PAYMENT IF FAILURE TO MAINTAIN EFFORT- If the amount reported under subparagraph (A) by a State with respect to a fiscal year is less than the amount reported under subparagraph (A) with respect to fiscal year 1989, the Secretary shall provide for a reduction in payments to the State under section 1903(a) in an amount equal to the difference between the amounts so reported.

`(f) MINIMUM REQUIREMENTS FOR HOME AND COMMUNITY CARE-

`(1) REQUIREMENTS- Home and Community care provided under this section must meet such requirements for individuals' rights and quality as are published or developed by the Secretary under subsection (k). Such requirements shall include--

`(A) the requirement that individuals providing care are competent to provide such care; and

`(B) the rights specified in paragraph (2).

`(2) SPECIFIED RIGHTS- The rights specified in this paragraph are as follows:

`(A) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care. In cases of incompetence, these same rights shall apply to the primary caregiver or family member.

`(B) The right to voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances, and to be told how to complain to State and local authorities.

`(C) The right to confidentiality of personal and clinical records.

`(D) The right to privacy and to have one's property treated with respect.

`(E) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

`(F) The right to education or training for oneself and for members of one's family or household on the management of care.

`(G) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's ICCP.

`(H) The right to be fully informed orally and in writing of the individual's rights.

`(I) Any other rights established by the Secretary.

`(g) MINIMUM REQUIREMENTS FOR SMALL COMMUNITY CARE SETTINGS-

`(1) SMALL COMMUNITY CARE SETTINGS DEFINED- In this section, the term `small community care setting' means--

`(A) a nonresidential setting that serves more than 2 and less than 8 individuals; or

`(B) a residential setting in which more than 2 and less than 8 unrelated adults reside and in which personal services (other than merely board) are provided in conjunction with residing in the setting.

`(2) MINIMUM REQUIREMENTS- A small community care setting in which community care is provided under this section must--

`(A) meet such requirements as are published or developed by the Secretary under subsection (k);

`(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

`(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting;

`(D) meet any applicable State or local requirements regarding certification or licensure;

`(E) meet any applicable State and local zoning, building, and housing codes, and State and local fire and safety regulations; and

`(F) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents.

`(h) MINIMUM REQUIREMENTS FOR LARGE COMMUNITY CARE SETTINGS-

`(1) LARGE COMMUNITY CARE SETTING DEFINED- In this section, the term `large community care setting' means--

`(A) a nonresidential setting in which more than 8 individuals are served; or

`(B) a residential setting in which more than 8 unrelated adults reside and in which personal services are provided in conjunction with residing in the setting in which home and community care under this section is provided.

`(2) MINIMUM REQUIREMENTS- A large community care setting in which community care is provided under this section must--

`(A) meet such requirements as are published or developed by the Secretary under subsection (k);

`(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

`(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives home and community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting; and

`(D) meet the requirements of paragraphs (2) and (3) of section 1919(d) (relating to administration and other matters) in the same

manner as such requirements apply to nursing facilities under such section; except that, in applying the requirement of section 1919(d)(2) (relating to life safety code), the Secretary shall provide for the application of such life safety requirements (if any) that are appropriate to the setting.

`(3) DISCLOSURE OF OWNERSHIP AND CONTROL INTERESTS AND EXCLUSION OF REPEATED VIOLATORS- A community care setting--

`(A) must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3)) in the setting; and

`(B) may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under this title or who has had such an ownership or control interest in one or more community care settings which have been found repeatedly to be substandard or to have failed to meet the requirements of paragraph (2).

`(i) SURVEY AND CERTIFICATION PROCESS-

`(1) CERTIFICATIONS-

`(A) RESPONSIBILITIES OF THE STATE- Under each State plan under this title, the State shall be responsible for certifying the compliance of providers of home and community care and community care settings with the applicable requirements of subsections (f), (g) and (h). The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

`(B) RESPONSIBILITIES OF THE SECRETARY- The Secretary shall be responsible for certifying the compliance of State providers of home and community care, and of State community care settings in which such care is provided, with the requirements of subsections (f), (g) and (h).

`(C) FREQUENCY OF CERTIFICATIONS- Certification of providers and settings under this subsection shall occur no less frequently than once every 12 months.

`(2) REVIEWS OF PROVIDERS-

`(A) IN GENERAL- The certification under this subsection with respect to a provider of home or community care must be based on a periodic review of the provider's performance in providing the care required under ICCP's in accordance with the requirements of subsection (f).

`(B) SPECIAL REVIEWS OF COMPLIANCE- Where the Secretary has reason to question the compliance of a provider of home or community care with any of the requirements of subsection (f), the Secretary may conduct a review of the provider and, on the basis of that review, make independent and binding determinations concerning the extent to which the provider meets such requirements.

`(3) Surveys of community care settings-

`(A) IN GENERAL- The certification under this subsection with respect to community care settings must be based on a survey. Such survey for such a setting must be conducted without prior notice to the setting. Any individual who notifies (or causes to be notified) a community care setting of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. 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). The Secretary shall review each State's procedures for scheduling and conducting such surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

`(B) SURVEY PROTOCOL- Surveys under this paragraph shall be conducted based upon a protocol which the Secretary has provided for under subsection (k).

`(C) PROHIBITION OF CONFLICT OF INTEREST IN SURVEY TEAM MEMBERSHIP- A State and the Secretary may not use as a member of a survey team under this paragraph an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the community care setting being surveyed (or the person responsible for such setting) respecting compliance with the requirements of subsection (g) or (h) or who has a personal or familial financial interest in the setting being surveyed.

`(D) SPECIAL SURVEYS OF COMPLIANCE- Where the Secretary has reason to question the compliance of a community care setting with any of the requirements of subsection (g) or (h), the Secretary may conduct a survey of the setting and, on the basis of that survey, make independent and binding determinations concerning the extent to which the setting meets such requirements.

`(4) INVESTIGATION OF COMPLAINTS AND MONITORING OF PROVIDERS AND SETTINGS- Each State and the Secretary shall maintain procedures and adequate staff to investigate complaints of violations of applicable requirements imposed on providers of community care or on community care settings under subsections (f), (g) and (h).

`(5) INVESTIGATION OF ALLEGATIONS OF INDIVIDUAL NEGLECT AND ABUSE AND MISAPPROPRIATION OF INDIVIDUAL PROPERTY- The State shall provide, through the agency responsible for surveys and certification of providers of home or community care and community care settings under this subsection, for a process for the receipt, review, and investigation of allegations of individual neglect and abuse (including injuries of unknown source) by personnel providing such care or in such setting and of misappropriation of individual property by such personnel. Such process shall provide for documentation of findings relating to such allegations with respect to an individual, for inclusion of any brief statement of the individual disputing such findings, and for inclusion, in any disclosure of such findings, of such brief statement (or of a clear and accurate summary thereof).

`(6) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES-

`(A) PUBLIC INFORMATION- Each State, and the Secretary, shall make available to the public--

`(i) information respecting all surveys, reviews, and certifications made under this subsection respecting providers of home or community care and community care settings, including statements of deficiencies,

`(ii) copies of cost reports (if any) of such providers and settings filed under this title,

`(iii) copies of statements of ownership under section 1124, and

`(iv) information disclosed under section 1126.

`(B) NOTICES OF SUBSTANDARD CARE- If a State finds that--

`(i) a provider of home or community care has provided care of

substandard quality with respect to an individual, the State shall make a reasonable effort to notify promptly (I) an immediate family member of each such individual and (II) individuals receiving home or community care from that provider under this title, or

`(ii) a community care setting is substandard, the State shall make a reasonable effort to notify promptly (I) individuals receiving community care in that setting, and (II) immediate family members of such individuals.

`(C) ACCESS TO FRAUD CONTROL UNITS- Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys, reviews, and certifications under this subsection.

`(j) ENFORCEMENT PROCESS FOR PROVIDERS OF COMMUNITY CARE-

`(1) STATE AUTHORITY-

`(A) IN GENERAL- If a State finds, on the basis of a review under subsection (i)(2) or otherwise, that a provider of home or community care no longer meets the requirements of this section, the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty. Nothing in this subparagraph shall be construed as restricting the remedies available to a State to remedy a provider's deficiencies. If the State finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A) for the period during which it finds that the provider was not in compliance with such requirements.

`(B) CIVIL MONEY PENALTY-

`(i) IN GENERAL- Each State shall establish by law (whether statute or regulation) at least the following remedy: A civil money penalty assessed and collected, with interest, for each day in which the provider is or was out of compliance with a requirement of this section. Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty under subsection (i)(3)(A)) may be applied to reimbursement of individuals for personal funds lost due to a failure of home or community care providers to meet the requirements of this section. The State also shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

`(ii) DEADLINE AND GUIDANCE- Each State which elects to provide home and community care under this section must establish the civil money penalty remedy described in clause (i) applicable to all providers of community care covered under this section. The Secretary shall provide, through regulations or otherwise by not later than July 1, 1990, guidance to States in establishing such remedy; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedy.

`(2) SECRETARIAL AUTHORITY-

`(A) FOR STATE PROVIDERS- With respect to a State provider of home or community care, the Secretary shall have the authority and

duties of a State under this subsection, except that the civil money penalty remedy described in subparagraph (C) shall be substituted for the civil money remedy described in paragraph (1)(B)(i).

`(B) OTHER PROVIDERS- With respect to any other provider of home or community care in a State, if the Secretary finds that a provider no longer meets a requirement of this section, the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C). If the Secretary finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C) for the period during which the Secretary finds that the provider was not in compliance with such requirements.

`(C) CIVIL MONEY PENALTY- If the Secretary finds on the basis of a review under subsection (i)(2) or otherwise that a home or community care provider no longer meets the requirements of this section, the Secretary shall impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance. 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). The Secretary shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

`(k) SECRETARIAL RESPONSIBILITIES-

`(1) PUBLICATION OF INTERIM REQUIREMENTS-

`(A) IN GENERAL- The Secretary shall publish, by December 1, 1991, a proposed regulation that sets forth interim requirements, consistent with subparagraph (B), for the provision of home and community care and for community care settings, including--

`(i) the requirements of subsection (c)(2) (relating to comprehensive functional assessments, including the use of assessment instruments), of subsection (d)(2)(E) (relating to qualifications for qualified case managers), of subsection (f) (relating to minimum requirements for home and community care), of subsection (g) (relating to minimum requirements for small community care settings), and of subsection (h) (relating to minimum requirements for large community care settings, and

`(ii) survey protocols (for use under subsection (i)(3)(A)) which relate to such requirements.

`(B) MINIMUM PROTECTIONS- Interim requirements under subparagraph (A) and final requirements under paragraph (2) shall assure, through methods other than reliance on State licensure processes, that individuals receiving home and community care are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of health care services by unqualified personnel in community care settings.

`(2) DEVELOPMENT OF FINAL REQUIREMENTS- The Secretary shall develop, by not later than October 1, 1992--

`(A) final requirements, consistent with paragraph (1)(B), respecting the provision of appropriate, quality home and community care and respecting community care settings under this section, and

including at least the requirements referred to in paragraph (1)(A)(i), and

`(B) survey protocols and methods for evaluating and assuring the quality of community care settings.

The Secretary may, from time to time, revise such requirements, protocols, and methods.

`(3) NO DELEGATION TO STATES- The Secretary's authority under this subsection shall not be delegated to States.

`(4) NO PREVENTION OF MORE STRINGENT REQUIREMENTS BY STATES- Nothing in this section shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary under this subsection.

`(l) DEEMING AND WAIVER-

`(1) DEEMING- Area agencies on aging as defined in the Older Americans Act (Public Law 100-175) are considered public agencies for purposes of this section.

`(2) WAIVER-

`(A) States may waive the requirement that a nonpublic agency not provide home and community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facilities for nonprofit agencies located in an area that is not an urbanized area (as defined by the Bureau of the Census).

`(B) States may waive the requirement of section 1902(a)(1) (related to State wideness) for a program of home and community care under this section.

`(m) LIMITATION ON AMOUNT OF EXPENDITURES AS MEDICAL ASSISTANCE-

`(1) AUTHORIZATION- The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, $10,000,000, for fiscal year 1992, $20,000,000, for fiscal year 1993, $40,000,000, for fiscal year 1994, $70,000,000, and for fiscal years thereafter such sums as provided by Congress.

`(2) ALLOCATION OF FUNDS- The funds identified for each fiscal year (1991, 1992, 1993, 1994, and 1995) will be allocated to each State in the proportion of the amount of Federal expenditures made available to the State for fiscal year 1989 (as reported on line 6 of the four quarterly form HCFA-64 expenditure reports) to the sum of Federal expenditures for all States, excluding the territories.'.

(c) PAYMENT FOR HOME AND COMMUNITY CARE-

(1) REASONABLE AND ADEQUATE PAYMENT RATES- Section 1902 (42 U.S.C. 1396a) is amended--

(A) in subsection (a)(13)--

(i) by striking `and' at the end of subparagraph (D),

(ii) by inserting `and' at the end of subparagraph (E), and

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

`(F) for payment for home and community care (as defined in section 1929(a) and provided under such section) through rates which are reasonable and adequate to meet the costs of providing care, efficiently and economically, in conformity with applicable

State and Federal laws, regulations, and quality and safety standards;'; and

(B) in subsection (h), by adding before the period at the end the following: `or to limit the amount of payment that may be made under a plan under this title for home and community care'.

(2) DENIAL OF PAYMENT FOR CIVIL MONEY PENALTIES, ETC- Section 1903(i)(8) of such Act (42 U.S.C. 1396b(i)(8)) is amended by inserting `(A)' after `medical assistance' and by inserting before the semicolon at the end the following: `or (B) for home and community care to reimburse (or otherwise compensate) a provider of such care for payment of a civil money penalty imposed under this title or title XI or for legal expenses in defense of an exclusion or civil money penalty under this title or title XI if there is no reasonable legal ground for the provider's case'.

(d) CONFORMING AMENDMENTS-

(1) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking `(21)' and inserting `(22)'.

(2) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking `through (20)' and inserting `through (21)'.

(e) EFFECTIVE DATES-

(1) Except as provided in this subsection, the amendments made by this section shall apply to home and community care furnished on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2)(A) The amendments made by subsection (c)(1) shall apply to home and community care furnished on or after July 1, 1991, or, if later, 30 days after the date of publication of interim regulations under section 1929(k)(1).

(B) The amendment made by subsection (c)(2) shall apply to civil money penalties imposed after the date of the enactment of this Act.

(f) WAIVER OF PAPERWORK REDUCTION, ETC- Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this Act and implementing the amendments made by this Act.

SEC. 6242. COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.

(a) PROVISION AS OPTIONAL SERVICE- Section 1905(a) (42 U.S.C. 1396d(a)) as amended by section 6211 (Home and Community Care) is further amended--

(1) by striking `and' at the end of paragraph (23);

(2) by redesignating paragraph (24) as paragraph (25); and

(3) by inserting after paragraph (23) the following new paragraph:

`(24) community supported living arrangements services (to the extent allowed and as defined in section 1930).'.

*(b) COMMUNITY SUPPORTED LIVING ARRANGEMENTS- Title XIX (42 U.S.C. 1396 et seq.) as amended by section **XXX** (Home and Community Care) is further amended--*

(1) by redesignating section 1930 as section 1931; and

(2) by inserting after section 1929 the following new section:

`COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES

`Sec. 1930. (a) COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES- In this title, the term `community supported living arrangements services' means one or more of the following services provided in a State eligible to provide services under this section (as defined in subsection (d)) to assist a developmentally disabled individual (as defined in subsection (b)) in activities of daily living necessary to permit such individual to live in an integrated living environment (as defined in subsection (c)) furnished in a community supported living arrangement setting:

`(1) Personal assistance.

`(2) Training and habilitation services (necessary to assist the individual in achieving increased integration, independence and productivity).

`(3) 24-hour emergency assistance (as defined by the Secretary).

`(4) Assistive technology.

`(5) Adaptive equipment.

`(6) Other services (as approved by the Secretary, except those services described in subsection (g)).

`(b) DEVELOPMENTALLY DISABLED INDIVIDUAL DEFINED- In this title the term, `developmentally disabled individual' means an individual who as defined by the Secretary is described within the term `mental retardation and related conditions' as defined in regulations as in effect on July 1, 1990, and who is residing with the individual's family or legal guardian or in an integrated living environment (as defined in subsection (c)) in which no more than 3 other recipients of services under this section are residing and without regard to whether or not such individual is at risk of institutionalization (as defined by the Secretary).

`(c) INTEGRATED LIVING ENVIRONMENT DEFINED- In this title the term `integrated living environment' means an environment located in a neighborhood which--

`(1) is representative of residential neighborhoods in the community; and

`(2) is populated primarily by individuals other than a developmentally disabled individual (as defined in this section).

`(d) CRITERIA FOR SELECTION OF PARTICIPATING STATES- The Secretary shall develop criteria to review the applications of States submitted under this section to provide community supported living arrangement services. The Secretary shall provide in such criteria that during the first 5 years of the provision of services under this section that no less than 4 and no more than 8 States shall be allowed to receive Federal financial participation for providing the services described in this section.

`(e) QUALITY ASSURANCE- A State selected by the Secretary to provide services under this section shall in order to continue to receive Federal financial participation for providing services under this section be required to establish and maintain a quality assurance program, that provides that--

`(1) the State will certify and survey providers of services under this section (such surveys to be unannounced and average at least 1 a year);

`(2) the State will adopt standards for survey and certification that include--

`(A) minimum qualifications and training requirements for provider staff;

`(B) financial operating standards; and

`(C) a consumer grievance process;

`(3) the State will provide a system that allows for monitoring boards consisting of providers, family members, consumers, and neighbors; and

`(4) the State will establish reporting procedures to make available information to the public.

The Secretary shall not approve a quality assurance plan under this subsection and allow a State to continue to receive Federal financial participation under this section unless the State provides for public hearings on the plan prior to adoption and implementation of its plan under this subsection.

`(f) MAINTENANCE OF EFFORT- States selected by the Secretary to receive Federal financial participation to provide services under this section shall maintain current levels of spending for such services in order to be eligible to continue to receive Federal financial participation for the provision of such services under this section.

`(g) EXCLUDED SERVICES- No Federal financial participation shall be allowed for the provision of the following services under this section:

`(1) Room and board.

`(2) Cost of prevocational, vocational and supported employment.

`(h) WAIVER OF REQUIREMENTS- The Secretary may waive such provisions of this title as necessary to carry out the provisions of this section including the following requirements of this title--

`(1) comparability of amount, duration, and scope of services;

`(2) statewideness; and

`(3) freedom of choice of providers.

`(i) TREATMENT OF FUNDS- Any funds expended under this section for medical assistance shall be in addition to funds expended for any existing services covered under the State plan, including any waiver services for which an individual receiving services under this program is already eligible.

`(j) LIMITATION ON AMOUNTS OF EXPENDITURES AS MEDICAL ASSISTANCE- The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, $5,000,000, for fiscal year 1992, $10,000,000, for fiscal year 1993, $20,000,000, for fiscal year 1994, $35,000,000, and for fiscal years thereafter such sums as provided by Congress.'.

(c) EFFECTIVE DATE-

(1) IN GENERAL- The amendments made by this section shall apply to community supported living arrangements services furnished on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) APPLICATION PROCESS- The Secretary of Health and Human Services shall provide that the applications required to be submitted by States under this section shall be received and approved prior to the effective date specified in paragraph (1).

SEC. 6243. MEDICAID COVERAGE OF PERSONAL CARE SERVICES OUTSIDE THE HOME.

(a) IN GENERAL- Section 1905(a)(7) (42 U.S.C. 1396d(a)(7)) is amended by striking `services' and inserting `services including personal care services (A) prescribed by a physician for an 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; but not including such services furnished to an inpatient or resident of a nursing facility, such as adult day care settings or congregate living arrangements'.

(b) EFFECTIVE DATE- The amendment made by this section shall become effective with respect to home health care services provided on or after January 1, 1991 and shall expire with respect and services provided on or after December 31, 1993.

PART VI--NURSING HOME REFORM

SEC. 6251. MEDICAID NURSING HOME REFORM PROVISIONS.

(a) NURSE AIDE TRAINING AMENDMENTS-

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS- The Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(1)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing requirements under section 1919(f)(2)(A)(ii)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) PART-TIME NURSE AIDES NOT ALLOWED DELAY IN TRAINING- Section 1919(b)(5)(A) (42 U.S.C. 1396r(b)(5)(A)) is amended--

(A) by striking `, temporary, per diem, or other';

(B) by inserting `(i)' after `(A)';

(C) by redesignating clauses `(i)' and `(ii)' as subclauses `(I)' and `(II)' respectively; and

(D) by adding at the end the following:

`(ii) EXCEPTION- A nursing facility must not use on a temporary, per diem, or on any other than a full-time basis any individual as a nurse aide in the facility on or after January 1, 1991, unless the individual meets the requirements described in clause (i) (I) and (II).'.

(3) EXTENSION OF ENHANCED MATCH RATE UNTIL OCTOBER 1, 1990- Section 1903(a)(2)(B) (42 U.S.C. 1396b(a)(2)(B)) is amended by striking `July 1, 1990' and inserting `October 1, 1990'.

(4) CLARIFICATION OF PERMISSIBLE CHARGES FOR TRAINING OF AIDES NOT YET EMPLOYED BY A FACILITY- Section 1919(f)(2)(A)(iv)(II) (42 U.S.C. 1396r(f)(2)(A)(iv)(II)) is amended by striking `such program' and inserting `such program, except that an accredited, nonfacility based program may impose such charges on individuals who are not presently employed by a nursing facility or who have not yet had an offer for future employment at such a facility'.

(5) REIMBURSEMENT TO CERTAIN INDIVIDUALS TRAINED PRIOR TO EMPLOYMENT- Add to section 1919(f)(2)(A)(iv) a new subclause (III) as follows:

`(III) For individuals employed or under contract for employment as a nurse aide within 12 months after successful completion of a nonfacility-based, State-approved nurse aide training and competency evaluation program, the State must ensure that the costs incurred by such individuals for such programs are reimbursed to such individuals.

(6) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY- Section 1919(f)(2)(B) (42 U.S.C. 1396r(f)(2)(B)) is amended, in the second sentence, by inserting `(through subcontract or otherwise)' after `may not delegate'.

(7) NURSE AIDE REGISTRY-

(A) IN GENERAL- Section 1919(b)(5)(C) (42 U.S.C. 1396r(b)(5)(C)) is amended by adding at the end the following new sentence: `In the case of an individual who a nursing facility is considering employing as a nurse aide and who the facility has reason to believe is from a State other than the State in which the facility is located, such a facility shall not use such an individual as a nurse aide unless the facility has inquired concerning such individual of the State registry established under subsection (e)(2)(A) of the State from which such facility has reason to believe such individual resided'.

(B) DEEMED AIDES TO BE INCLUDED ON REGISTRY- Section 1919(e)(2)(A) (42 U.S.C. 1396r(e)(2)(A)) is amended by striking `individuals' and inserting `individuals (including those individuals deemed under section 6901(b)(4) (B), (C), and (D) of the Omnibus Budget Reconciliation Act of 1989 to have satisfied the training and competency evaluation program requirements under this section)'.

(8) RETRAINING OF NURSE AIDES NOT EMPLOYED- Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)) is amended by striking the period and inserting the following `, or a new competency evaluation program.'.

(9) FACILITIES INELIGIBLE TO OFFER TRAINING PROGRAMS- Section 1919(f)(2) (42 U.S.C. 1396(f)(2)) is amended--

(A) in subparagraph (B)(iii), by amending subclause (I) to read as follows:

`(I) offered by or in a nursing facility described in subparagraph (C), or'; and

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

`(C) NURSING FACILITIES INELIGIBLE TO OFFER PROGRAMS- A nursing facility shall be ineligible to offer a program under this paragraph--

`(i) if at any time on or after October 1, 1988, the State agency or the Secretary terminated or terminates the facility's provider agreement under this title or title XVIII, until after the end of a period of at least two years following reinstatement, during which period--

`(I) no survey or investigation finds any deficiencies warranting termination, and

`(II) at least one standard survey is conducted pursuant to subsection (g); or

`(ii) if the facility--

`(I) received a notice of termination of its provider agreement under this title or title XVIII from the State agency or the Secretary at any time during the one-year period ending September 30, 1990, or

`(II) is found, pursuant to a standard survey or investigation under subsection (g) or section 1819(g), to have deficiencies resulting in a civil money penalty in excess of $5,000, denial of payment, or appointment of temporary management pursuant to subsection (h)(2)(A) or to section 1819(h)(2)(B),

until after the completion of a subsequent standard survey under subsection (g) which finds no such deficiencies.'.

(b) PREADMISSION SCREENING AND RESIDENT REVIEW-

(1) NO DELEGATION OF AUTHORITY TO CONDUCT SCREENING AND REVIEWS- Section 1919 (42 U.S.C. 1396r) is amended--

(A) in subsection (b)(3)(f), by adding at the end the following:

`A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).'; and

(B) in subsection (e)(7)(B), by adding at the end the following new clause:

`(iv) PROHIBITION OF DELEGATION- A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).'.

(2) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS- The Secretary shall not take (and shall not continue) any action against a State under section 1904 or section 1919(e)(7)(D) of the Social Security act on the basis of the State's failure to meet the requirement of section 1919(e)(7)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing minimum criteria under section 1919(f)(8)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(3) REVISION OF ALTERNATIVE DISPOSITION PLANS- Section 1919(e)(7)(E) (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following: `The State may revise such an agreement, subject to the approval of the Secretary, before April 1, 1991, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994'.

(4)(A) STATE REPORTS REQUIRED- Section 1919(e)(7)(C) (42 U.S.C. 1396r(e)(7)(C)) is amended by adding at the end the following new clause:

`(iv) ANNUAL REPORT- Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).'.

(B) SUMMARY OF REPORTS- Section 4215 of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following new sentence: `Each such report shall also include a summary of the information reported by States under section 1919(e)(7)(C)(iv) of such Act'.

(5) DEFINITION OF MENTALLY ILL- Section 1919(e)(7)(G)(i) (42 U.S.C. 1396r(e)(7)(G)(i)) is amended--

(A) by striking `primary or secondary' and all that follows through `3rd edition)' and inserting `serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health)',

(B) by inserting before the period `or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a

serious mental illness'.

(6) SUBSTITUTION OF `SPECIALIZED SERVICES' FOR `ACTIVE TREATMENT'- Sections 1919(b)(3)(F) and 1919(e)(7) (42 U.S.C. 1396r(b)(3)(F), 1396r(e)(7)) are each amended by striking `active treatment' and `ACTIVE TREATMENT' each place either appears and inserting `specialized services' and `SPECIALIZED SERVICES', respectively.

(7) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL- Section 1919 (42 U.S.C. 1396r) is amended--

(A) in subsection (b)(3)(F), by striking `A nursing facility' and by inserting `Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility'; and

(B) in subsection (e)(7)(A)--

(i) by redesignating the first 2 sentences as clause (i) with the following heading (and appropriate indentation):

`(i) IN GENERAL- ', and

(ii) by adding at the end the following:

`(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS- The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

`(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES- The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual--

`(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

`(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

`(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.'.

(c) FACILITY STAFFING-

(1) STANDARDS FOR CERTAIN PROFESSIONAL SERVICES- The Secretary shall conduct a study on the hiring and dismissal practices if nursing facilities with respect to social workers, dieticians, activities professionals, and medical records practitioners, and report to Congress by January 1, 1993, on whether facilities have on their staffs, persons with significantly different credentials as a result of new regulations that became effective October 1, 1990, and the impact of staff composition on quality of care.

(2) ADDITIONAL REQUIREMENTS WITH RESPECT TO MEDICAID NURSE STAFFING WAIVERS- Section 1919(b)(4)(C)(ii) (42 U.S.C. 1369r(b)(4)(C)(ii)) is amended--

(A) by striking `and' at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and by inserting in lieu thereof a comma; and

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

`(IV) the State agency granting a waiver of such requirement provide notice of the waiver to the appropriate State and substate long-term care

ombudsman, to the protection and advocacy system and other appropriate State and private agencies; and

`(V) a nursing facility that is granted such a waiver by a State is required to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative of such residents) of the waiver.'.

(3) STUDY ON STAFFING REQUIREMENTS IN NURSING FACILITIES- The Secretary shall conduct a study and report to Congress no later than January 1, 1992, on the appropriateness of establishing minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for nursing facilities receiving payments under a State plan under title XIX of the Social Security Act. If the Secretary determines that the establishment of such minimum ratios is advisable, the Secretary shall specify in the report provided for in this subsection appropriate ratios or standards.

(d) MISCELLANEOUS-

(1) DELAY IN REQUIREMENT FOR REMEDIES- Section 1919(h)(2)(B)(i) (42 U.S.C. 1396r(h)(2)(B)(i) is amended by striking `October 1, 1989' and inserting `April 1, 1991'.

(2) RESIDENT ACCESS TO CLINICAL RECORDS- Section 1919(c)(1)(A)(iv) (42 U.S.C. 1396r(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: `and access to current clinical records of the resident promptly upon reasonable request (as defined by the Secretary) by the resident or resident's legal representative'.

(3) OMBUDSMAN PROGRAM COORDINATION WITH STATE MEDICAID AND SURVEY AND CERTIFICATION AGENCIES- Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) deleted and replaced with:

`(B) NOTICE TO OMBUDSMAN- Each State agency with an agreement with the Secretary under this section shall enter into a written agreement with the Office of the State Long-Term Care Ombudsman (as defined by the Older Americans Act), to provide for information exchange, case referral, and prompt notification of the office of any adverse action to be taken against a nursing facility.'.

(4) PERIOD FOR RESIDENT ASSESSMENT- Section 1919(b)(3)(C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I) is amended by striking `4 days' and inserting `14 days'.

(e) EFFECTIVE DATES- (1) Except as provided in paragraphs (2) and (3), the amendments made by this section are effective on April 1, 1991.

(2) Paragraphs (1), (3), and (9) of subsection (a); paragraphs (2), (3), and (7) of subsection (b); paragraph (2) of subsection (c); and paragraphs (1) and (4) of subsection (d) are effective as if included in the Omnibus Budget Reconciliation Act of 1987.

(3) Subsections (b)(4), (c)(1), and (c)(3) are effective upon enactment.

PART VII--MISCELLANEOUS AND TECHNICAL PROVISIONS

SEC. 6261. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE TO CERTAIN LOW-INCOME FAMILIES NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

(a) DEMONSTRATION PROJECTS-

(1) IN GENERAL- (A) The Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall enter into agreements with at least 3 and no more than 4 States for the purpose of conducting demonstration projects to study the effect on access to, and costs of, health care of eliminating the categorical eligibility requirement for medicaid benefits for certain low-income individuals.

(B) In entering into agreements with States under this section the Secretary shall provide that at least 1 and no more than 2 of the projects are conducted on a substate basis, and that such projects target areas which contain a high percentage of racial or ethnic minorities.

(2) REQUIREMENTS- (A) The Secretary may not enter into an agreement with a State to conduct a project unless the Secretary determines that--

(i) the project can reasonably be expected to improve access to health insurance coverage for the uninsured;

(ii) with respect to projects for which the statewideness requirement has not been waived, the State provides, under its plan under title XIX of the Social Security Act, for eligibility for medical assistance for all individuals described in subparagraphs (A), (B), (C), and (D) of paragraph (1) of section 1902(l) of such Act (based on the State's election of certain eligibility options the highest income standards and, based on the State's waiver of the application of any resource standard);

(iii) eligibility for benefits under the project is limited to individuals in families with income below 150 percent of the income official poverty line;

(iv) if the Secretary determines that it is cost-effective for the project to utilize employer coverage (as described in section 1925(b)(4)(D) of the Social Security Act), the project must require an employer contribution and benefits under the State plan under title XIX of such Act will continue to be made available to the extent they are not available under the employer coverage;

(v) the project provides for coverage of benefits consistent with subsection (b); and

(vi) the project only imposes premiums, coinsurance, and other cost-sharing consistent with subsection (c).

(B) The Secretary may waive the requirements of clause (ii) of this paragraph with respect to those projects described in subparagraph (B) of paragraph (1).

(3) PERMISSIBLE RESTRICTIONS- A project may limit eligibility to individuals whose assets are valued below a level specified by the State. For this purpose, any evaluation of such assets shall be made in a manner consistent with the standards for valuation of assets under the State plan under title XIX of the Social Security Act for individuals entitled to assistance under part A of title IV of such Act. Nothing in this section shall be construed as requiring a State to provide for eligibility for individuals for months before the month in which such eligibility is first established.

(4) EXTENSION OF ELIGIBILITY- A project may provide for extension of eligibility for medical assistance for individuals covered under the project in a manner similar to that provided under section 1925 of the Social Security Act to certain families receiving aid pursuant to a plan of the State approved under part A of title IV of such Act.

(5) WAIVER OF REQUIREMENTS-

(A) IN GENERAL- Subject to subparagraph (B), the Secretary may waive such requirements of title XIX of the Social Security Act as may be required to provide for additional coverage of individuals

under projects under this section.

(B) NONWAIVABLE PROVISIONS- Except with respect to those projects described in subparagraph (B) of paragraph (1), the Secretary may not waive, under subparagraph (A), the statewideness requirement of section 1902(a)(1) of the Social Security Act or the Federal medical assistance percentage specified in section 1905(b) of such Act.

(b) BENEFITS-

(1) IN GENERAL- Except as provided in this subsection, the amount, duration, and scope of medical assistance made available under a project shall be the same as the amount, duration, and scope of such assistance made available to individuals entitled to medical assistance under the State plan under section 1902(a)(10)(A)(i) of the Social Security Act.

(2) LIMITS ON BENEFITS-

(A) REQUIRED- Except with respect to those projects described in subparagraph (B) of paragraph (1), no medical assistance shall be made available under a project for nursing facility services or community-based long-term care services (as defined by the Secretary) or for pregnancy-related services. No medical assistance shall be made available under a project to individuals confined to a State correctional facility, county jail, local or county detention center, or other State institution.

(B) PERMISSIBLE- A State, with the approval of the Secretary, may limit or otherwise deny eligibility for medical assistance under the project and may limit coverage of items and services under the project, other than early and periodic screening, diagnostic, and treatment services for children under 18 years of age.

(3) USE OF UTILIZATION CONTROLS- Nothing in this subsection shall be construed as limiting a State's authority to impose controls over utilization of services, including preadmission requirements, managed care provisions, use of preferred providers, and use of second opinions before surgical procedures.

(c) PREMIUMS AND COST-SHARING-

(1) NONE FOR THOSE WITH INCOME BELOW THE POVERTY LINE- Under a project, there shall be no premiums, coinsurance, or other cost-sharing for individuals whose family income level does not exceed 100 percent of the income official poverty line (as defined in subsection (g)(1)) applicable to a family of the size involved.

(2) LIMIT FOR THOSE WITH INCOME ABOVE THE POVERTY LINE- Under a project, for individuals whose family income level exceeds 100 percent, but is less than 150 percent, of the income official poverty line applicable to a family of the size involved, the monthly average amount of premiums, coinsurance, and other cost-sharing for covered items and services shall not exceed 3 percent of the family's average gross monthly earnings.

(3) INCOME DETERMINATION- Each project shall provide for determinations of income in a manner consistent with the methodology used for determinations of income under title XIX of the Social Security Act for individuals entitled to benefits under part A of title IV of such Act.

(d) DURATION- Each project under this section shall commence not later than July 1, 1991 and shall be conducted for a 3-year period; except that the Secretary may terminate such a project if the Secretary determines that the project is not in substantial compliance with the requirements of this section.

(e) LIMITS ON EXPENDITURES AND FUNDING-

(1) IN GENERAL- (A) The Secretary in conducting projects shall limit the total amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than $12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994.

(B) Of the amounts appropriated under subparagraph (A), the Secretary shall provide that no more than one-third of such amounts shall be used to carry out the projects described in paragraph (1)(B) of subsection (a) (for which the statewideness requirement has been waived).

(2) NO FUNDING OF CURRENT BENEFICIARIES- No funding shall be available under a project with respect to medical assistance provided to individuals who are otherwise eligible for medical assistance under the plan without regard to the project.

(3) NO INCREASE IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE- Payments to a State under a project with respect to expenditures made for medical assistance made available under the project may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(f) EVALUATION AND REPORT-

(1) EVALUATIONS- For each project the Secretary shall provide for an evaluation to determine the effect of the project with respect to--

(A) access to, and costs of, health care,

(B) private health care insurance coverage, and

(C) premiums and cost-sharing.

(2) REPORTS- The Secretary shall prepare and submit to Congress an interim report on the status of the projects not later than January 1, 1993, and a final report containing such summary together with such further recommendations as the Secretary may determine appropriate not later than January 1, 1995.

(g) DEFINITIONS- In this section:

(1) The term `income official poverty line' means such line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(2) The term `project' refers to a demonstration project under subsection (a).

SEC. 6262. MEDICAID RESPITE DEMONSTRATION PROJECT EXTENDED.

Section 9414 of the Omnibus Budget Reconciliation Act of 1986 is amended--

(1) by amending subsection (e) to read as follows:

`(e) DURATION- The project under this section may continue until September 30, 1992.'; and

(2) in subsection (d), by striking the last sentence and inserting in lieu thereof the following new sentence: `For the period beginning October 1, 1990, and ending September 30, 1992, Federal payments for the project shall not exceed amounts expended under the project in the preceding fiscal year.'.

SEC. 6263. DEMONSTRATION PROJECT TO PROVIDE MEDICAID COVERAGE FOR HIV-POSITIVE INDIVIDUALS, AND CERTAIN PREGNANT WOMEN DETERMINED TO BE AT RISK OF

CONTRACTING THE HIV VIRUS.

(a) IN GENERAL- Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall provide for 2 demonstration projects to be administered by States that submit an application under this section, through programs administered by the States under title XIX of the Social Security Act. Such demonstration projects shall provide coverage for the services described in subsection (c) to individuals--

(1) whose income and resources do not exceed the maximum allowable amount for eligibility for any individual in any category of disability under the State plan under section 1902 of the Social Security Act, and who have tested positive for the presence of HIV virus (without regard to the presence of any symptoms of AIDS or opportunistic diseases related to AIDS); or

(2) who are pregnant women with multiple medical and psychosocial needs who have not attained the age of 19, and are determined to be at risk of HIV infection because of substance abuse.

(b) SERVICES AVAILABLE UNDER A DEMONSTRATION PROJECT- (1) The medical assistance made available to individuals described in section 1902(a)(10)(A) of the Social Security Act shall be made available to individuals described in subsection (a) who receive services under a demonstration project under such paragraph.

(2) A demonstration project under subsection (a) shall provide services in addition to the services described in paragraph (1) which shall be limited only on the basis of medical necessity or the appropriateness of such services. To the extent not provided as described in paragraph (1), such additional services shall include--

(A) general and preventative medical care services (including inpatient, outpatient, residential and hospice care);

(B) prescription drugs, including drugs for the purposes of preventative health care services;

(C) counseling and social services;

(D) substance abuse treatment services (including services for multiple substances abusers);

(E) home care services (including assistance in carrying out activities of daily living);

(F) case management;

(G) health education services;

(H) respite care for caregivers; and

(I) dental services.

(c) AGREEMENT WITH STATES- (1) Each State conducting a demonstration project under subsection (a) shall enter into an agreement with hospitals submitting applications to the State, whereby the State shall agree to pay each such hospital for the services provided under subsection (b) and not later than 12 months after the commencement of a demonstration project, institute a system of monthly payment to each such hospital based on the average per capita cost of the services described in subsection (c) provided to individuals described in paragraphs (1) and (2) of subsection (a).

(2) A demonstration project described in subsection (a) shall be limited to an enrollment of not more than 200 individuals.

(3) A demonstration project conducted under subsection (a) shall commence not later than 9 months after the date of the enactment of this Act and shall

terminate on the date that is 3 years after the date of commencement.

(d) FEDERAL SHARE OF COSTS- The Federal share of the cost of services described in paragraph (3) furnished under a demonstration project conducted under paragraph (1) shall be determined by the otherwise applicable Federal matching assistance percentage pursuant to section 1905(b) of the Social Security Act.

(e) WAIVER OF REQUIREMENTS OF THE SOCIAL SECURITY ACT- The Secretary may waive such requirements of the Social Security Act as the Secretary determines to be necessary to carry out the purposes of this section.

SEC. 6264. MENTAL HEALTH FACILITY CERTIFICATION DEMONSTRATION PROJECT.

(a) The Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall establish, in consultation with the Council on Accreditation of Services for Families and Children, the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Association of Health Facilities Licensure and Certification Directors, the National Governors Association, the National Association of State Mental Health Program Directors, Protection and Advocacy Systems, organizations representing consumers and recipients of services under title XIX of the Social Security Act, and other interested parties, criteria for authorizing accrediting bodies to determine facility compliance with standards established or authorized under this title and conduct a 5-State, 3-year demonstration program in which certification to participate in the program may be granted to mental health facilities, as defined in subsection (e), based upon a finding by such accrediting bodies that a mental health facility is in compliance with standards established or authorized under title XIX of the Social Security Act.

(b)(1) Prior to initiating such demonstration program, the Secretary shall establish such criteria that ensure, at a minimum, that--

(A) in addition to routine accreditation reviews, there are annual unannounced visits to evaluate continued compliance with accreditation standards, and such accrediting body shall submit its report to appropriate Government agencies;

(B) the public and State licensure and certification officials have prompt access to all documents describing the findings of inspection by accreditation teams and confidential information pertaining to client or patient names has been deleted prior to release of these documents;

(C) health and safety deficiencies shall be fully documented and reported to State licensure and certification authorities immediately upon being discovered;

(D) complaints filed by recipients of covered services, their advocates, or the general public that may affect continued compliance with accreditation standards shall be investigated promptly by the accrediting body;

(E) complaints not related to accreditation standards and all complaints related to health and safety shall be reported to the appropriate State and local authorities in a timely manner;

(F) any changes in a facility's accreditation status shall be reported to State licensure and certification officials; and

(G) periodic unannounced inspections by State licensing and certification officials take place to evaluate compliance with conditions of participation in this title.

(2) The Secretary shall, in developing criteria, also address types of standards, reporting requirements, duration of accreditation, and other considerations.

(c) The Secretary shall publish proposed criteria developed pursuant to subsection (b) in the Federal Register not later than 9 months from the date of enactment of this section, and shall provide not more than 90 days for public comment on the proposed criteria.

(d) Not later than 180 days prior to termination of the demonstration program established in subsection (a), the Secretary shall submit a report to the Committee on Finance of the Senate evaluating the accreditation process, including--

(1) the extent to which--

(A) accrediting bodies and facilities have participated in the program;

(B) facilities have complied with standards;

(C) there has been an impact on care and access to services; and

(D) problems with, and prospects for, collaboration between accreditation bodies and State survey and certification officials where quality problems have been documented, and with respect to facilities where complaints have been filed by consumers or their advocates; and

(2) such recommendations as the Secretary deems appropriate.

(e) The term `mental health facilities', or `facility' shall mean for purposes of this demonstrative project only, a facility or part of a facility which provides, in an organized setting, outpatient mental health services, outpatient substance abuse and alcoholism services, residential treatment services for children, or day treatment services for children.

SEC. 6265. OPTIONAL STATE MEDICAID DISABILITY DETERMINATIONS INDEPENDENT OF THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL- Section 1902 (42 U.S.C. 1396a) as amended by section 6201 is further amended by adding at the end the following new subsection:

`(t)(1) A State plan may provide for the making of determinations of disability or blindness for the purpose of determining eligibility for medical assistance under the State plan by the single State agency or its designee, and make medical assistance available to individuals whom it finds to be blind or disabled and who are determined otherwise eligible for such assistance during the period of time prior to which a final determination of disability or blindness is made by the Social Security Administration with respect to such an individual. In making such determinations, the State must apply the definitions of disability and blindness found in section 1614(a) of the Social Security Act.'.

(b) STUDY OF MEDICAID DISABILITY DEFINITION- (1) The General Accounting Office shall conduct a study of the appropriateness of the use of the definition of disability and blindness (including the durational requirement) found in section 1614(a) of the Social Security Act for purposes of eligibility for medical assistance under title XIX of the Social Security Act.

(2) By no later than January 1, 1992, the GAO shall submit a report to Congress and to the Secretary of Health and Human Services on its study and shall include its recommendations, if any.

SEC. 6266. MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN MEMBER FAMILIES.

(a) IN GENERAL- For purposes of section 1903(f)(1)(B) of the Social Security Act, for payments made before, on, or after the date of the enactment of this Act, a State described in subparagraph (B) may use, in determining the

`highest amount which would ordinarily be paid to a family of the same size' (under the State's plan approved under part A of title IV of such Act) in the case of a family consisting only of one individual and without regard to whether or not such plan provides for aid to families consisting only of one individual, an amount reasonably related to the highest money payment which would ordinarily be made under such a plan to a family of two without income or resources.

(b) STATES COVERED- Subparagraph (A) shall only apply to a State the State plan of which (under title XIX of the Social Security Act) as of June 1, 1989, provided for the policy described in such subparagraph. For purposes of the previous sentence, a State plan includes all the matter included in a State plan under section 2373(c)(5) of the Deficit Reduction Act of 1984 (as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987).

SEC. 6267. MEDICAID SPENDDOWN OPTION.

Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)) is amended by--

(1) inserting `(A)' after `(2)'; and

(2) by adding before the period at the end the following: `or, (B) at State option, an amount paid by such family, at the family's option, to the State, provided that the amount, when combined with prior months' incurred bills, is sufficient to meet the applicable income limitation described in paragraph (1). The amount of State expenditures for which Federal medical assistance payments is available under subsection (a)(1) will be reduced by amounts collected pursuant to this subparagraph.'

SEC. 6268. LIMITATION ON DISALLOWANCES OR DEFERRAL OF FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21.

(a) IN GENERAL- (1) If the Secretary of Health and Human Services makes a determination that a psychiatric facility has failed to comply with certification of need requirements for inpatient psychiatric hospital services for individuals under age 21 pursuant to section 1905(h) of the Social Security Act, and such determination has not been subject to a final judicial decision, any disallowance or deferral of Federal financial participation under such Act based on such determination shall only apply to the period of time beginning with the first day of noncompliance and ending with the date by which the psychiatric facility develops documentation (using plan of care or utilization review procedures) of the need for inpatient care with respect to such individuals.

(2) Any disallowance of Federal financial participation under title XIX of the Social Security Act relating to the failure of a psychiatric facility to comply with certification of need requirements--

(A) shall not exceed 25 percent of the amount of Federal financial participation for the period described in paragraph (1); and

(B) shall not apply to any fiscal year before the fiscal year that is 3 years before the fiscal year in which the determination of noncompliance described in paragraph (1) is made.

(b) EFFECTIVE DATE- Subsection (a) shall apply to disallowance actions that are pending or for which there has not been a final judicial decision as of the date of the enactment of this Act.

SEC. 6269. 5-YEAR EXTENSION OF CERTAIN WAIVER.

(a) IN GENERAL- Section 507 of the Family Support Act of 1988 is amended by striking `1991' and inserting `1996'.

(b) CONFORMING AMENDMENT- Section 1903(m)(6)(A) (42 U.S.C. 1396b(m)(6)(A)) is amended by striking `State of New Jersey' and inserting `States of New Jersey and Minnesota'.

SEC. 6270. MEDICAID LONG-TERM CARE INSURANCE DEMONSTRATION PROJECT.

(a) IN GENERAL- The Secretary of Health and Human Services (hereafter in this section referred to as the `Secretary') shall provide for a demonstration project in the States of Indiana, Illinois, Wisconsin, Oregon, California, Connecticut, Massachusetts, Missouri, New York, and New Jersey. Such project shall allow individuals with income and resources above eligibility levels for receipt of medical assistance under title XIX of the Social Security Act to receive long-term care benefits under the State plan for medical assistance under such Act if such an individual purchases a State approved long-term care insurance policy covering long-term care for a period preceding such an individual's eligibility for medical assistance under title XIX of the Social Security Act.

(b) WAIVER OF CERTAIN REQUIREMENTS- The Secretary in providing for the demonstration project described in subsection (a), may waive the following requirements in title XIX of the Social Security Act with respect to such projects.

(1) Sections 1901, 1902(a)(10) (A) and (C), 1903(a)(1), and 1903(f), relating to categorical and income eligibility limits.

(2) Sections 1902(a)(10) (A) and (D), relating to amount, duration, and scope of services; and to diagnosis, type of illness, or condition.

(3) Section 1902(a)(10)(E), relating to qualified medicaid beneficiaries.

(4) Section 1902(a)(23), relating to freedom of choice.

(5) Section 1902(a)(1), relating to statewideness.

(6) Sections 1902(a)(10), matter following (E) and 1902(a)(17), relating to comparability.

(7) Section 1902(a)(14), relating to premiums.

(8) Section 1902(a)(18), relating to liens and recovery of assets.

(9) Sections 1902(50) and (51), relating to personal needs allowance, protection community spouse, and transfer of assets.

(c) STATE ASSURANCES- The States conducting demonstration projects under this section shall provide asssurances to the Secretary that--

(1) the estimated average per capita and aggregate expenditures for long-term care services for individuals under the waiver will not exceed estimated average per capita and aggregate expenditures for such services for such individuals under the State plan in the absence of the waiver;

(2) it will continue to make long-term care services available under the plan to any individual who would be entitled to long-term care services under the plan as in effect before the waiver (except to the extent that subsequent Federal legislation specifically requires changes in eligibility for such services under the plan);

(3) it will not approve a long-term care insurance policy unless it meets standards at least as stringent as those set forth in the National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Act as of June 1989; and

(4) expenditures for long-term care services provided to individuals participating in the projects after the expiration of the projects shall be

shared by the State and Federal governments in accordance with title XIX formulae in force at the time.

(d) APPLICATION, DURATION, AND ELIGIBILITY-

(1) The Secretary shall enter into an agreement with the States described in subsection (a) for the purpose of conducting demonstration projects as described in this section. The Secretary shall award such demonstrations in a budget neutral manner.

(2) The Secretary shall either approve or disapprove the application of the State to participate in a demonstration project described in this section within 90 days of receipt of such application. If the Secretary disapproves an application of a State described in subsection (a) to conduct a demonstration project under this section, the Secretary shall within 30 days of such disapproval notify the State of the reasons for such disapproval and allow the State to correct any deficiencies and allow the State to resubmit a corrected application which the Secretary shall approve if it meets the requirements of this section.

(3) The demonstration project under this section shall be for an initial period of 5 years. The Secretary shall provide for renewal of those demonstration projects for an additional 5 years which the Secretary determines have met the requirements of this section.

(4) An individual who participates in a demonstration project under this section shall remain eligible for long-term care services under the State plan after the expiration of such project.

(e) ANNUAL STATE REPORTS- The States shall annually (during the duration of such projects) report to the Secretary on--

(1) the number of individuals enrolled in the demonstration projects in such States;

(2) the number of enrollees actually receiving long-term care services under such demonstration projects (whether through long-term care insurance or medical assistance under title XIX of the Social Security Act);

(3) the number of enrollees actually receiving long-term care in the form of medical assistance; and

(4) the number and type (commercial, not for profit and HMO) characteristics of private insurers with policies approved by the States under the demonstration projects.

(f) SECRETARY'S REPORT- The Secretary shall report to Congress on the demonstration project established under this section not later than 4 years after the date of enactment of this section. Such report shall summarize and analyze information reported by the State under subsection (e), and shall evaluate the cost effectiveness of the demonstration project and make recommendations with respect to the desirability and appropriateness of authorizing any State to make long-term care services available on a similar basis.

SEC. 6271. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

Section 1905(a) of the Social Security Act is amended by adding at the end the following new sentence: `No service (including counseling) shall be excluded from the definition of `medical assistance' solely because it is provided as a treatment service for alcoholism or drug dependency.'.

SEC. 6272. HOME AND COMMUNITY-BASED WAIVERS.

(a) TREATMENT OF ROOM AND BOARD- Subsections (c)(1) and (d)(1) of section 1915 of the Social Security Act (42 U.S.C. 1396n) are each amended

by adding at the end the following: `For purposes of this subsection, the term `room and board' shall not include an amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.'.

(b) TREATMENT OF DECERTIFIED FACILITIES- Notwithstanding any other provision of law, an intermediate care facility for the mentally retarded that has been decertified or excluded from participation in the medical assistance program established under title XIX of the Social Security Act shall be treated as a facility providing care `the cost of which could be reimbursed' under a State plan for purposes of determining whether to approve a waiver under section 1915(c)(1) of such Act and whether an individual is eligible for care under such a waiver.

(c) ADJUSTMENT TO 1915(d) CEILING TO TAKE INTO ACCOUNT THE ADDED COSTS OF OBRA 87- Section 1915(d)(5)(B)(iv) (42 U.S.C. 1396n(d)(5)(B)(iv)) is amended by striking `this title' the first place it appears and inserting `this title whose provisions become effective on or after such date'.

(d) CHANGES TO FREEDOM OF CHOICE WAIVERS- Section 1915(c)(3) and (d)(3) (42 U.S.C. 1396n(c)(3) and (d)(3)) are each amended--

(1) by striking `and section' and inserting `section'; and

(2) by inserting after `community)', `and the requirements of section 1902(a)(23) (relating to restricting the recipient's choice of providers), insofar as such requirements relate to the provision of case management services, where the State provides assurances satisfactory to the Secretary that such a restriction will not substantially limit the recipient's access to such services'.

SEC. 6273. MEDICAID PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

(a) PHYSICIAN INCENTIVE PAYMENTS- Section 1903(m)(5) is amended by adding at the end of subparagraph (B) the following new subparagraph:

`(C)(i) If an organization with a contract under section 1903(m) knowingly makes a direct and specific individual payment to a physician as an inducement to withhold or limit a specific medically necessary service to an identifiable patient, the organization shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $25,000 for each determination.

`(ii) The provisions of section 1876(i)(8) shall apply to health maintenance organizations with a contract under this subsection in the same manner and to the same extent as to health maintenance organizations with a contract under section 1876.'.

(b) MEDICAID ENROLLMENT WAIVER-

(1) GENERAL WAIVER AUTHORITY- The Secretary shall approve waivers of the 75 percent enrollment requirement (described in section 1903(m)(2)(A)(i) of the Social Security Act) after the Secretary provides for--

(A) a study of situations where the 75-25 percent enrollment requirement (described in section 1903(m)(2)(A)(i) of the Social Security Act) is not practical or where alternative safeguards or procedures to private enrollment and oversight could be used to assure that prepaid health care organizations provide quality care and are fiscally sound;

(B) publication in the Federal Register by April 1, 1991, for review and comment a set of minimum standards that prepaid

organizations must meet to be considered eligible for the waiver described in this paragraph and the terms under which such waivers will be approved; and

(C) publication of revised standards and terms as a final notice.

(2) TERM OF AND RENEWAL OF WAIVERS- A waiver under this section shall initially be approved for three years; the Secretary shall provide terms for the renewal of such waivers.

SEC. 6274. STATE FLEXIBILITY IN IDENTIFYING AND PAYING DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL- Section 1923(b)(1) (42 U.S.C. 1396r-4(b)(1)) is amended by--

(1) striking the period at the end of subparagraph (B) and inserting `or instead of (A) or (B)'; and

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

`(C) the hospital meets other criteria specified by the State which identify hospitals serving a disproportionate number of low income patients with special needs, so long as all hospitals determined to be disproportionate share hospitals include, at the State's option, hospitals which meet one of the following--

`(i) the conditions specified in subparagraph (A) or (B); or

`(ii) any criteria specified in an amendment to the State plan which was submitted to and approved by the Secretary prior to May 1, 1989.'.

(b) DIFFERENT PAYMENT LEVELS- Section 1923 (42 U.S.C. 1396r-4) is amended in the matter following subsection (c) by adding after the last sentence the following: `Nothing in this section shall prohibit a State from establishing different payment adjustments for different types of hospitals that are defined or deemed to be disproportionate share hospitals provided that the amount of each payment adjustment is reasonably related to the costs or proportion of services provided to medicaid or low-income patients, and that either--

`(A) the amount of each payment adjusted is equal to or greater than the minimum adjustment amount as specified in subsection (c); or

`(B) the aggregate amount of payment adjustments under the plan for disproportionate share hospitals (as defined under a State plan approved by the Secretary prior to December 22, 1987) is not less than the aggregate amount of payment adjustments otherwise required to be made if paragraph (1) or (2) of subsection (c) applied.'.

(c) CONFORMING AMENDMENT- Section 1923(c)(2) (42 U.S.C. 1396r-4(c)(2)) is amended by inserting after `State' `or the hospital's low-income utilization rate (as defined in paragraph (b)(3))'.

SEC. 6275. EXTENSION OF PROVISION ON VOLUNTARY CONTRIBUTIONS AND PROVIDER-SPECIFIC TAXES.

Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking `December 31, 1990' and inserting `September 30, 1991'.

SEC. 6276. PROHIBITION ON WAIVING REASONABLE AND ADEQUATE PAYMENT RATES.

(a) IN GENERAL- Section 1915(b) (42 U.S.C. 1396n(b)) is amended in the

matter preceding paragraph (1) by inserting `(other than subsection (a)(13)(A))' after `section 1902'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall be effective with respect to calendar quarters beginning on or after January 1, 1991.

Subtitle D--Trade Provisions

PART I--CUSTOMS USER FEES

SEC. 6301. CUSTOMS USER FEES.

(a) EXTENSION OF EFFECTIVE PERIOD FOR FEES- Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out `1991' and inserting `1995'.

(b) ADJUSTMENT OF FEES- Paragraph (9) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) is amended to read as follows:

`(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.17 percent ad valorem, unless adjusted under subparagraph (B).

`(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) for merchandise that is formally entered or released during any fiscal year beginning after September 30, 1991, to an ad valorem rate (but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during that fiscal year.

`(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under section 613A of the Tariff Act of 1930 with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

`(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury--

`(I) not later than 30 days after the date of the enactment of the Act providing regular appropriations for the Customs Service for that fiscal year, publishes a notice of intent to adjust the fees under this paragraph and the amount of such adjustment;

`(II) provides a period of not less than 30 days for public comment following publication of the notice described in subclause (I);

`(III) during the 30-day period beginning after the date of the publication of the notice described in subclause (I), consults with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment; and

`(IV) no earlier than the expiration of the 30-day public comment period and the 30-day consultation period, publishes in the Federal Register notice of the final determination regarding the adjustment of fees.

`(iv) The 30 days referred to in clause (iii)(III) shall be computed by excluding--

`(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment

of the Congress sine die; and

`(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

`(v) An adjustment made under this subparagraph is effective with respect to formal entries and releases made on or after the 15th calendar day after the date of publication of the notice required under clause (iii)(IV) and before the first day of the next fiscal year.

`(vi) Any fee charged under this paragraph, whether or not adjusted under this subparagraph, is subject to the limitations in subsection (b)(8)(A).'.

(c) AGGREGATION OF MERCHANDISE PROCESSING FEES- Section 111(f)(1)(B) of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out `determined in' and inserting `currently in effect under'.

(d) CUSTOMS SERVICE ADMINISTRATION- Section 113 of the Customs and Trade Act of 1990 is amended--

(1) by inserting `and' after the semicolon at the end of subsection (a)(1);

(2) by striking out the semicolon at the end of subsection (a)(2) and inserting a period;

(3) by striking out paragraphs (3), (4), and (5) of subsection (a); and

(4) by striking out `Committees referred to in subsection (a)(5)' in subsection (b) and inserting `the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate'.

(e) MERCHANDISE PROCESSING FEES FOR CERTAIN SMALL AIRPORTS-

(1) IN GENERAL- Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended--

(A) by inserting `and subsection (a)' in subparagraph (B) before the colon; and

(B) by inserting `other than an airport through which less than 25,000 informal entries are cleared annually' in subparagraph (B)(ii) before the end period.

(2) EFFECTIVE DATE- The amendments made by this subsection shall take effect as if included in section 111 of the Customs and Trade Act of 1990.

PART II--TECHNICAL CORRECTIONS

SEC. 6311. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE.

(a) REDESIGNATIONS- Each subheading of the Harmonized Tariff Schedule of the United States that is listed in column A is redesignated as the subheading listed in column B opposite such column A subheading:

Column A	***Column B***
5111.20.60	*5111.20.90*
5111.30.60	

5111.30.90

5111.90.70

5111.90.90

5112.19.10

5112.19.20

5112.19.60

5112.19.90

5112.90.60

5112.90.90

6116.10.50

6116.10.40

6116.93.20

6116.93.30

6116.99.60

6116.99.90

6216.00.23

6216.00.25

6216.00.29

6216.00.30

6216.00.47

6216.00.45

6702.90.40

6702.90.35

6702.90.60

6702.90.65

8712.00.10

8712.00.15

8712.00.20

8712.00.25

8712.00.30

8712.00.35

8714.94.20

8714.94.15

8714.94.50

8714.94.60

9022.90.80

9022.90.90

9603.10.20

9603.10.25

9603.10.70

9603.10.90

(b) MISCELLANEOUS AMENDMENTS- The Harmonized Tariff Schedule of the United States is further amended as follows:

(1) The article descriptions for subheadings 6116.10.10, 6116.92.10, 6116.93.10, 6116.99.30, 6216.00.10, 6216.00.34, and 6216.00.44 are each amended to read as follows: `Other gloves, mittens, and mitts, principally designed for sports use, including ski and snowmobile gloves, mittens, and mitts'.

(2) The superior heading to subheadings 8712.00.25 and 8712.00.35 (as redesignated by subsection (a)) is amended by striking out `65' and inserting `63.5'.

(3) Heading 9902.30.07 is amended by striking out `2929.90.10' and inserting `2929.10.40'.

(4) Heading 9902.30.08 is amended by striking out `2907.29.30' and inserting `2907.19.50'.

(5) Heading 9902.30.42 is amended by striking out `19532-03-07' and inserting `19532-03-7'.

(6) The article description for heading 9902.30.56 is amended by striking out `hydroxethyl' and inserting `hydroxyethyl'.

(7) Heading 9902.30.83 (as enacted by section 388 of the Customs and Trade Act of 1990) is redesignated as heading 9902.31.11 and, as so redesignated, is amended by striking out `piperadinyl' and inserting `piperidinyl'.

(8) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

(9) Heading 9902.84.83 is amended by striking out `(A,C,E,IL)' and inserting `(A,C,CA,E,IL)'.

(10) Heading 9902.87.14 is amended by striking out `brakes,' the first place it appears.

(c) Effective Date-

(1) Subject to paragraphs (2) and (3), the amendments made by subsections (a) and (b) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Any amendment made by subsection (a) or (b) to a provision of the Harmonized Tariff Schedule of the United States that was the subject of an amendment made by title III of the Customs and Trade Act of 1990 shall--

(A) be treated as applying to that provision as established or amended by such title III; and

(B) if the amendment made by such title III has retroactive application under section 485(b) of such Act, be treated as applying with respect to entries made after the relevant applicable date (as defined in paragraph (2)(A) of such section 485(b)).

(3) Notwithstanding section 514 of the Tariff Act of 1930 or any other

provision of law, upon proper request filed with the appropriate customs officer before April 1, 1991, any entry--

(A) which was made after December 31, 1988, and before October 1, 1990; and

(B) with respect to which there would have been a lesser duty if any amendment made by subsection (b)(1) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

SEC. 6312. TECHNICAL AMENDMENTS TO CERTAIN CUSTOMS LAWS.

(a) CUSTOMS FORFEITURE FUND-

(1) Paragraph (5) of section 121 of the Customs and Trade Act of 1990 is repealed and subsection (f) of section 613A of the Tariff Act of 1930 shall be applied as if the amendment made by such paragraph (5) had not been enacted.

(2) Paragraph (2) of such section 613A(f) (as in effect after the application of paragraph (1)) is amended to read as follows:

`(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

`(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

`(i) $14,855,000 for fiscal year 1991.

`(ii) $15,598,000 for fiscal year 1992.'.

(b) CERTAIN ENTRIES- Section 484 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out `1801-000027' and inserting `1801-7-000027'.

(c) EFFECTIVE DATE- The provisions of this section take effect August 21, 1990.

Subtitle E--Pension Benefit Guarantee Corporation Premiums

SEC. 6401. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM-

(1) IN GENERAL- Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking `for plan years beginning after December 31, 1987, an amount equal to the sum of $16' and inserting `for plan years beginning after December 31, 1990, an amount equal to the sum of $19'.

(2) CONFORMING AMENDMENT- Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended by adding at the end thereof the following new clause:

`(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and'.

(b) INCREASE IN ADDITIONAL PREMIUM- Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended--

(1) by striking `$6.00' in clause (ii) and inserting `$9.00', and

(2) by striking `$34' in clause (iv)(I) and inserting `$53'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to plan years beginning after December 31, 1990.

Subtitle F--Child Care and Development Block Grant

SEC. 6501. CHILD CARE AND DEVELOPMENT BLOCK GRANT.

Chapter 8 of subtitle A of title IV of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amended--

(1) by redesignating subchapters C, D, and E, as subchapters D, E, and F, respectively; and

(2) by inserting after subchapter B the following new subchapter:

`Subchapter C--Child Care and Development Block Grant

`SEC. 658A. SHORT TITLE.

`This subchapter may be cited as the `Child Care and Development Block Grant Act of 1990'.

`SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

`There are authorized to be appropriated to carry out this subchapter, $750,000,000 for fiscal year 1991, $825,000,000 for fiscal year 1992, $925,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

`SEC. 658C. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

`The Secretary is authorized to make grants to States in accordance with the provisions of this subchapter.

`SEC. 658D. LEAD AGENCY.

`(a) DESIGNATION- The chief executive officer of a State desiring to receive a grant under this subchapter shall designate, in an application submitted to the Secretary under section 658E, an appropriate State agency that complies with the requirements of subsection (b) to act as the lead agency.

`(b) DUTIES-

`(1) IN GENERAL- The lead agency shall--

`(A) administer, directly or through other State agencies, the financial assistance received under this subchapter by the State;

`(B) develop the State plan to be submitted to the Secretary under section 658E(a);

`(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State to provide to the public an opportunity to comment on the provision of child care services under the State plan; and

`(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs.

`(2) DEVELOPMENT OF PLAN- In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with

appropriate representatives of units of general purpose local government. Such consultations may include consideration of local child care needs and resources, the effectiveness of existing child care and early childhood development services, and the methods by which funds made available under this subchapter can be used to effectively address local shortages.

`SEC. 658E. APPLICATION AND PLAN.

`(a) APPLICATION- To be eligible to receive assistance under this subchapter, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by rule require, including--

`(1) an assurance that the State will comply with the requirements of this subchapter; and

`(2) a State plan that meets the requirements of subsection (c).

`(b) PERIOD COVERED BY PLAN- The State plan contained in the application under subsection (a) shall be designed to be implemented--

`(1) during a 3-year period for the initial State plan; and

`(2) during a 2-year period for subsequent State plans.

`(c) Requirements of a Plan-

`(1) LEAD AGENCY- The State plan shall identify the lead agency designated under section 658D.

`(2) POLICIES AND PROCEDURES- The State plan shall:

`(A) PARENTAL CHOICE OF PROVIDERS- Provide assurances that--

`(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter, other than through assistance provided under paragraph (3)(C), are given the option either--

`(I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or

`(II) to receive a child care certificate as defined in section 658P(2);

`(ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and

`(iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I);

except that nothing in this subparagraph shall require a State to have a child care certificate program in operation prior to October 1, 1991.

`(B) UNLIMITED PARENTAL ACCESS- Provide assurances that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers.

`(C) PARENTAL COMPLAINTS- Provide assurances that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request.

`(D) CONSUMER EDUCATION- Provide assurances that consumer education information will be made available to parents and the general public within the State concerning licensing and regulatory requirements, complaint procedures, and policies and practices relative to child care services within the State.

`(E) COMPLIANCE WITH STATE AND LOCAL REGULATORY REQUIREMENTS- Provide assurances that--

`(i) all providers of child care services within the State for which assistance is provided under this subchapter comply with all licensing or regulatory requirements (including registration requirements) applicable under State and local law; and

`(ii) providers within the State that are not required to be licensed or regulated under State or local law are required to be registered with the State prior to payment being made under this subchapter, in accordance with procedures designed to facilitate appropriate payment to such providers, and to permit the State to furnish information to such providers, including information on the availability of health and safety training, technical assistance, and any relevant information pertaining to regulatory requirements in the State, and that such providers shall be permitted to register with the State after selection by the parents of eligible children and before such payment is made.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards and licensing or regulatory requirements on child care providers within the State that provide services for which assistance is provided under this subchapter than the standards or requirements imposed on other child care providers in the State.

`(F) ESTABLISHMENT OF HEALTH AND SAFETY REQUIREMENTS- Provide assurances that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under this subchapter. Such requirements shall include--

`(i) the prevention and control of infectious diseases (including immunization);

`(ii) building and physical premises safety; and

`(iii) minimum health and safety training appropriate to the provider setting.

Nothing in this subparagraph shall be construed to require the establishment of additional health and safety requirements for child care providers that are subject to health and safety requirements in the categories described in this subparagraph on the date of enactment of this subchapter under State or local law.

`(G) COMPLIANCE WITH STATE AND LOCAL HEALTH AND SAFETY REQUIREMENTS- Provide assurances that procedures are in effect to ensure that child care providers within the State that provide services for which assistance is provided under this subchapter comply with all applicable State or local health and safety requirements as described in subparagraph (F).

`(H) REDUCTION IN STANDARDS- Provide assurances that if the State reduces the level of standards applicable to child care

services provided in the State on the date of enactment of this subchapter, the State shall inform the Secretary of the rationale for such reduction in the annual report of the State described in section 658K.

`(I) REVIEW OF STATE LICENSING AND REGULATORY REQUIREMENTS- Provide assurances that not later than 18 months after the date of the submission of the application under section 658E, the State will complete a full review of the law applicable to, and the licensing and regulatory requirements and policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of this subchapter.

`(J) SUPPLEMENTATION- Provide assurances that funds received under this subchapter by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for the support of child care services and related programs in the State.

`(3) USE OF BLOCK GRANT FUNDS-

`(A) GENERAL REQUIREMENT- The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter as required under subparagraphs (B) and (C).

`(B) CHILD CARE SERVICES- Subject to the reservation contained in subparagraph (C), the State shall use amounts provided to the State for each fiscal year under this subchapter for--

`(i) child care services, that meet the requirements of this subchapter, that are provided to eligible children in the State on a sliding fee scale basis using funding methods provided for in section 658E(c)(2)(A), with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs; and

`(ii) activities designed to improve the affordability, availability and quality of child care, and to expand the range of choices of child care services available to parents.

`(C) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE AND TO INCREASE THE AVAILABILITY OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE SERVICES- The State shall reserve 25 percent of the amounts provided to the State for each fiscal year under this subchapter to carry out activities designed to improve the quality of child care (as described in section 658G) and to provide before- and after-school and early childhood development services (as described in section 658H).

`(4) PAYMENT RATES-

`(A) IN GENERAL- The State plan shall provide assurances that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs. Such payment rates shall take into account the variations in the costs of providing child care in different settings and to children of different age groups, and the additional costs of providing child care for children with special needs.

`(B) CONSTRUCTION- Nothing in this paragraph shall be construed to create a private right of action.

`(5) SLIDING FEE SCALE- The State plan shall provide that the State will establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing by the families that receive child care services for which assistance is provided under this subchapter.

`(d) APPROVAL OF APPLICATION- The Secretary shall approve an application that satisfies the requirements of this section.

`SEC. 658F. LIMITATIONS ON STATE ALLOTMENTS.

`(a) NO ENTITLEMENT TO CONTRACT OR GRANT- Nothing in this subchapter shall be construed--

`(1) to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit; or

`(2) to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subchapter.

`(b) CONSTRUCTION OF FACILITIES-

`(1) IN GENERAL- No funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

`(2) SECTARIAN AGENCY OR ORGANIZATION- In the case of a sectarian agency or organization, no funds made available under this subchapter may be used for the purposes described in paragraph (1) except to the extent that renovation or repair is necessary to bring the facility of such agency or organization into compliance with health and safety requirements referred to in section 658E(c)(2)(F).

`SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

`A State that receives financial assistance under this subchapter shall use not less than 40 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year for one or more of the following:

`(1) RESOURCE AND REFERRAL PROGRAMS- Operating directly or providing financial assistance to private nonprofit organizations or public organizations (including units of general purpose local government) for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

`(2) GRANTS OR LOANS TO ASSIST IN MEETING STATE AND LOCAL STANDARDS- Making grants or providing loans to child care providers to assist such providers in meeting applicable State and local child care standards.

`(3) ESTABLISHMENT AND IMPROVEMENT OF STANDARDS- Establishing and improving State and local child care standards and requirements.

`(4) MONITORING OF COMPLIANCE WITH LICENSING AND REGULATORY REQUIREMENTS- Improving the monitoring of compliance with, and enforcement of, State and local licensing and regulatory requirements (including registration requirements).

`(5) TRAINING- Providing training and technical assistance in areas appropriate to the provision of child care services, such as training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the care of children with special needs.

`(6) COMPENSATION- Improving salaries and other compensation paid to full- and part-time staff who provide child care services for which assistance is provided under this subchapter.

`SEC. 658H. EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL SERVICES.

`(a) IN GENERAL- A State that receives financial assistance under this subchapter shall use not less than 40 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year to establish or expand and conduct, through the provision of grants or contracts, early childhood development and before- and after-school child care programs.

`(b) PROGRAM DESCRIPTION- Programs that receive assistance under this section shall--

`(1) in the case of early childhood development programs, consist of services that are not intended to serve as a substitute for a compulsory academic programs but that are intended to provide an environment that enhances the educational, social, cultural, emotional, and recreational development of children; and

`(2) in the case of before- and after-school child care programs--

`(A) be provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

`(B) not be intended to extend or replace the regular academic program.

`(c) PRIORITY FOR ASSISTANCE- In awarding grants and contracts under this section, the State shall give the highest priority to geographic areas within the State that are eligible to receive grants under section 1006 of the Elementary and Secondary Education Act of 1965, and shall then give priority to--

`(1) any other areas with concentrations of poverty; and

`(2) any areas with very high or very low population densities.

`SEC. 658I. ADMINISTRATION AND ENFORCEMENT.

`(a) ADMINISTRATION- The Secretary shall--

`(1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

`(2) collect, publish and make available to the public a listing of State child care standards at least once every 3 years; and

`(3) provide technical assistance to assist States to carry out this subchapter, including assistance on a reimbursable basis.

`(b) Enforcement-

`(1) REVIEW OF COMPLIANCE WITH STATE PLAN- The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State, and shall have the power to terminate payments to the State in accordance with paragraph (2).

`(2) Noncompliance-

`(A) IN GENERAL- If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that--

`(i) there has been a failure by the State to comply

substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

`(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

`(B) ADDITIONAL SANCTIONS- In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

`(C) NOTICE- The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

`(3) ISSUANCE OF RULES- The Secretary shall establish by rule procedures for--

`(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

`(B) imposing sanctions under this section.

`SEC. 658J. PAYMENTS.

`(a) IN GENERAL- Subject to the availability of appropriations, a State that has an application approved by the Secretary under section 658E(d) shall be entitled to a payment under this section for each fiscal year in an amount equal to its allotment under section 658O for such fiscal year.

`(b) METHOD OF PAYMENT-

`(1) IN GENERAL- Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

`(2) LIMITATION- The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 658E(c)(3).

`(c) SPENDING OF FUNDS BY STATE- Payments to a State from the allotment under section 658O for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

`SEC. 658K. ANNUAL REPORT AND AUDITS.

`(a) ANNUAL REPORT- Not later than December 31, 1992, and annually thereafter, a State that receives assistance under this subchapter shall prepare and submit to the Secretary a report--

`(1) specifying the uses for which the State expended funds specified under paragraph (3) of section 658E(c) and the amount of funds expended for such uses;

`(2) containing available data on the manner in which the child care needs of families in the State are being fulfilled, including information concerning--

`(A) the number of children being assisted with funds provided under this subchapter, and under other Federal child care and pre-school programs;

`(B) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State; and

`(C) salaries and other compensation paid to full- and part-time staff who provide child care services;

`(3) describing the extent to which the affordability and availability of child care services has increased;

`(4) if applicable, describing, in either the first or second such report, the findings of the review of State licensing and regulatory requirements and policies described in section 658E(c), including a description of actions taken by the State in response to such reviews;

`(5) containing an explanation of any State action, in accordance with section 658E, to reduce the level of child care standards in the State, if applicable; and

`(6) describing the standards and health and safety requirements applicable to child care providers in the State, including a description of State efforts to improve the quality of child care;

during the period for which such report is required to be submitted.

`(b) AUDITS-

`(1) REQUIREMENT- A State shall, after the close of each program period covered by a application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

`(2) INDEPENDENT AUDITOR- Audits under this subsection shall be conducted by an entity that is independent of any agency administering activities that receive assistance under this subchapter and be in accordance with generally accepted auditing principles.

`(3) SUBMISSION- Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

`(4) REPAYMENT OF AMOUNTS- Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be entitles under this subchapter.

`SEC. 658L. REPORT BY SECRETARY.

`Not later than July 31, 1993, and annually thereafter, the Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

`SEC. 658M. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE

FOR CERTAIN PURPOSES.

`(a) SECTARIAN PURPOSES AND ACTIVITIES- No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 658E(c)(2)(A)(i)(I) or through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

`(b) TUITION- With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for--

`(1) any services provided to such students during the regular school day;

`(2) any services for which such students receive academic credit toward graduation; or

`(3) any instructional services which supplant or duplicate the academic program of any public or private school.

`SEC. 658N. NONDISCRIMINATION.

`(a) RELIGIOUS NONDISCRIMINATION-

`(1) CONSTRUCTION-

`(A) IN GENERAL- Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

`(B) EXCEPTION- A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

`(2) DISCRIMINATION AGAINST CHILD-

`(A) IN GENERAL- A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

`(B) NON-FUNDED CHILD CARE SLOTS- Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

`(3) EMPLOYMENT IN GENERAL-

`(A) PROHIBITION- A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

`(B) QUALIFIED APPLICANTS- If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

`(C) PRESENT EMPLOYEES- This paragraph shall not apply to employees of child care providers receiving assistance under this

subchapter if such employees are employed with the provider on the date of enactment of this subchapter.

`(4) EMPLOYMENT AND ADMISSION PRACTICES- Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

`(b) EFFECT ON STATE LAW- Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

`SEC. 658O. AMOUNTS RESERVED; ALLOTMENTS.

`(a) AMOUNTS RESERVED-

`(1) TERRITORIES AND POSSESSIONS- The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands to be allotted in accordance with their respective needs.

`(2) INDIANS TRIBES- The Secretary shall reserve not more than 3 percent of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

`(b) State Allotment-

`(1) GENERAL RULE- From the amounts appropriated under section 658B for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of--

`(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

`(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

`(2) YOUNG CHILD FACTOR- The term `young child factor' means the ratio of the number of children in the State under 5 years of age to the number of such children in all States as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

`(3) SCHOOL LUNCH FACTOR- The term `school lunch factor' means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of such children in all the States as determined annually by the Department of Agriculture.

`(4) Allotment percentage-

`(A) IN GENERAL- The allotment percentage for a State is determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

`(B) LIMITATIONS- If an allotment percentage determined under subparagraph (A)--

`(i) exceeds 1.2 percent, then the allotment percentage of that State shall be considered to be 1.2 percent; and

`(ii) is less than 0.8 percent, then the allotment percentage of the State shall be considered to be 0.8 percent.

`(C) PER CAPITA INCOME- For purposes of subparagraph (A), per capita income shall be--

`(i) determined at 2-year intervals;

`(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

`(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

`(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN-

`(1) GENERAL AUTHORITY- From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes or tribal organizations that submit applications under this section, for the planning and carrying out of programs or activities consistent with the purposes of this subchapter.

`(2) APPLICATIONS AND REQUIREMENTS- An application for a grant or contract under this section shall provide that:

`(A) COORDINATION- The applicant will coordinate, to the maximum extent feasible, with the lead agency in the State or States in which the applicant will carry out programs or activities under this section.

`(B) SERVICES ON RESERVATIONS- In the case of an applicant located in a State other than Alaska, California, or Oklahoma, programs and activities under this section will be carried out on the Indian reservation for the benefit of Indian children.

`(C) REPORTS AND AUDITS- The applicant will make such reports on, and conduct such audits of, programs and activities under a grant or contract under this section as the Secretary may require.

`(3) CONSIDERATION OF SECRETARIAL APPROVAL- In determining whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration--

`(A) the availability of child care services provided in accordance with this subchapter by the State or States in which the applicant proposes to carry out a program to provide child care services; and

`(B) whether the applicant has the ability (including skills, personnel, resources, community support, and other necessary components) to satisfactorily carry out the proposed program or activity.

`(4) THREE-YEAR LIMIT- Grants or contracts under this section shall be

for periods not to exceed 3 years.

`(5) DUAL ELIGIBILITY OF INDIAN CHILDREN- The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried out under a grant to the State or States under this subchapter.

`(d) DATA AND INFORMATION- The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

`(e) Reallotments-

`(1) IN GENERAL- Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658E(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

`(2) LIMITATIONS-

`(A) REDUCTION- The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E(d).

`(B) REALLOTMENTS- The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

`(3) AMOUNTS REALLOTTED- For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

`(f) DEFINITION- For the purposes of this section, the term `State' includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

`SEC. 658P. DEFINITIONS.

`As used in this subchapter:

`(1) CAREGIVER- The term `caregiver' means an individual who provides a service directly to an eligible child on a person-to-person basis.

`(2) CHILD CARE CERTIFICATE- The term `child care certificate' means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

`(3) ELEMENTARY SCHOOL- The term `elementary school' means a day or residential school that provides elementary education, as determined under State law.

`(4) ELIGIBLE CHILD- The term `eligible child' means an individual--

`(A) who is less than 13 years of age;

`(B) whose family income does not exceed 75 percent of the State median income for a family of the same size; and

`(C) who--

`(i) resides with a parent or parents who are working or attending a job training or educational program; or

`(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

`(5) ELIGIBLE CHILD CARE PROVIDER- The term `eligible child care provider' means--

`(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that--

`(i) is licensed, regulated, or registered under State law as described in section 658E(c)(2)(E); and

`(ii) satisfies the State and local requirements, including those referred to in section 658E(c)(2)(F);

applicable to the child care services it provides; or

`(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, niece, or nephew of such provider, if such provider is registered and complies with any State requirements that govern child care provided by the relative involved.

`(6) FAMILY CHILD CARE PROVIDER- The term `family child care provider' means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

`(7) INDIAN TRIBE- The term `Indian tribe' has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

`(8) LEAD AGENCY- The term `lead agency' means the agency designated under section 658B(a).

`(9) PARENT- The term `parent' includes a legal guardian or other person standing in loco parentis.

`(10) SECONDARY SCHOOL- The term `secondary school' means a day or residential school which provides secondary education, as determined under State law.

`(11) SECRETARY- The term `Secretary' means the Secretary of Health and Human Services unless the context specifies otherwise.

`(12) SLIDING FEE SCALE- The term `sliding fee scale' means a system of cost sharing by a family based on income and size of the family.

`(13) STATE- The term `State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

`(14) TRIBAL ORGANIZATION- The term `tribal organization' has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

`SEC. 658Q. PARENTAL RIGHTS AND RESPONSIBILITIES.

`Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

`SEC. 658R. SEVERABILITY.

`If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.'.

TITLE VII--REVENUE PROVISIONS

SEC. 7100. SHORT TITLE; ETC.

(a) SHORT TITLE- This title may be cited as the `Revenue Reconciliation Act of 1990'.

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

(c) TABLE OF CONTENTS-

Subtitle A--1-Year Extension of Certain Expiring Tax Provisions

Subtitle B--Tax Incentives

Part I--Energy Incentives

EXPENDITURES.

(a) EXTENSION- Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

`(5) YEARS TO WHICH RULE APPLIES- This subsection shall apply to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991.'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 7102. RESEARCH CREDIT.

(a) EXTENSION- Subsection (h) of section 41 (relating to credit for increasing research activities) is amended--

(1) by striking `December 31, 1990' each place it appears and inserting `December 31, 1991', and

(2) by striking `January 1, 1991' each place it appears and inserting `January 1, 1992'.

(b) CONFORMING AMENDMENTS-

(1) Subsection (a) of section 7110 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(2) Subparagraph (D) of section 28(b)(1) is amended by striking `December 31, 1990' and inserting `December 31, 1991'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7103. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL- Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking `September 30, 1990' and inserting `December 31, 1991'.

(b) REPEAL OF LIMITATION ON GRADUATE LEVEL ASSISTANCE- Section 127(c)(1) is amended by striking the last sentence.

(c) CONFORMING AMENDMENT- Subsection (a) of section 7101 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(d) EFFECTIVE DATES-

(1) IN GENERAL- Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) SUBSECTION (b)- The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1990.

SEC. 7104. GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL- Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking `September 30, 1990' and inserting `December 31, 1991'.

(b) CONFORMING AMENDMENT- Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7105. TARGETED JOBS CREDIT.

(a) IN GENERAL- Paragraph (4) of section 51(c) is amended by striking `September 30, 1990' and inserting `December 31, 1991'.

(b) AUTHORIZATION- Paragraph (2) of section 261(f) of the Economic Recovery Act of 1981 is amended by striking `fiscal year 1982' and all that follows through `necessary' and inserting `each fiscal year such sums as may be necessary'.

(c) EFFECTIVE DATES-

(1) CREDIT- The amendment made by subsection (a) shall apply to individuals who begin work for the employer after September 30, 1990.

(2) AUTHORIZATION- The amendment made by subsection (b) shall apply to fiscal years beginning after 1990.

SEC. 7106. ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN THERMAL PROPERTY.

The table contained in section 46(b)(2)(A) (relating to energy percentage) is amended by striking `Sept. 30, 1990' in clauses (viii), (ix), and (x) and inserting `Dec. 31, 1991'.

SEC. 7107. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION-

(1) IN GENERAL- Subsection (o) of section 42 (relating to low-income housing credit) is amended--

(A) by striking `1990' each place it appears in paragraph (1) and inserting `1991', and

(B) by striking paragraph (2) and inserting the following new paragraph:

`(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS- For purposes of paragraph (1)(B), a building shall be treated as placed in service before 1992 if--

`(A) the bonds with respect to such building are issued before 1992,

`(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1991, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1993, and

`(C) such building is placed in service before January 1, 1994.'

(2) CONFORMING AMENDMENT- Subsection (a) of section 7108 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(3) EFFECTIVE DATE- The amendments made by this subsection shall apply to calendar years after 1989.

(b) ADDITIONAL AMENDMENTS-

(1) CLARIFICATION OF TENANT RIGHTS OF 1ST REFUSAL- Section 42(i) is amended--

(A) by redesignating paragraph (8) as paragraph (7), and

(B) by striking `the tenants of such building' in such paragraph and inserting `the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or government agency'.

(2) MONITORING NONCOMPLIANCE- Clause (iv) of section 42(m)(1)(B) is amended to read as follows:

> *`(iv) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of.'*

(3) TREATMENT OF SECTION 515 RENTS- Subparagraph (B) of section 42(g)(2) is amended by striking `and' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting `, and', and by inserting after clause (iii) the following new clause:

> *`(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949.'*

(4) QUALIFIED CENSUS TRACT DETERMINATIONS WHERE DATA NOT AVAILABLE- Subclause (I) of section 42(d)(5)(C)(ii) is amended by adding at the end thereof the following new sentence: `If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts.'

(5) EXCEPTION TO CREDIT DENIAL FOR MODERATE REHABILITATION ASSISTANCE-

> *(A) IN GENERAL- Paragraph (2) of section 42(c) is amended by adding at the end thereof the following new sentence: `Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) of the United States Housing Act of 1937 (other than assistance under the Stewart B. McKinney Homeless Assistance Act of 1988 (as in effect on the date of the enactment of this sentence)).'*
>
> *(B) CONFORMING AMENDMENT- Paragraph (1) of section 42(b) is amended by striking the last sentence.*

(6) AFDC RECIPIENT STUDENTS NOT TO DISQUALIFY UNIT- Subparagraph (D) of section 42(i)(3) is amended to read as follows:

> *`(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT- A unit shall not fail to be treated as a low-income unit merely because it is occupied by an individual who is--*
>
> > *`(i) a student and receiving assistance under title IV of the Social Security Act, or*
> >
> > *`(ii) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws.'*

(7) PASSIVE LOSS RULES NOT TO APPLY TO REHABILITATION CREDIT WITH RESPECT TO LOW-INCOME CREDIT BUILDING-

> *(A) Subparagraph (C) of section 469(i)(3) is amended--*
>
> > *(i) by inserting before the period `or which is attributable to the rehabilitation investment credit (within the meaning of section 48(o)) with respect to a building for which a credit is determined under section 42 for such year', and*
> >
> > *(ii) by striking `CREDIT' in the heading and inserting `CREDIT AND FOR REHABILITATION CREDIT ON LOW-INCOME CREDIT BUILDING'.*

(B) Subparagraph (B) of section 469(i)(3) is amended by striking `In the case' and inserting `Except as provided in subparagraph (C), in the case'.

(8) INTERMEDIARY COSTS CONSIDERED AT EVALUATION STAGE-

(A) IN GENERAL- Subparagraph (B) of section 42(m)(2) is amended by striking `and' at the end of clause (i), by striking the period at the end of clause (ii) and inserting `, and', and by adding at the end thereof the following:

`(iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas.'

(B) CONFORMING AMENDMENT- Subparagraph (B) of section 42(m)(1) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(9) 10-YEAR RULE NOT TO APPLY TO ACQUISITION OF CERTAIN SINGLE-FAMILY RESIDENCES- Clause (ii) of section 42(d)(2)(D) is amended by striking `or' at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting `, or', and by adding at the end thereof the following new subclause:

`(V) of a single-family residence by any individual who owned and used such residence for no other purpose than as his principal residence.'

(10) APPLICATION OF NONPROFIT SET-ASIDE- Section 42(h)(5) is amended--

(A) by inserting `own an interest in the project (directly or through a partnership) and' after `nonprofit organization is to' in subparagraph (B),

(B) by striking `and' at the end of clause (i) of subparagraph (C), by redesignating clause (ii) of such subparagraph as clause (iii), and by inserting after clause (i) of such subparagraph the following new clause:

`(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and',

(C) by inserting `ownership and' before `material participation' in subparagraph (D).

(11) EFFECTIVE DATES-

(A) IN GENERAL- Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to--

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1990, or

(ii) buildings placed in service after December 31, 1990, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof.

(B) TENANT RIGHTS, ETC- The amendments made by paragraphs (1), (6), and (9) shall take effect on the date of the enactment of this Act.

(C) MONITORING- With respect to the amendment made by

paragraph (2), subparagraph (A) of this paragraph shall apply by substituting `1991' for `1990' each place it appears.

(D) PASSIVE LOSS-

(i) Except as provided in clause (ii), the amendments made by paragraph (7) shall apply to property placed in service after December 31, 1990, in taxable years ending after such date.

(ii) In the case of a taxpayer who holds an indirect interest in property described in clause (i), the amendments made by paragraph (7) shall apply only if such interest is acquired after December 31, 1990.

SEC. 7108. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL- Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking `September 30, 1990' each place it appears and inserting `December 31, 1991'.

(b) MORTGAGE CREDIT CERTIFICATES- Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking `September 30, 1990' and inserting `December 31, 1991'.

(c) RECAPTURE PROVISION- Paragraph (3)(A) of section 4005(h) of the Technical and Miscellaneous Revenue Act of 1988 (relating to effective dates) is amended by striking `1990' and inserting `1991'.

(d) EFFECTIVE DATES-

(1) BONDS- The amendment made by subsection (a) shall apply to bonds issued after September 30, 1990.

(2) CERTIFICATES- The amendment made by subsection (b) shall apply to elections for periods after September 30, 1990.

SEC. 7109. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL- Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking `September 30, 1990' and inserting `December 31, 1991'.

(b) EFFECTIVE DATE- The amendment made by this section shall apply to bonds issued after September 30, 1990.

SEC. 7110. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL- Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking `September 30, 1990' and inserting `December 31, 1991'.

(b) CONFORMING AMENDMENT- Subsection (a) of section 7107 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7111. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) IN GENERAL- Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking `December 31, 1990' and inserting `December 31, 1991'.

(b) CONFORMING AMENDMENT- Section 28(b)(1) is amended by striking subparagraph (D).

Subtitle B--Tax Incentives

PART I--ENERGY INCENTIVES

SEC. 7201. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.

(a) CREDIT MADE PERMANENT- Section 29(f)(1) of the Internal Revenue Code of 1986 (relating to application of section) is amended--

(1) by striking `and before January 1, 1991,' in clauses (i) and (ii) of subparagraph (A), and

(2) by striking `, and before January 1, 2001' in subparagraph (B).

(b) Modification With Respect to Gas From Tight Formations-

(1) IN GENERAL- Subparagraph (B) of section 29(c)(2) of such Code is amended to read as follows:

`(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS- The term `gas produced from a tight formation' shall only include gas from a tight formation--

`(i) which, as of April 20, 1977, was committed or dedicated to interstate commerce (as defined in section 2(18) of the Natural Gas Policy Act of 1978, as in effect on the date of the enactment of this clause), or

`(ii) which is produced from a well drilled after such date of enactment.'

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply to gas produced after December 31, 1990.

SEC. 7202. CREDIT FOR SMALL PRODUCERS OF ETHANOL; MODIFICATION OF ALCOHOL FUELS CREDIT.

(a) ALLOWANCE OF CREDIT- Section 40(a) (relating to alcohol used as fuel) is amended--

(1) by striking the end period in paragraph (2) and inserting `, plus', and

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

`(3) in the case of an eligible small ethanol producer, the small ethanol producer credit.'

(b) SMALL ETHANOL PRODUCER CREDIT- Subsection (b) of section 40 is amended--

(1) by redesignating paragraph (4) as paragraph (5),

(2) by inserting after paragraph (3) the following new paragraph:

`(4) SMALL ETHANOL PRODUCER CREDIT-

`(A) IN GENERAL- The small ethanol producer credit of any eligible small ethanol producer for any taxable year is 10 cents for each gallon of qualified ethanol fuel production of such producer.

`(B) QUALIFIED ETHANOL FUEL PRODUCTION- For purposes of this paragraph, the term `qualified ethanol fuel production' means any alcohol which is ethanol which is produced by an eligible small ethanol producer, and which during the taxable year--

`(i) is sold by such producer to another person--

`(I) for use by such other person in the production of a qualified mixture in such other person's trade or business (other than casual off-farm production),

`(II) for use by such other person as a fuel in a trade or business, or

`(III) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person, or

`(ii) is used or sold by such producer for any purpose described in clause (i).

`(C) LIMITATION- The qualified ethanol fuel production of any producer for any taxable year shall not exceed 15,000,000 gallons.

`(D) ADDITIONAL DISTILLATION EXCLUDED- The qualified ethanol fuel production of any producer for any taxable year shall not include any alcohol which is purchased by the producer and with respect to which such person increases the proof of the alcohol by additional distillation.'; and

(3) by striking `AND ALCOHOL CREDIT' in the heading for such subsection and inserting `, ALCOHOL CREDIT, AND SMALL ETHANOL PRODUCER CREDIT'.

(c) DEFINITIONS AND SPECIAL RULES FOR ELIGIBLE SMALL ETHANOL PRODUCER CREDIT- Section 40 is amended by adding at the end thereof the following new subsection:

`(g) DEFINITIONS AND SPECIAL RULES FOR ELIGIBLE SMALL ETHANOL PRODUCER CREDIT- For purposes of this section--

`(1) ELIGIBLE SMALL ETHANOL PRODUCER- The term `eligible small ethanol producer' means a person who, at all times during the taxable year, has a productive capacity for alcohol (as defined in subsection (d)(1)(A) without regard to clauses (i) and (ii)) not in excess of 20,000,000 gallons.

`(2) AGGREGRATION RULE- For purposes of the 15,000,000 gallon limitation under subsection (b)(4)(C) and the 20,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating a 50 percent or greater interest as a controlling interest) shall be treated as 1 person.

`(3) PARTNERSHIP, S CORPORATIONS, AND OTHER PASS-THRU ENTITIES- In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(4)(C) shall be applied at the entity level and at the partner or similar level.

`(4) ALLOCATION- For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in the same manner as production is allocated.

`(5) REGULATIONS- The Secretary may prescribe such regulations as may be necessary--

`(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 20,000,000 gallons of alcohol during the taxable year, or

`(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year.'

(d) ALCOHOL NOT USED AS FUEL-

(1) IN GENERAL- Section 40(d)(3) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

`(C) PRODUCER CREDIT- If--

`(i) any credit was determined under this section, and

`(ii) any person does not use such fuel for a purpose described in subsection (b)(4)(B),

then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such alcohol.'

(2) CONFORMING AMENDMENT- Section 40(d)(3)(D), as redesignated by paragraph (1), is amended by striking `subparagraph (A) or (B)' and inserting `subparagraph (A), (B), or (C)'.

(e) REDUCED CREDIT FOR ETHANOL BLENDERS-

(1) IN GENERAL- Section 40, as amended by subsection (c), is amended by adding at the end thereof the following new subsection:

`(h) REDUCED CREDIT FOR ETHANOL BLENDERS- In the case of any alcohol mixture credit or alcohol credit with respect to any alcohol which is ethanol--

`(1) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting `55 cents' for `60 cents';

`(2) subsection (b)(3) shall be applied by substituting `40 cents' for `45 cents' and `55 cents' for `60 cents'; and

`(3) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting `55 cents' for `60 cents' and `40 cents' for `45 cents'.'

(2) CONFORMING AMENDMENT- Section 40(b) is amended by inserting `, and except as provided in subsection (h)' in the matter preceding paragraph (1) thereof.

(f) TERMINATION- Subsection (e) of section 40 is amended to read as follows:

`(e) TERMINATION-

`(1) IN GENERAL- This section shall not apply to any sale or use--

`(A) for any period after December 31, 2000, or

`(B) for any period before January 1, 2001, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect.

`(2) NO CARRYOVERS TO CERTAIN YEARS AFTER EXPIRATION- If this section ceases to apply for any period by reason of paragraph (1), no amount attributable to any sales or uses before the first day of such period may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after the second taxable year beginning after the taxable year in which such first day occurs.'

(g) CONFORMING AMENDMENTS TO TARIFF SCHEDULE-

(1) Heading 9901.00.50 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended--

(A) by striking `15.85›' each place it appears and inserting `14.53›', and

(B) by striking out the date in the effective period column and inserting `Before 10/1/2000, except that the rate for articles described in this heading shall not apply during any period before 10/1/2000 during which the Highway Trust Fund financing rate under section 4081(a)(2) of the Internal Revenue Code of 1986 is not in effect.'

(2) Heading 9901.00.52 of the Harmonized Tariff Schedule of the United States is amended by striking out `The earlier of 12/31/92, or the date on which Treasury regulation 1.40-1 is withdrawn or declared invalid.' in the effective period column and inserting: `Before the earlier of 10/1/2000, or the date on which Treas. Reg. 1.40-1 is withdrawn or declared invalid, except that the rate for articles described in this heading shall not apply during any period before 10/1/2000 during which the Highway Trust Fund financing rate under section 4081(a)(2) of the Internal Revenue Code of 1986 is not in effect.'

(h) EFFECTIVE DATES-

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to alcohol produced, and sold and used, in taxable years beginning after December 31, 1990.

(2) The amendments made by subsection (g) shall apply to articles entered or withdrawn from warehouse on or after January 1, 1991.

SEC. 7203. TAX CREDIT TO INCREASE DOMESTIC ENERGY EXPLORATION AND PRODUCTION.

(a) IN GENERAL- Subpart D of part IV of subchapter A of chapter 1 (relating to general business credits) is amended by adding at the end thereof the following new section:

`SEC. 43. DOMESTIC ENERGY EXPLORATION AND PRODUCTION CREDIT.

`(a) GENERAL RULE- There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to 15 percent of the sum of--

`(1) the qualified enhanced oil recovery costs, plus

`(2) the qualified exploratory costs,

of the taxpayer for such taxable year.

`(b) PHASE-OUT OF CREDIT AS CRUDE OIL PRICES INCREASE-

`(1) IN GENERAL- The amount of the credit allowable under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as--

`(A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds $28, bears to

`(B) $6.

`(2) REFERENCE PRICE- For purposes of this subsection, the term `reference price' means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).

`(3) INFLATION ADJUSTMENT-

`(A) IN GENERAL- The $28 amount under paragraph (1)(A) for any taxable year beginning in a calendar year after 1991 shall be equal to the product of--

`(i) $28, multiplied by

`(ii) the inflation adjustment factor for such calendar year.

`(B) INFLATION ADJUSTMENT FACTOR- The term `inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990. For purposes of the preceding sentence, the term `GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Secretary of Commerce. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

`(4) CARRYBACKS AND CARRYFORWARDS- This subsection shall not apply to any carryback or carryforward to the taxable year under section 39.

`(c) QUALIFIED COSTS- For purposes of this section--

`(1) QUALIFIED ENHANCED OIL RECOVERY COSTS-

`(A) IN GENERAL- The term `qualified enhanced oil recovery costs' means any of the following:

`(i) Any amount paid or incurred during the taxable year for tangible property--

`(I) which is an integral part of a qualified enhanced oil recovery project, and

`(II) with respect to which depreciation (or amortization in lieu of depreciation) is allowable under this chapter.

`(ii) Any intangible drilling and development costs--

`(I) which are paid or incurred in connection with a qualified enhanced oil recovery project, and

`(II) with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

`(iii) Any qualified tertiary injectant expenses which are paid or incurred in connection with a qualified enhanced oil recovery project and for which a deduction is allowable under section 193 for the taxable year.

`(B) QUALIFIED ENHANCED OIL RECOVERY PROJECT- For purposes of this paragraph--

`(i) IN GENERAL- The term `qualified enhanced oil recovery project' means any project--

`(I) 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,

`(II) which is located within the United States (within the meaning of section 638(1)), and

`(III) with respect to which the date on which the injection of liquids, gases, or other matter first begins is after December 31, 1990.

`(ii) CERTIFICATION- A project shall not be treated as a

qualified enhanced oil recovery project unless the operator submits to the Secretary (at such times and in such manner as the Secretary provides) a certification from a petroleum engineer that the project meets (and continues to meet) the requirements of clause (i).

`(C) AT-RISK LIMITATION- For purposes of determining qualified enhanced oil recovery costs, rules similar to the rules of section 46(c)(8), section 46(c)(9), and section 47(d)(1) shall apply.

`(2) QUALIFIED EXPLORATORY COSTS-

`(A) IN GENERAL- The term `qualified exploratory costs' means intangible drilling and development costs of a taxpayer other than an integrated oil company which--

`(i) the taxpayer may elect to deduct as expenses under section 263(c), and

`(ii) are paid or incurred in connection with the drilling of an exploratory well located in the United States (within the meaning of section 638(1)).

`(B) EXPLORATORY WELL- The term `exploratory well' means any of the following oil or gas wells:

`(i) An oil or gas well which is completed (or if not completed, with respect to which drilling operations cease) before the completion of any other well which--

`(I) is located within 1.25 miles from the well, and

`(II) is capable of production in commercial quantities,

`(ii) An oil or gas well which is not described in clause (i) but which has a completion depth which is at least 800 feet below the deepest completion depth of any well within 1.25 miles which is capable of production in commercial quantities.

`(iii) An oil or gas well which is not described in clause (i) or (ii) but which is completed into a new reservoir.

A well shall not be treated as an exploratory well unless the operator submits to the Secretary (at such time and in such manner as the Secretary may provide) a certification from a petroleum engineer that the well is described in one of the preceding clauses.

`(C) CERTAIN COSTS NOT INCLUDED- The term `qualified exploratory costs' shall not include any cost paid or incurred--

`(i) in constructing, acquiring, transporting, erecting, or installing an offshore platform, or

`(ii) after the installation of the production string of casing begins.

`(D) INTEGRATED OIL COMPANY- For purposes of this paragraph, the term `integrated oil company' means, with respect to any taxable year, any producer of crude oil to whom subsection (c) of section 613A does not apply by reason of paragraph (2) or (4) of section 613A(d).

`(e) OTHER RULES-

`(1) DISALLOWANCE OF DEDUCTION- Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit allowed under subsection (a) shall be reduced by the amount of such credit attributable to such costs.

`(2) BASIS ADJUSTMENTS- For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.'

(b) ADDITION TO GENERAL BUSINESS CREDIT-

(1) IN GENERAL- Section 38(b) (defining current year business credit) is amended by striking `plus' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting `, plus', and by adding at the end thereof the following new paragraph:

`(6) the domestic energy exploration and production credit under section 43(a).'

(2) CARRYBACKS- Section 39(d) is amended by adding at the end thereof the following new paragraph:

`(5) NO CARRYBACK OF ENERGY EXPLORATION AND PRODUCTION CREDIT BEFORE 1991- No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 43 (relating to domestic energy exploration and production credit) may be carried to a taxable year beginning before January 1, 1991.'

(c) CONFORMING AMENDMENT- The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

`Sec. 43. Domestic energy exploration and production credit.'

(d) EFFECTIVE DATES-

(1) IN GENERAL- The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1990.

(2) SPECIAL RULE FOR SIGNIFICANT EXPANSION OF PROJECTS- For purposes of section 43(c)(1)(B)(i)(III) of the Internal Revenue Code of 1986 (as added by subsection (a)), any significant expansion after December 31, 1990, of a project begun before January 1, 1991, shall be treated as a new project begun after December 31, 1990.

SEC. 7204. PERCENTAGE DEPLETION PERMITTED AFTER TRANSFER OF PROVEN PROPERTY.

(a) IN GENERAL- Subsection (c) of section 613A (relating to limitations on percentage depletion in the case of oil and gas wells) is amended by striking paragraphs (9) and (10) and by redesignating paragraphs (11), (12), and (13) as paragraphs (9), (10), and (11), respectively.

(b) TECHNICAL AMENDMENT- Paragraph (11) of section 613A(c), as redesignated by subsection (a), is amended by striking subparagraphs (C) and (D).

(c) EFFECTIVE DATE- The amendments made by this section shall apply to transfers after October 11, 1990.

SEC. 7205. NET INCOME LIMITATION ON PERCENTAGE DEPLETION INCREASED FROM 50 PERCENT TO 100 PERCENT OF PROPERTY NET INCOME FOR OIL AND NATURAL GAS WELLS.

(a) IN GENERAL- The second sentence of subsection (a) of section 613 (relating to percentage depletion) is amended by inserting `(100 percent in the case of oil and gas properties)' after `50 percent'.

(b) CONFORMING AMENDMENTS-

(1) Subparagraph (C) of section 613A(c)(7) is amended by striking `50-percent' and inserting `taxable income'.

(2) Section 614(d) is amended by striking `50 percent' and inserting `taxable income'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7206. INCREASE IN PERCENTAGE DEPLETION ALLOWANCE FOR MARGINAL PRODUCTION.

(a) IN GENERAL- Paragraph (6) of section 613A(c) is amended to read as follows:

`(6) OIL AND NATURAL GAS RESULTING FROM MARGINAL PRODUCTION-

`(A) IN GENERAL- Except as provided in subsection (d) and subparagraph (B), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to--

`(i) so much of the taxpayer's average daily marginal production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined without regard to paragraph (3)(A)(ii)), and

`(ii) so much of the taxpayer's average daily marginal production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii)),

and the applicable percentage shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

`(B) ELECTION TO HAVE PARAGRAPH APPLY TO PRO RATA PORTION OF MARGINAL PRODUCTION- If the taxpayer elects to have this subparagraph apply for any taxable year, the rules of subparagraph (A) shall apply to the average daily marginal production of domestic crude oil or domestic natural gas of the taxpayer to which paragraph (1) would have applied without regard to this paragraph.

`(C) APPLICABLE PERCENTAGE- For purposes of subparagraph (A), the term `applicable percentage' means the percentage (not greater than 25 percent) equal to the sum of--

`(i) 15 percent, plus

`(ii) 1 percentage point for each whole dollar by which $20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins.

For purposes of this paragraph, the term `reference price' means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).

`(D) MARGINAL PRODUCTION- The term `marginal production' means domestic crude oil or domestic natural gas which is--

`(i) produced during any taxable year from a well which is a stripper well for the calendar year in which the taxable year begins, or

`(ii) heavy oil.

`(E) STRIPPER WELL- For purposes of this paragraph, the term `stripper well' means, with respect to any calendar year, any well with respect to which the average daily production of domestic

crude oil or domestic natural gas during such calendar year is 15 barrel equivalents or less.

`(F) HEAVY OIL- For purposes of this paragraph, the term `heavy oil' means domestic crude oil produced from any property if such crude oil had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

`(G) AVERAGE DAILY MARGINAL PRODUCTION- For purposes of this subsection--

`(i) the taxpayer's average daily marginal production of domestic crude oil or natural gas for any taxable year shall be determined by dividing the taxpayer's aggregate marginal production of domestic crude oil or natural gas, as the case may be, during the taxable year by the number of days in such taxable year, and

`(ii) in the case of a taxpayer holding a partial interest in the production from any property (including any interest held in any partnership), such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.

`(H) ALLOCATION OF INCOME AND DEDUCTIONS- For purposes of applying any limitation based on taxable income from a property--

`(i) such limitation shall be applied separately with respect to marginal production and other production, and

`(ii) items of income deductions (and other appropriate items) shall be allocated to such production in proportion to gross income during the taxable year from such production.'

(b) CONFORMING AMENDMENTS- Section 613A(c)(3)(A) is amended--

(1) by striking clause (ii) and inserting:

`(ii) except in the case of a taxpayer making an election under paragraph (6)(B), the taxpayer's average daily marginal production for the taxable year.', and

(2) by striking the last sentence.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7207. SPECIAL ENERGY DEDUCTION FOR MINIMUM TAX.

(a) IN GENERAL- Section 56 (relating to adjustments in computing alternative minimum taxable income) is amended by adding at the end thereof the following new subsection:

`(h) ADJUSTMENT BASED ON ENERGY PREFERENCES-

`(1) IN GENERAL- In computing the alternative minimum taxable income of any taxpayer other than an integrated oil company for any taxable year beginning after 1990, there shall be allowed as a deduction an amount equal to the lesser of--

`(A) the alternative tax energy preference deduction, or

`(B) 40 percent of alternative minimum taxable income determined without regard to the deduction allowable under this subsection and the alternative tax net operating loss deduction under subsection (a)(4).

`(2) PHASE-OUT OF DEDUCTION AS OIL PRICES INCREASE- The amount

of the deduction under paragraph (1) (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such amount as--

`(A) the excess of the reference price of crude oil for the calendar year preceding the calendar year in which the taxable year begins over $28, bears to

`(B) $6.

For purposes of this paragraph, the reference price for any calendar year shall be determined under section 29(d)(3)(C) and the $28 amount under subparagraph (A) shall be adjusted at the same time and in the same manner as under section 43(b)(3).

`(3) ALTERNATIVE TAX ENERGY PREFERENCE DEDUCTION- For purposes of paragraph (1), the term `alternative tax energy preference deduction' means an amount equal to the sum of--

`(A) in the case of the intangible drilling cost preference, an amount equal to the sum of--

`(i) 75 percent of the portion of such preference attributable to qualified exploratory costs, plus

`(ii) 15 percent of the excess (if any) of--

`(I) such preference, over

`(II) the portion of such preference attributable to qualified exploratory costs, plus

`(B) 50 percent of the marginal production depletion preference.

`(4) INTANGIBLE DRILLING COST PREFERENCE- For purposes of this subsection--

`(A) IN GENERAL- The term `intangible drilling cost preference' means the amount by which alternative minimum taxable income would be reduced if it were computed without regard to section 57(a)(2) and subsection (g)(4)(D)(i).

`(B) PORTION ATTRIBUTABLE TO QUALIFIED EXPLORATORY COSTS- For purposes of subparagraph (A), the portion of the intangible drilling cost preference attributable to qualified exploratory costs is an amount which bears the same ratio to the intangible drilling cost preference as--

`(i) the qualified exploratory costs of the taxpayer for the taxable year, bear to

`(ii) the total intangible drilling and development costs with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

`(5) MARGINAL PRODUCTION DEPLETION PREFERENCE- For purposes of this subsection, the term `marginal production depletion preference' means the amount by which alternative minimum taxable income would be reduced if it were computed as if section 57(a)(1) and subsection (g)(4)(G) did not apply to any allowance for depletion determined under section 613A(c)(6).

`(6) DEFINITIONS- For purposes of this subsection, any term used in this subsection which is also used in section 43 shall have the same meaning as when used in such section.

`(7) REGULATIONS- The Secretary may by regulation provide for appropriate adjustments in computing taxable income, alternative minimum taxable income, or adjusted current earnings for any taxable

year following a taxable year for which a deduction was allowed under this subsection to ensure that no double benefit is allowed by reason of such deduction.'

(b) CONFORMING AMENDMENTS-

(1) Section 56(d)(1)(A) is amended to read as follows:

`(A) the amount of such deduction shall not exceed the excess (if any) of--

`(i) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under subsection (h), over

`(ii) the deduction under subsection (h), and'.

(2) Section 59(a)(2)(A)(ii) is amended by inserting `and the alternative tax energy preference deduction under section 56(h)' after `deduction'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7208. REDUCE POLLUTION AND DEPENDENCE ON FOREIGN OIL

(a) FINDINGS- The Congress finds and declares that--

(1) in order to have a comprehensive program to reduce pollution and reduce our dependence on foreign oil, it is important to coordinate programs relating to the production of automobiles and the production of fuels;

(2) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(3) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(4) transportation uses account for more than 60 percent of the oil consumption of the Nation; and

(5) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum based fuels.

SEC. 7208A. RESOLUTION.

It is the sense of the Senate that it is in the national interest to enhance energy security and promote environmental protection through the gradual replacement of gasoline with cleaner, domestic nonpetroleum energy sources, and

The Secretary of Energy should analyze the potential of, and report to Congress on, the technical feasibility of replacing, by 1998 and 2005, ten per cent and thirty per cent respectively, of our national transportation fuel with alternative and other domestic sources of energy.

PART II--SMALL BUSINESS INCENTIVES

Subpart A--Treatment of Estate Tax Freezes

SEC. 7209. REPEAL OF SECTION 2036(c).

(a) IN GENERAL- Section 2036 (relating to transfers with retained life estate) is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS-

(1) Section 2207B is amended--

(A) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively,

(B) by striking `subsections (a) and (b)' in subsection (c) (as so redesignated) and inserting `subsection (a)', and

(C) by striking `subsections (a), (b), and (c)' in subsection (c) (as so redesignated) and inserting `subsections (a) and (b)'.

(2) Section 2501(d) is amended by striking paragraph (3).

(c) EFFECTIVE DATE- The amendments made by this section shall apply in the case of property transferred after December 17, 1987.

SEC. 7210. SPECIAL VALUATION RULES.

(a) IN GENERAL- Subtitle B is amended by adding at the end thereof the following new chapter:

`Chapter 14--Special Valuation Rules

`SEC. 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN INTERESTS IN CORPORATIONS OR PARTNERSHIPS.

`(a) VALUATION RULES-

`(1) IN GENERAL- Solely for purposes of determining whether a transfer of an interest in a corporation or partnership to (or for the benefit of) a member of the transferor's family is a gift (and the value of such transfer), the value of any right which is--

`(A) described in subparagraph (A) or (B) of subsection (c)(1), and

`(B) under any applicable retained interest that is retained by the transferor or an applicable family member immediately after the transfer,

shall be treated as being zero.

`(2) EXCEPTIONS FOR MARKETABLE INTERESTS, ETC-

`(A) IN GENERAL- Paragraph (1) shall not apply to any right conferred by an applicable retained interest if--

`(i) market quotations are readily available (as of the date of the transfer) for such interest on an established securities market,

`(ii) such interest is of the same class as the transferred interest,

`(iii) such interest would be of the same class as the transferred interest but for nonlapsing differences in voting power (or, in the case of an interest in a partnership, nonlapsing differences with respect to management and limitations on liability), or

`(iv) such interest is proportionally the same as the transferred interest with respect to all rights other than voting power.

Clause (iii) shall not apply to any interest in a partnership if the transferor or an applicable family member has the right to alter the liability of the transferee of the transferred property. Except as provided by the Secretary, any difference described in clause (iii) which lapses by reason of State law shall be treated as a nonlapsing difference for purposes of such clause.

`(B) CUMULATIVE DISTRIBUTION RIGHTS- Paragraph (1) shall not apply to a distribution right with respect to which the distributions are cumulative and which has a preference upon liquidation, except that for purposes of determining the value of the retained interest to which such right relates, the determination as to whether the cumulative distributions can reasonably be expected to be timely paid shall be made without regard to whether the person retaining the interest possesses control over the entity.

`(3) MINIMUM VALUATION OF JUNIOR EQUITY-

`(A) IN GENERAL- In the case of a transfer described in paragraph (1) of a junior equity interest in a corporation or partnership, such interest shall in no event be valued at an amount less than the value which would be determined if the total value of all of the junior equity interests in the entity were equal to 10 percent of the sum of--

`(i) the total value of all of the equity interests in such entity, plus

`(ii) the total amount of indebtedness of such entity to the transferor (or an applicable family member).

`(B) DEFINITIONS- For purposes of this paragraph--

`(i) JUNIOR EQUITY INTEREST- The term `junior equity interest' means common stock or, in the case of a partnership, any partnership interest under which the rights as to income and capital are junior to the rights retained by the transferor.

`(ii) EQUITY INTEREST- The term `equity interest' means stock or any interest as a partner, as the case may be.

`(4) EXCEPTION FOR MARKETABLE TRANSFERRED INTERESTS- This subsection shall not apply to the transfer of any interest in an entity if market quotations are readily available (as of the date of the transfer) for such interest on an established securities market.

`(b) TRANSFER TAX TREATMENT OF CUMULATIVE BUT UNPAID DISTRIBUTIONS-

`(1) IN GENERAL- If a taxable event occurs with respect to any distribution right to which subsection (a)(1) does not apply by reason of subsection (a)(2)(B), the following shall be increased by the amount determined under paragraph (2):

`(A) The taxable estate of the transferor in the case of a taxable event described in paragraph (3)(A)(i).

`(B) The taxable gifts of the transferor for the calendar year in which the taxable event occurs in the case of a taxable event

described in paragraph (3)(A) (ii) or (iii).

`(2) AMOUNT OF INCREASE-

`(A) IN GENERAL- The amount of the increase determined under this paragraph shall be the excess (if any) of--

`(i) the value of the distributions payable during the period beginning on the date of the transfer under subsection (a)(1) and ending on the date of the taxable event determined as if--

`(I) all such distributions were paid on the date payment was due, and

`(II) all such distributions were reinvested by the transferor as of the date of payment at a yield equal to the discount rate used in determining the value of the applicable retained interest described in subsection (a)(1), over

`(ii) the value of the distributions paid during such period computed under clause (i) on the basis of the time when such distributions were actually paid.

`(B) Limitation on amount of increase-

`(i) IN GENERAL- The amount of the increase under subparagraph (A) shall not exceed the applicable percentage of the excess (if any) of--

`(I) the value of the junior equity interests in the entity (determined as of the date of the taxable event), over

`(II) the value of such interests (determined as of the date of the transfer to which subsection (a)(1) applies).

`(ii) APPLICABLE PERCENTAGE- For purposes of clause (i), the applicable percentage is the percentage determined by dividing--

`(I) the fair market value of the interests in the entity (other than junior equity interests) held by the transferor (determined as of the date of the taxable event), by

`(II) the fair market value of all interests in the entity other than junior equity interests (determined as of such time).

`(iii) DEFINITIONS- For purposes of this subparagraph, the terms `junior equity interest' and `equity interest' have the meanings given such terms by subsection (a)(3)(B).

`(C) GRACE PERIOD- For purposes of subparagraph (A), any payment of any distribution during the 4-year period beginning on its due date shall be treated as having been made on such due date.

`(3) TAXABLE EVENTS- For purposes of this subsection--

`(A) IN GENERAL- The term `taxable event' means any of the following:

`(i) The death of the transferor if the applicable retained interest conferring the distribution right is includible in the estate of the transferor.

`(ii) The transfer of such applicable retained interest.

`(iii) At the election of the taxpayer, the payment of any distribution after the period described in paragraph (2)(C), but only with respect to the period ending on the date of such

payment.

`(B) EXCEPTION WHERE SPOUSE IS TRANSFEREE-

`(i) DEATHTIME TRANSFERS- Subparagraph (A)(i) shall not apply to any interest includible in the gross estate of the transferor if a deduction with respect to such interest is allowable under section 2056 or 2106(a)(3).

`(ii) LIFETIME TRANSFERS- A transfer to the spouse of the transferor shall not be treated as a taxable event under subparagraph (A)(ii) if such transfer does not result in a taxable gift by reason of--

`(I) any deduction allowed under section 2523, or

`(II) consideration for the transfer provided by the spouse.

`(iii) SPOUSE SUCCEEDS TO TREATMENT OF TRANSFEROR- If an event is not treated as a taxable event by reason of this subparagraph, the transferee spouse or surviving spouse (as the case may be) shall be treated in the same manner as the transferor in applying this subsection with respect to the interest involved.

`(4) SPECIAL RULES FOR APPLICABLE FAMILY MEMBERS-

`(A) FAMILY MEMBER TREATED IN SAME MANNER AS TRANSFEROR- For purposes of this subsection, an applicable family member shall be treated in the same manner as the transferor with respect to any distribution right retained by such family member to which subsection (a)(1) does not apply by reason of subsection (a)(2)(B).

`(B) TRANSFER TO APPLICABLE FAMILY MEMBER- In the case of a taxable event described in paragraph (3)(A)(ii) involving the transfer of an applicable retained interest to an applicable family member, the applicable family member (other than the spouse of the transferor) shall be treated in the same manner as the transferor in applying this subsection to distributions accumulating with respect to such interest after such taxable event.

`(5) TRANSFER TO INCLUDE TERMINATION- For purposes of this subsection, any termination of an interest shall be treated as a transfer.

`(c) APPLICABLE RETAINED INTERESTS- For purposes of this section--

`(1) IN GENERAL- The term `applicable retained interest' means any interest in an entity which confers--

`(A) a distribution right, but only if, immediately after the transfer described in subsection (a)(1), the transferor and applicable family members hold (after application of subsection (e)(3)) interests in such entity representing control of the entity, or

`(B) a liquidation, put, call, or conversion right.

`(2) CONTROL- For purposes of paragraph (1)--

`(A) CORPORATIONS- In the case of a corporation, the term `control' means the holding of interests representing at least 50 percent (by vote or value) of the stock of the corporation.

`(B) PARTNERSHIPS- In the case of a partnership, the term `control' means--

`(i) the holding of interests representing at least 50 percent of the capital or profits interests in the partnership, or

`(ii) in the case of a limited partnership, the holding of any

interest as a general partner.

`(d) DISTRIBUTION AND OTHER RIGHTS- For purposes of this section--

`(1) DISTRIBUTION RIGHT-

`(A) IN GENERAL- The term `distribution right' means--

`(i) in the case of a corporation, a right to distributions from the corporation with respect to its stock, and

`(ii) in the case of a partnership, a right to distributions from the partnership with respect to the partner's interest in the partnership.

`(B) EXCEPTIONS- The term `distribution right' does not include--

`(i) any junior equity interest (as defined in subsection (a)(3)(B)(i)),

`(ii) any liquidation, put, call, or conversion right, or

`(iii) any guaranteed payment described in section 707(c).

`(2) LIQUIDATION, ETC. RIGHTS-

`(A) IN GENERAL- The term `liquidation, put, call, or conversion right' means any liquidation, put, call, or conversion right, or any similar right, the exercise or nonexercise of which affects the value of the transferred interest.

`(B) EXCEPTION FOR FIXED RIGHTS- The term `liquidation, put, call, or conversion right' does not include any liquidation, put, call, or conversion right, or any similar right, which must be exercised at a specific time and at a specific amount.

`(C) TREATMENT OF CERTAIN RIGHTS TO CONVERT PREFERRED INTO COMMON- The term `liquidation, put, call, or conversion right' does not include any right which--

`(i) is a right to convert into a fixed number (or a fixed percentage) of the same class of interest in a corporation as the transferred interest in such corporation under subsection (a)(1) (or would be of the same class but for nonlapsing differences in voting power),

`(ii) is nonlapsing,

`(iii) is subject to proportionate adjustments for splits, combinations, reclassifications, and similar changes in the capital stock, and

`(iv) is subject to adjustments similar to the adjustments under subsection (b) for accumulated but unpaid distributions.

A rule similar to the rule of the preceding sentence shall apply in the case of partnerships.

`(e) OTHER DEFINITIONS AND RULES- For purposes of this section--

`(1) MEMBER OF THE FAMILY- The term `member of the family' means, with respect to any transferor--

`(A) the transferor's spouse,

`(B) a lineal descendant of the transferor or the transferor's spouse, and

`(C) the spouse of any such descendant.

`(2) APPLICABLE FAMILY MEMBER- The term `applicable family member' means, with respect to any transferor--

`(A) the transferor's spouse,

`(B) an ancestor of the transferor or the transferor's spouse, and

`(C) the spouse of any such ancestor.

`(3) ATTRIBUTION RULES-

`(A) INDIRECT HOLDINGS- An individual shall be treated as holding any interest to the extent such interest is held indirectly by such person through a corporation, partnership, trust, or other entity. If any individual is treated as holding any interest by reason of the preceding sentence, any transfer which results in such interest being treated as no longer held by such individual shall be treated as a transfer of such interest.

`(B) CONTROL- For purposes of subsection (c)(1), an individual shall be treated as holding any interest held by a brother or a sister of such individual or by any lineal descendant of such individual.

`(4) EFFECT OF ADOPTION- A relationship by legal adoption shall be treated as a relationship by blood.

`(5) CERTAIN CHANGES TREATED AS TRANSFERS- Except as provided in regulations, a redemption, recapitalization, contribution to capital, or other change in the capital structure of a corporation or partnership shall be treated as a transfer of an interest in such entity to which this section applies if the taxpayer or an applicable family member--

`(A) receives an applicable retained interest in such entity pursuant to such redemption, recapitalization, contribution to capital, or other change, or

`(B) under regulations, otherwise holds, immediately after the transfer, an applicable retained interest in such entity.

`(6) ADJUSTMENTS- Under regulations prescribed by the Secretary, if there is any subsequent transfer, or inclusion in the gross estate, of any interest which was valued under the rules of subsection (a), appropriate adjustments shall be made for purposes of chapter 11 or 12 to reflect the amount of any prior taxable gift made by the transferor or decedent by reason of such valuation.

`SEC. 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS IN TRUSTS.

`(a) VALUATION RULES-

`(1) IN GENERAL- Solely for purposes of determining whether a transfer of an interest in a trust to a member of the transferor's family is a gift (and the value of such transfer), the value of any interest in such trust retained by the transferor or any applicable family member (as defined in section 2701(e)(2)) shall be determined as provided in paragraph (2).

`(2) VALUATION OF RETAINED INTERESTS-

`(A) IN GENERAL- The value of any retained interest which is not a qualified interest shall be treated as being zero.

`(B) VALUATION OF QUALIFIED INTEREST- The value of any retained interest which is a qualified interest shall be determined under section 7520.

`(3) EXCEPTIONS-

`(A) IN GENERAL- This subsection shall not apply to any transfer--

`(i) to the extent such transfer is an incomplete transfer, or

`(ii) if such transfer involves the transfer of an interest in a trust all the property in which consists of a personal residence to be used by persons holding term interests in such trust.

`(B) INCOMPLETE TRANSFER- For purposes of subparagraph (A), the term `incomplete transfer' means any transfer which would not be treated as a gift whether or not consideration were received for such transfer.

`(b) QUALIFIED INTEREST- For purposes of this section, the term `qualified interest' means--

`(1) any interest which consists of the right to receive fixed amounts payable not less frequently than annually,

`(2) any interest which consists of the right to receive amounts which are payable not less frequently than annually and are a fixed percentage of the fair market value of the property in the trust (determined annually), and

`(3) any noncontingent remainder interest if all of the other interests in the trust consist of interests described in paragraph (1) or (2).

`(c) CERTAIN PROPERTY TREATED AS HELD IN TRUST- For purposes of this section--

`(1) IN GENERAL- The transfer of an interest in property with respect to which there is 1 or more term interests shall be treated as a transfer of an interest in a trust.

`(2) JOINT PURCHASES- If 2 or more members of the same family acquire interests in any property described in paragraph (1) in the same transaction (or a series of related transactions), the person (or persons) acquiring the term interests in such property shall be treated as having acquired the entire property and then transferred to the other persons the interests acquired by such other persons in the transaction (or series of transactions). Such transfer shall be treated as made in exchange for the consideration (if any) provided by such other persons for the acquisition of their interests in such property.

`(3) TERM INTEREST- The term `term interest' means--

`(A) a life interest in property, or

`(B) an interest in property for a term of years.

`(4) VALUATION RULE FOR CERTAIN TERM INTERESTS- If the nonexercise of rights under a term interest in tangible property would not have a substantial effect on the valuation of the remainder interest in such property--

`(A) subparagraph (A) of subsection (a)(2) shall not apply to such term interest, and

`(B) the value of such term interest for purposes of applying subsection (a)(1) shall be the amount which the holder of the term interest establishes as the amount for which such interest could be sold to an unrelated third party.

`(d) TREATMENT OF TRANSFERS OF INTERESTS IN PORTION OF TRUST- In the case of a transfer of an income or remainder interest with respect to a specified portion of the property in a trust, only such portion shall be taken into account in applying this section to such transfer.

`SEC. 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED.

`(a) GENERAL RULE- For purposes of this subtitle, the value of any property shall be determined without regard to--

`(1) any option, agreement, or other right to acquire or use the property at a price less than the fair market value of the property (without regard to such option, agreement, or right), or

`(2) any restriction on the right to sell or use such property.

`(b) EXCEPTIONS- Subsection (a) shall not apply to any option, agreement, right, or restriction which meets each of the following requirements:

`(1) It is a bona fide business arrangement.

`(2) It is not a device to transfer such property to members of the decedent's family for less than full and adequate consideration for money or money's worth.

`(3) Its terms are comparable to similar arrangements entered into by persons in an arms' length transaction.

`SEC. 2704. TREATMENT OF CERTAIN RESTRICTIONS AND LAPSING RIGHTS.

`For purposes of this subtitle, the value of any property shall be determined--

`(1) without regard to any restriction other than a restriction which by its terms will never lapse, and

`(2) in the case of property includible in the gross estate of any decedent other than under section 2039, by assuming that any right which was held by such decedent with respect to such property and which effectively lapsed on the death of such decedent continues and can be exercised by the estate of such decedent.'

(b) EXTENSION OF STATUTE OF LIMITATIONS- Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

`(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN- If any gift of property the value of which is determined under section 2701 or 2702 (or any increase in taxable gifts required under section 2701(b)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.'

(c) CONFORMING AMENDMENT- The table of chapters for subtitle B is amended by adding at the end thereof the following item:

`Chapter 14. Special valuation rules.'

(d) STUDIES- The Secretary of the Treasury shall conduct a study of--

(1) the prevalence and type of options and agreements used to distort the valuation of property for purposes of subtitle B of the Internal Revenue Code of 1986, and

(2) other methods using discretionary rights to distort the value of property for such purposes.

The Secretary shall, not later than December 31, 1992, report the results of such study, together with such legislative recommendations as the Secretary

considers necessary, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(e) EFFECTIVE DATES-

(1) SUBSECTION (a)-

(A) IN GENERAL- The amendments made by subsection (a)--

(i) to the extent such amendments relate to sections 2701 and 2702 of the Internal Revenue Code of 1986 (as added by such amendments), shall apply to transfers after October 8, 1990,

(ii) to the extent such amendments relate to section 2703 of such Code (as so added), shall apply to--

(I) agreements, options, rights, or restrictions entered into or granted after October 8, 1990, and

(II) agreements, options, rights, or restrictions which are substantially modified after October 8, 1990, and

(iii) to the extent such amendments relate to section 2704 of such Code (as so added), shall apply to restrictions or rights (or limitations on rights) created after October 8, 1990.

(B) EXCEPTION- For purposes of subparagraph (A)(i), with respect to property transferred before October 9, 1990--

(i) any failure to exercise a right of conversion,

(ii) any failure to pay dividends, and

(iii) any failure to exercise other rights specified in regulations,

shall not be treated as a subsequent transfer.

(2) SUBSECTION (b)- The amendment made by subsection (b) shall apply to gifts after October 8, 1990.

Subpart B--Additional Incentives

SEC. 7211. INCREASE IN LIMITATION ON EXPENSING UNDER SECTION 179.

(a) GENERAL RULE- Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking `$10,000' and inserting `$14,000'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 7212. CREDIT FOR COST OF PROVIDING NONDISCRIMINATORY PUBLIC ACCOMMODATIONS FOR DISABLED INDIVIDUALS.

(a) GENERAL RULE- Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credits, etc.) is amended by adding at the end thereof the following new section:

`SEC. 30. EXPENDITURES TO PROVIDE NONDISCRIMINATORY PUBLIC ACCOMMODATIONS TO DISABLED INDIVIDUALS.

`(a) GENERAL RULE- If an eligible small business elects to have this section apply to any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to 50 percent of so much of the eligible public accommodations access expenditures for the

taxable year as exceed $250 but do not exceed $10,250.

`(b) LIMITATION BASED ON TAX LIABILITY- The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of--

`(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and any section in this subpart having a lower number or letter designation than this section, over

`(2) the tentative minimum tax for the taxable year.

`(c) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT-

`(1) IN GENERAL- If the amount of the credit allowable under subsection (a) for any taxable year exceeds the limitation contained in subsection (b) (hereafter in this subsection referred to as the `unused credit year') such excess shall be--

`(A) a public accommodations credit carryback to each of the 3 taxable years preceding the unused credit year, and

`(B) a public accommodations credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the credit allowable under subsection (a) for such taxable year.

`(2) Amount carried to each year-

`(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR- The entire amount of an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of paragraph (1)) such credit may be carried.

`(B) AMOUNT CARRIED TO OTHER 17 YEARS- The amount of the unused credit shall be carried to each of the other 17 taxable years to the extent that such unused credit may not be taken into account under subsection (a) by reason of paragraph (3).

`(3) LIMITATION- The amount of the unused credit which may be added under paragraph (1) for any taxable year shall not exceed the amount by which the limitation under subsection (b) exceeds the sum of--

`(A) the credit allowable under subsection (a) for such taxable year, plus

`(B) the amounts which, by reason of this subsection, are added to the amount allowed for such taxable year and which are attributable to taxable years preceding the unused credit year.

`(4) TAXABLE YEARS BEFORE DATE OF ENACTMENT- No public accommodations credit may be carried back to a taxable year ending on or before the date of the enactment of this section.

`(d) ELIGIBLE SMALL BUSINESS- For purposes of this section, the term `eligible small business' means a person--

`(1) which has gross receipts for the preceding taxable year not exceeding $4,000,000, or

`(2) in the case of a person with such receipts exceeding $4,000,000, which employs not more than 30 full-time employees during such preceding taxable year.

For purposes of paragraph (2), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

`(e) ELIGIBLE PUBLIC ACCOMMODATIONS ACCESS EXPENDITURES- For purposes of this section--

`(1) IN GENERAL- The term `eligible public accommodations access expenditures' means amounts paid or incurred by the taxpayer--

`(A) for the purpose of removing architectural, communication, or transportation barriers which prevent a public accommodation operated by the taxpayer from being accessible to, or usable by, an individual with a disability, or

`(B) for providing auxiliary aids and services to an individual with a disability who is an employee of, or using, a public accommodation operated by the taxpayer.

`(2) EXPENSES IN CONNECTION WITH NEW CONSTRUCTION ARE NOT ELIGIBLE- The term `eligible public accommodations access expenditures' shall not include amounts described in paragraph (1)(A) which are paid or incurred in connection with any facility first placed in service after the date of the enactment of this section.

`(3) EXPENDITURES MUST MEET STANDARDS- The term `eligible public accommodations access expenditures' shall not include any amount unless the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any barrier (or the provision of any auxiliary aids and services) meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

`(f) OTHER DEFINITIONS AND SPECIAL RULES- For purposes of this section--

`(1) DISABILITY, ETC- The terms `disability', `public accommodation', and `auxiliary aids and services' have the same respective meanings as when used in the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

`(2) Controlled groups-

`(A) IN GENERAL- All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person for purposes of this section.

`(B) DOLLAR LIMITATION- The Secretary shall apportion the dollar limitation under subsection (a) among the members of any group described in subparagraph (A) in such manner as the Secretary shall by regulations prescribe.

`(3) PARTNERSHIPS AND S CORPORATIONS- In the case of a partnership, the limitation under subsection (a) shall apply with respect to the partnership and each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

`(4) SHORT YEARS- The Secretary shall prescribe such adjustments as may be appropriate for purposes of paragraphs (1) and (2) of subsection (d) if the preceding taxable year is a taxable year of less than 12 months.

`(5) GROSS RECEIPTS- Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

`(6) TREATMENT OF PREDECESSORS- The reference to any person in paragraphs (1) and (2) of subsection (d) shall be treated as including a reference to any predecessor.

`(7) DENIAL OF DOUBLE BENEFIT- In the case of any property with respect to which a credit amount is determined under this section--

`(A) any deduction or credit allowed under any other provision of this chapter shall be reduced by the amount of such credit, and

`(B) the adjusted basis of such property shall be reduced by the amount of such credit.

`(g) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.'

(b) CLERICAL AMENDMENT- The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof other following new item:

`Sec. 30. Expenditures to provide nondiscriminatory public accommodations to disabled individuals.'

(c) DEDUCTION REDUCED FOR ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES- Section 190(c) (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking `$35,000' and inserting `$15,000'.

(d) EFFECTIVE DATE-

(1) IN GENERAL- Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.

(2) SUBSECTION (c)- The amendment made by subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle C--Modifications of Earned Income Credit

SEC. 7301. MODIFICATIONS OF EARNED INCOME TAX CREDIT.

(a) IN GENERAL- So much of section 32 (relating to earned income credit) as precedes subsection (d) thereof is amended to read as follows:

`SEC. 32. EARNED INCOME.

`(a) ALLOWANCE OF CREDIT- 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 sum of--

`(1) the basic earned income credit, and

`(2) the health insurance credit.

`(b) COMPUTATION OF CREDIT- For purposes of this section--

`(1) Basic earned income credit-

`(A) IN GENERAL- The term `basic earned income credit' means an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $5,714.

`(B) LIMITATION- The amount of the basic earned income credit allowable to a taxpayer for any taxable year shall not exceed the excess (if any) of--

`(i) the credit percentage of $5,714, over

`(ii) 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 $9,000.

`(C) PERCENTAGES- For purposes of this paragraph--

`(i) IN GENERAL- Except as provided in clause (ii), the percentages shall be determined as follows:

`In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	20.5	14.6
2 or more qualifying children	22.5	16.1

`(ii) TRANSITION PERCENTAGES-

`(I) For taxable years beginning in 1991, the percentages are:

`In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	15.3	10.9
2 or more qualifying children	15.7	11.2

`(II) For taxable years beginning in 1992, the percentages are:

`In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	15.95	11.4
2 or more qualifying children	16.55	11.8

`(III) For taxable years beginning in 1993, the percentages are:

`In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17.25	12.3
2 or more qualifying children	18.25	13.0

`(2) Health insurance credit-

`(A) IN GENERAL- The term `health insurance credit' means an amount determined in the same manner as the basic earned income credit except that--

`(i) the credit percentage shall be equal to 5.5 percent, and

`(ii) the phaseout percentage shall be equal to 3.9 percent.

`(B) LIMITATION BASED ON HEALTH INSURANCE COSTS- The amount of health insurance credit determined under subparagraph (A) for any taxable year shall not exceed the amounts paid by the taxpayer during the taxable year for insurance coverage--

`(i) which constitutes medical care (within the meaning of section 213(d)(1)(C)), and

`(ii) which includes at least 1 qualifying child.

For purposes of this subparagraph, the rules of section 213(d)(6) shall apply.

`(C) SUBSIDIZED EXPENSES- A taxpayer may not take into account under subparagraph (B) any amount to the extent that--

`(i) such amount is paid, reimbursed, or subsidized by the Federal Government, a State or local government, or any agency or instrumentality thereof; and

`(ii) the payment, reimbursement, or subsidy of such amount is not includible in the gross income of the recipient.

`(D) ELECTION NOT TO TAKE CREDIT- A taxpayer may elect for any taxable year not to claim the health insurance credit.

`(E) TRANSITION RULES- In the case of taxable years beginning before 1994, the percentages under subparagraph (A) shall be determined as follows:

`In the case of taxable years beginning in:	The credit percentage is:	The phaseout percentage is:
1991	1.1	0.8
1992	2.475	1.8
1993	2.5	1.8

`(c) DEFINITIONS AND SPECIAL RULES- For purposes of this section--

`(1) Eligible individual-

`(A) IN GENERAL- The term `eligible individual' means any individual who has a qualifying child for the taxable year.

`(B) QUALIFYING CHILD INELIGIBLE- If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

`(C) 2 OR MORE ELIGIBLE INDIVIDUALS- If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

`(D) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911- The term `eligible individual' does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.

`(2) Earned income-

`(A) The term `earned income' means--

`(i) wages, salaries, tips, and other employee compensation, plus

`(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section

164(f).

`(B) For purposes of subparagraph (A)--

`(i) the earned income of an individual shall be computed without regard to any community property laws,

`(ii) no amount received as a pension or annuity shall be taken into account, and

`(iii) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

`(3) Qualifying child-

`(A) IN GENERAL- The term `qualifying child' means, with respect to any taxpayer for any taxable year, an individual--

`(i) who bears a relationship to the taxpayer described in subparagraph (B),

`(ii) except as provided in subparagraph (B)(iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

`(iii) who meets the age requirements of subparagraph (C), and

`(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

`(B) Relationship test-

`(i) IN GENERAL- An individual bears a relationship to the taxpayer described in this subparagraph if such individual is--

`(I) a son or daughter of the taxpayer, or a descendant of either,

`(II) a stepson or stepdaughter of the taxpayer, or

`(III) an eligible foster child of the taxpayer.

`(ii) MARRIED CHILDREN- Clause (i) shall not apply to any individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for paragraph (2) or (4) of section 152(e)).

`(iii) ELIGIBLE FOSTER CHILD- For purposes of clause (i)(III), the term `eligible foster child' means an individual not described in clause (i) (I) or (II) who--

`(I) the taxpayer cares for as the taxpayer's own child, and

`(II) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year.

`(iv) ADOPTION- For purposes of this subparagraph, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

`(C) AGE REQUIREMENTS- An individual meets the requirements of this subparagraph if such individual--

`(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins,

`(ii) is a student (as defined in section 151(c)(4)) who has not attained the age of 24 as of the close of such calendar year, or

`(iii) is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year.

`(D) IDENTIFICATION REQUIREMENTS-

`(i) IN GENERAL- The requirements of this subparagraph are met if--

`(I) the taxpayer includes the name and age of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year, and

`(II) in the case of an individual who has attained the age of 1 year before the close of the taxpayer's taxable year, the taxpayer includes the taxpayer identification number of such individual on such return of tax for such taxable year.

`(ii) INSURANCE POLICY NUMBER- In the case of any taxpayer with respect to which the health insurance credit is allowed under subsection (a)(2), the Secretary may require a taxpayer to include an insurance policy number or other adequate evidence of insurance in addition to any information required to be included in clause (i).

`(iii) OTHER METHODS- The Secretary may prescribe other methods for providing the information described in clause (i) or (ii).

`(E) ABODE MUST BE IN THE UNITED STATES- The requirements of subparagraphs (A)(ii) and (B)(iii)(II) shall be met only if the principal place of abode is in the United States.

`(4) COORDINATION WITH HOUSING PROGRAMS- For purposes of--

`(A) the United States Housing Act of 1937,

`(B) section 101 of the Housing and Urban Development Act of 1965, and

`(C) section 235 and 236 of the National Housing Act,

the term `income' does not include the amount of any individual's credit under this section.'

(b) ADVANCE PAYMENT OF CREDIT- Subparagraphs (B) and (C) of section 3507(c)(2) are amended to read as follows:

`(B) if the employee is not married, or if no earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 32 as if it were a credit--

`(i) of not more than the credit percentage under section 32(b)(1)(C) for an eligible individual with 1 qualifying child of earned income not in excess of the amount of earned income taken into account under section 32(a)(1), which

`(ii) phases out between the amount of earned income at which the phaseout begins under section 32(b)(1)(B)(ii) and the amount of income at which the credit under section 32(a)(1) phases out for an eligible individual with 1 qualifying child, or

`(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit as if it were a credit determined under subparagraph (B) by substituting 1/2 of the amounts of earned income described in such subparagraph for

such amounts.'

(c) COORDINATION WITH DEDUCTIONS-

(1) MEDICAL DEDUCTION- Section 213(e) is amended to read as follows:

`(e) EXCLUSION OF AMOUNTS FOR WHICH CREDIT ALLOWED- For purposes of this section, any expenses with respect to which a credit is allowed under section 21 or 32(a)(2) shall not be treated as an expense for medical care.'

(2) SELF-EMPLOYED INDIVIDUALS- Section 162(l), as amended by subtitle A, is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

`(6) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT- Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 21.'.

(d) CONFORMING AMENDMENTS- Section 32(i)(2) is amended--

(1) by striking `or (ii)' in subparagraph (A)(1) thereof, and

(2) by striking clause (ii) of subparagraph (B) thereof and redesignating clause (iii) of subparagraph (B) thereof as clause (ii).

(e) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7302. DEPENDENT CARE CREDIT MADE REFUNDABLE.

(a) IN GENERAL- Section 21 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

`(f) Credit Refundable to Low and Moderate Income Taxpayers-

`(1) IN GENERAL- Except as provided in section 6401(b)(3), for purposes of this title, in the case of an applicable taxpayer, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

`(2) APPLICABLE TAXPAYER- For purposes of this subsection, the term `applicable taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed $28,000.

`(3) COORDINATION WITH MINIMUM TAX- A rule similar to the rule of section 32(h) shall apply with respect to the portion of any credit to which this subsection applies.'

(b) LIMITATION ON REFUNDABLE PORTION- Section 6401(b) is amended by adding at the end thereof the following new paragraph:

`(3) SPECIAL RULE FOR SECTION 21(F)-

`(A) IN GENERAL- The amount of the overpayment determined under paragraph (1) shall be reduced by 10 percent of the portion of such overpayment attributable to the credit allowed under section 21 and treated as allowable under subpart C of part IV of subchapter A of chapter 1 by reason of section 21(f).

`(B) ORDERING RULE- For purposes of subparagraph (A), paragraph (1) shall be treated as having been applied as if the amount of tax described in such paragraph (if any) was first reduced by the portion of the credit described in paragraph (1).'

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7303. STUDY OF ADVANCE PAYMENTS.

(a) IN GENERAL- The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507 of the Internal Revenue Code of 1986 to determine--

(1) the effectiveness of the advance payment system (including an analysis of why so few employees take advantage of such system), and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business, and

(3) if there are any other problems in the administration of such system.

(b) REPORT- Not later than 1 year after the date of the enactment of this title, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 7304. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first day of the first calendar year following the date of the enactment of this subtitle, the Secretary of the Treasury, or the Secretary's delegate, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care allowed under section 21 of the Internal Revenue Code of 1986 and the earned income credit and child health insurance under section 32 of such Code. Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credit and filing procedures. The Secretary shall use public service and paid commercial advertising, direct-mail contact, and any other appropriate means of communication to carry out the provisions of this section.

SEC. 7305. EXCLUSION FROM INCOME AND RESOURCES OF EARNED INCOME TAX CREDIT UNDER TITLES IV, XVI, AND XIX OF THE SOCIAL SECURITY ACT.

(a) EXCLUSIONS UNDER TITLE IV- (1) Section 402(a)(7)(B) (42 U.S.C. 602(a)(7)(B)) is amended--

(1) by striking `or' before `(iii)'; and

(2) by inserting before the semicolon `,or (iv) for the month of receipt and the following month any refund of Federal income taxes made to such family by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit), and any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit)'.

(2) Section 402(a)(18) (42 U.S.C. 602(a)(18)) is amended by inserting `or 8(A)(viii)' after `other than paragraph 8(A)(v)'.

(b) EXCLUSIONS UNDER TITLE XVI- (1) Section 1612(b) (42 U.S.C. 1382a(b)), as amended by sections 6016 and 6017 of this Act, is further amended--

(A) by striking `and' at the end of paragraph (17);

(B) by striking the period at the end of paragraph (18) and inserting `;and'; and

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

`(19) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit).'.

(2) Section 1613(a) (42 U.S.C. 1382b(a)), as amended by section 6017 of this Act, is further amended--

(A) by striking `and' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting `;and'; and

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

`(10) for the month of receipt and the following month, any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit).'.

(c) EXCLUSIONS UNDER TITLE XIX- Pursuant to section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)), the Secretary of Health and Human Services shall promulgate regulations to exempt from any determination of income and resources (for the month of receipt and the following month) under title XIX of the Social Security Act any refund of Federal income taxes made to an individual by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to an individual by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

(d) AFDC WAIVER OF OVERPAYMENT- For the purposes of paragraph (18) of section 402(a) (42 U.S.C. 602(a)), a State agency designated under a State plan under such section 402(a) may waive any overpayment of aid that resulted from the receipt by a family of a refund of Federal income taxes by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) or any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit) during the period beginning on December 1, 1989, and ending on January 1, 1990.

(d) EFFECTIVE DATE- The amendments made by subsections (a) though (c) shall apply to determinations of income or resources made for any period after December 31, 1990.

SEC. 7306. COORDINATION WITH REFUND PROVISION.

For purposes of section 1324(b)(2) of title 31 of the United States Code, sections 21 and 32 of the Internal Revenue Code of 1986 (as amended by this Act) shall be considered to be credit provisions of the Internal Revenue Code of 1954 enacted before January 1, 1978.

Subtitle D--Revenue-Raising Provisions

PART I--EXCISE TAXES

Subpart A--Taxes Related to Health and the Environment

SEC. 7401. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS-

(1) IN GENERAL- Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking `$12.50' and inserting `$13.70'.

(2) TECHNICAL AMENDMENT- Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking `$12.50' and inserting `$13.70'.

(b) WINE-

(1) TAX INCREASES-

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL- Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking `17 cents' and inserting `$1.07'.

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL- Paragraph (2) of section 5041(b) is amended by striking `67 cents' and inserting `$1.57'.

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL- Paragraph (3) of section 5041(b) is amended by striking `$2.25' and inserting `$3.15'.

(D) ARTIFICIALLY CARBONATED WINES- Paragraph (5) of section 5041(b) is amended by striking `$2.40' and inserting `$3.30'.

(2) CREDIT FOR SMALL DOMESTIC PRODUCERS- Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

`(c) CREDIT FOR SMALL DOMESTIC PRODUCERS-

`(1) ALLOWANCE OF CREDIT- Except as provided in paragraph (2), in the case of a person who produces not more than 250,000 wine gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of 90 cents per wine gallon on the 1st 100,000 wine gallons of wine described in subsection (b) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States.

`(2) REDUCTION IN CREDIT- The credit allowable by paragraph (1) shall be reduced (but not below zero) by 1 percent for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons of wine during the calendar year.

`(3) TIME FOR DETERMINING AND ALLOWING CREDIT- The credit allowable by paragraph (1)--

`(A) shall be determined at the same time the tax is determined under subsection (a) of this section, and

`(B) shall be allowable at the time any tax described in paragraph (1) is payable as if the credit allowable by this subsection constituted a reduction in the rate of such tax.

`(4) CONTROLLED GROUPS- Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

`(5) DENIAL OF DEDUCTION- No deduction under chapter 1 shall be allowed with respect to any amount of tax reduced by a credit allowable under this subsection.

`(6) REGULATIONS- The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year.

`(7) ALLOWANCE OF CREDIT AGAINST INCOME TAX- For allowance of credit against the tax imposed by subtitle A, see section 30A.'

(3) CONFORMING AMENDMENTS-

(A) Subsection (a) of section 5041 is amended by striking `shown in subsection (b)' and inserting `applicable under subsection (b) after the application of subsection (c)'.

(B) Paragraph (3) of section 5061(b) is amended to read as follows:

`(3) section 5041(e),'.

(c) BEER-

(1) IN GENERAL- Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking `$9' and inserting `$18'.

(2) CREDIT FOR SMALL DOMESTIC BREWERIES- Paragraph (2) of section 5051(a) is amended to read as follows:

`(2) CREDIT FOR SMALL DOMESTIC BREWERIES-

`(A) ALLOWANCE OF CREDIT- In the case of a brewer who produces not more than 75,000 barrels of beer during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of $11 per barrel on the 1st 30,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

`(B) REDUCTION IN CREDIT- The credit allowable by subparagraph (A) shall be reduced (but not below zero) by $11 for each barrel of beer brewed or produced in excess of 45,000 barrels of beer during the calendar year.

`(C) TIME FOR DETERMINING AND ALLOWING CREDIT- The credit allowable by subparagraph (A)--

`(i) shall be determined at the same time the tax is determined under paragraph (1) of this subsection, and

`(ii) shall be allowable at the time any tax described in subparagraph (A) of this paragraph is payable as if the credit allowable by this paragraph constituted a reduction in the rate of such tax.

`(D) CONTROLLED GROUPS- In the case of a controlled group, the 75,000 and 45,000 barrel quantities specified in subparagraphs (A) and (B) shall be applied to the controlled group, and the 30,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term `controlled group' has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase `more than 50 percent' shall be substituted for the phrase `at least 80 percent' in each place it appears in such subsection. Under regulations prescribed by the Secretary, principles similar to the principles of the preceding 2 sentences shall be applied to a group of brewers under common control where 1 or more of the brewers is not a corporation.

`(E) DENIAL OF DEDUCTION- No deduction under chapter 1 shall be allowed with respect to any amount of tax reduced by a credit allowable under this subsection.

`(F) REGULATIONS- The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this paragraph from benefiting any person who produces more than 75,000 barrels of beer during a calendar year.

`(G) ALLOWANCE OF CREDIT AGAINST INCOME TAX- For allowance

of credit against the tax imposed by subtitle A, see section 30A.'

(d) ALLOWANCE OF CREDIT AGAINST INCOME TAX-

(1) IN GENERAL- Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by section 7212, is further amended by adding at the end thereof the following new section:

`SEC. 30A. SMALL DOMESTIC PRODUCERS OF WINE AND BEER.

`(a) GENERAL RULE- There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount of the credit allowed under section 5041(c) or 5051(a)(2) not otherwise taken as a credit against any other tax.

`(b) APPLICATION WITH OTHER CREDITS- The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of--

`(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and any section in this subpart having a lower number or letter designation than this section, over

`(2) the tentative minimum tax for the taxable year.

`(c) CARRYFORWARD OF UNUSED CREDIT- If the amount of the credit allowable under subsection (a) exceeds the limitations contained in subsection (b), such excess shall be carried to the succeeding taxable year (and subject to the limitations in subsection (b)) added to the credit allowable under subsection (a) for such succeeding taxable year.'

(2) CONFORMING AMENDMENT- The table of sections for such subpart A is amended by adding at the end thereof the following new item:

`Sec. 30A. Small domestic producers of wine and beer.'

(e) EFFECTIVE DATE- The amendments made by this section shall take effect on January 1, 1991.

(f) FLOOR STOCKS TAXES-

(1) IMPOSITION OF TAX-

(A) IN GENERAL- In the case of any tax-increased article--

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE- For purposes of subparagraph (A), the applicable rate is--

(i) $1.20 per proof gallon in the case of distilled spirits,

(ii) 90 cents per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE- For purposes of this subsection, the

term `tax-increased article' means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS- In the case of wine held by the producer thereof on January 1, 1991, if the rate of tax under section 5041 of such Code on such wine would have been determined after the application of subsection (c) thereof (as added by this section) had the amendments made by subsection (b) applied to all wine removed during 1990, the rate of tax imposed by paragraph (1) on such wine shall be the amount equal to the excess (if any) of--

(A) the rate of tax which would have been so determined after the application of such subsection (c), over

(B) the rate of tax actually determined on such wine under section 5041 of such Code.

A similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS- No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if--

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX- Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to--

(A) $288 to the extent such taxes are attributable to distilled spirits,

(B) $270 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT-

(A) LIABILITY FOR TAX- A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT- The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT- The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS-

(A) CORPORATIONS- In the case of a controlled group--

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $288, $270, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term `controlled group' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase `more than 50 percent' shall be substituted for the phrase `at least 80 percent' each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL- Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE-

(A) IN GENERAL- All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX- For purposes of subparagraph (A), the term `comparable excise tax' means--

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS- For purposes of this subsection--

(A) IN GENERAL- Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON- The term `person' includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY- The term `Secretary' means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS- For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 7402. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS- Subsection (a) of section 5701 is amended--

(1) by striking `75 cents per thousand' in paragraph (1) and inserting `$1.125 per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)', and

(2) by striking `equal to' and all that follows in paragraph (2) and

inserting `equal to--

`(A) 10.625 percent of the wholesale price but not more than $25 per thousand on cigars removed during 1991 or 1992, and

`(B) 12.75 percent of the wholesale price but not more than $30 per thousand on cigars removed after 1992.'

(b) CIGARETTES- Subsection (b) of section 5701 is amended--

(1) by striking `$8 per thousand' in paragraph (1) and inserting `$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)', and

(2) by striking `$16.80 per thousand' in paragraph (2) and inserting `$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)'.

(c) CIGARETTE PAPERS- Subsection (c) of section 5701 is amended by striking `1/2 cent' and inserting `0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)'.

(d) CIGARETTE TUBES- Subsection (d) of section 5701 is amended by striking `1 cent' and inserting `1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)'.

(e) SMOKELESS TOBACCO- Subsection (e) of section 5701 is amended--

(1) by striking `24 cents' in paragraph (1) and inserting `36 cents (30 cents on snuff removed during 1991 or 1992)', and

(2) by striking `8 cents' in paragraph (2) and inserting `12 cents (10 cents on chewing tobacco removed during 1991 or 1992)'.

(f) PIPE TOBACCO- Subsection (f) of section 5701 is amended by striking `45 cents' and inserting `67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)'.

(g) EFFECTIVE DATE- The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON TOBACCO PRODUCTS-

(1) IMPOSITION OF TAX- On articles described in section 5701 of the Internal Revenue Code of 1986 manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS- On cigars, weighing not more than 3 pounds per thousand, 18.75 cents per thousand.

(B) LARGE CIGARS- On cigars, weighing more than 3 pounds per thousand, 2.125 percent of the wholesale price but not more than $5 per thousand.

(C) SMALL CIGARETTES- On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(D) LARGE CIGARETTES- On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6 1/2 inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette.

(E) CIGARETTE PAPERS- On each book or set of cigarette papers containing more than 25 papers, 0.125 cent for each 50 papers or fractional part thereof; except that, if more than 6 1/2 inches in

length, they shall be taxable at the rate prescribed for cigarette papers, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette paper.

(F) CIGARETTE TUBES- On cigarette tubes, 0.25 cent for each 50 tubes or fractional part thereof; except that, if more than 6 1/2 inches in length, they shall be taxable at the rate prescribed for cigarette tubes, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette tube.

(G) SNUFF- On snuff, 6 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO- On chewing tobacco, 2 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO- On pipe tobacco, 11.25 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.'

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES-

(A) IN GENERAL- No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if--

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6 1/2 inches in length, each 2 3/4 inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES- To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (4) with respect to such person.

(3) EXCEPTION FOR ARTICLES OTHER THAN CIGARETTES- No tax shall be imposed by paragraph (1) on any article described in section 5701 of such Code (other than cigarettes) held on any tax-increase date by any person if the aggregate amount of such article held by such person on such date does not result in a tax imposed by paragraph (1) of such article exceeding $60.

(4) CREDIT AGAINST TAX- Each person shall be allowed as a credit against the taxes on each article imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable. With respect to any article described in section 5701 of such Code (other than cigarettes), the Secretary may increase the dollar amount of the credit allowed under this paragraph in the administration of this subsection.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT-

(A) LIABILITY FOR TAX- A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT- The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by

regulations.

(C) TIME FOR PAYMENT- The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(6) DEFINITIONS- For purposes of this subsection--

(A) TAX-INCREASE DATE- The term `tax-increase date' means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS- Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY- The term `Secretary' means the Secretary of the Treasury or his delegate.

(7) CONTROLLED GROUPS- Rules similar to the rules of section 7401(f) (6) shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE- All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 7403. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE-

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

`Carbon tetrachloride

--tetrachloromethane

Methyl chloroform

--1,1,1-trichloroethane

CFC-13

CF3Cl

CFC-111

C2FCl5

CFC-112

C2F2Cl4

CFC-211

C3FCl7

CFC-212

C3F2Cl6

CFC-213

C3F3Cl5

CFC-214

C3F4Cl4

CFC-215

C3F5Cl3

CFC-216

C3F6Cl2

CFC-217

C3F7Cl.'

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

`Carbon tetrachloride

1.1

Methyl chloroform

0.1

CFC-13

1.0

CFC-111

1.0

CFC-112

1.0

CFC-211

1.0

CFC-212

1.0

CFC-213

1.0

CFC-214

1.0

CFC-215

1.0

CFC-216

1.0

CFC-217

1.0.'

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS- Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

`(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS-

`(i) IN GENERAL- Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

`(ii) APPLICATION TO NEWLY LISTED CHEMICALS- In applying subparagraph (B) to newly listed chemicals--

`(I) subparagraph (B) shall be applied by substituting `1989' for `1986' each place it appears, and

`(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

`(iii) NEWLY LISTED CHEMICAL- For purposes of this subparagraph, the term `newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402.'

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS- Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

`(B) BASE TAX AMOUNT-

`(i) INITIALLY LISTED CHEMICALS- The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

`Calendar Year	***Base Tax Amount***
1990 or 1991	*$1.37*
1992	*1.67*
1993 or 1994	*2.65.*

`(ii) NEWLY LISTED CHEMICALS- The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

`Calendar Year	***Base Tax Amount***
1991 or 1992	*$1.37*

1993

1.67

1994

3.00

1995

3.10.

`(C) BASE TAX AMOUNT FOR LATER YEARS- The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year.'

(d) OTHER AMENDMENTS-

(1) The last sentence of section 4682(c)(2) is amended by inserting `(other than methyl chloroform)' after `ozone-depleting chemical'.

(2) Paragraph (3) of section 4682(h) is amended by striking `April 1' and inserting `June 30'.

(e) EFFECTIVE DATE- The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991- No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

Subpart B--User-Related Taxes

SEC. 7405. INCREASE AND EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) INCREASE IN TAX ON GASOLINE-

(1) IN GENERAL- Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended--

(A) by striking `and' at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting `, and', and

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

`(iii) the deficit reduction rate.'

(2) RATES OF TAX- Subparagraph (B) of section 4081(a)(2) is amended--

(A) by striking `9 cents a gallon, and' and inserting `13.75 cents a gallon,',

(B) by striking the period at the end of clause (ii) and inserting `, and', and

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

`(iii) the deficit reduction rate is 4.75 cents (5.25 cents in the case of gasohol containing ethanol) a gallon .'

(3) 15-CENT LIMIT ON TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION-

(A) RATES OF TAX AFTER DECEMBER 31, 1990, AND BEFORE JULY 1, 1991- Paragraph (3) of section 4041(c) is amended by striking `12 cents a gallon over the Highway Trust Fund financing rate' and inserting `15 cents a gallon over the sum of the Highway Trust Fund financing rate and the deficit reduction financing rate'.

(B) REFUND ON TAX-

(i) Section 6427 is amended by striking subsections (m) and (o) and by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(ii) Subsection (o) of section 6427 (as redesignated by clause (i)) is amended to read as follows:

`(o) GASOLINE USED IN NONCOMMERCIAL AVIATION- Except as provided in subsection (k), if gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2)), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 15.1 cents (12.1 cents during December 1990) multiplied by the number of gallons of gasoline so used.'

(iii) Paragraph (1) of section 6427(i) is amended by striking `or (q)' and inserting `or (o)'.

(iv) Clause (i) of section 6427(i)(2)(A) is amended by striking `and (q)' and inserting `and (o)'.

(v) The amendments made by this subparagraph shall take effect on December 1, 1990.

(C) REPEAL OF TAX AFTER JUNE 30, 1991-

(i) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(ii) Paragraph (3) of section 4041(c), as redesignated by clause (i) is amended by striking `paragraphs (1) and (2)' and inserting `paragraph (1)'.

(iii) Paragraph (2) of section 6421(f) is amended by striking `section 4041(c)(4)' and inserting `section 4041(c)(2)'.

(iv) The amendments made by this subparagraph shall take effect on July 1, 1991.

(5) CONFORMING AMENDMENTS-

(A) Paragraph (1) of section 4081(c) is amended--

(i) by striking `applied by' and all that follows through `in the case' and inserting `applied by substituting rates which are 10/9th of the otherwise applicable rates under subsection (a) (2) in the case', and

(ii) by adding at the end thereof the following: `For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 7.75 cents a gallon.'

(B) Paragraph (2) of section 4081(c) is amended by striking `at a rate equivalent to 3 cents' and inserting `at a Highway Trust Fund financing rate equivalent to 7.75 cents'.

(C) Subparagraph (A) of section 9503(c)(2) is amended by adding at the end thereof the following new sentence:

`The amounts payable from the Highway Trust Fund under this subparagraph shall be determined by taking into account only the Highway Trust Fund financing rate applicable to any fuel.'

(6) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992- Section 4081 is amended by adding at the end thereof the following new subsection:

`(e) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992-

`(1) HIGHWAY TRUST FUND FINANCING RATES-

`(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991--

`(i) subsection (a)(2)(B)(i) shall be applied by substituting `11 cents' for `13.75 cents', and

`(ii) subsection (c) shall be applied by substituting `5 cents' for `7.75 cents' each place it appears.

`(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992--

`(i) subsection (a)(2)(B)(i) shall be applied by substituting `13.5 cents' for `13.75 cents', and

`(ii) subsection (c) shall be applied by substituting `7.5 cents' for `7.75 cents' each place it appears.

`(2) DEFICIT REDUCTION RATE-

`(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991, subsection (a)(2)(B)(iii) shall be applied by substituting `2 cents (2.5 cents in the case of gasohol containing ethanol)' for `4.75 cents (5.25 cents in the case of gasohol containing ethanol)'.

`(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992, subsection (a)(2)(B)(iii) shall be applied by substituting `4.5 cents (5 cents in the case of gasohol containing ethanol)' for `4.75 cents (5.25 cents in the case of gasohol containing ethanol)'.'

(7) EFFECTIVE DATE- Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) after November 30, 1990.

(b) INCREASE IN OTHER TAXES-

(1) DEFICIT REDUCTION RATE-

(A) Clause (i) of section 4091(b)(1)(A) is amended by inserting `and the diesel fuel deficit reduction rate' after `financing rate'.

(B) Subsection (b) of section 4091 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

`(4) DIESEL FUEL DEFICIT REDUCTION RATE- For purposes of paragraph (1), the diesel fuel deficit reduction rate is 4.75 cents a gallon (5.25 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol).'

(2) INCREASE IN HIGHWAY TRUST FUND FINANCING RATE- Paragraph

(2) of section 4091(b) is amended by striking `15 cents' and inserting `19.75 cents'.

(3) INCREASE IN TAX ON SPECIAL MOTOR FUELS- Paragraph (2) of section 4041(a) is amended by striking `of 9 cents a gallon' and by inserting at the end thereof the following new sentence:

`The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the deficit reduction rate in effect under section 4081 at the time of such sale or use.'

(4) 4.75-CENT TAX TO APPLY TO FUEL USED IN TRAINS-

(A) Paragraph (2) of section 4093(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

`(B) 4.75-CENT TAX ON FUEL USED IN TRAINS- In the case of fuel sold for use in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel sold for use after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting `2 cents' for `4.75 cents'; in the case of fuel sold for use after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting `4.5 cents' for `4.75 cents'.'

(B) Subsection (l) of section 6427 is amended by adding at the end thereof the following new paragraph:

`(4) 4.75-CENT TAX ON FUEL USED IN TRAINS- In the case of fuel used in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel used after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting `2 cents' for `4.75 cents'; in the case of fuel used after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting `4.5 cents' for `4.75 cents'.'

(C) Section 4041(a) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

`(3) TAX ON DIESEL FUEL USED IN TRAINS- There is hereby imposed a tax of 4.75 cents a gallon on any liquid (other than any product taxable under section 4081)--

`(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

`(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091.'

(D) Paragraph (4) of section 9503(b) is amended to read as follows:

`(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND- For purposes of paragraphs (1) and (2)--

`(A) there shall be taken into account the taxes imposed by sections 4041, 4081, and 4091 only to the extent attributable to section 4041(c) and the Highway Trust Fund financing rates and 20 percent of the deficit reduction rate under such sections.

`(B) there shall not be taken into account the taxes imposed by section 4041(a)(3) or 4091 on any diesel fuel used in a diesel-powered train.'

(5) INCREASES IN TAXES NOT TO APPLY TO INTERCITY BUSES- Subparagraph (A) of section 6427(b)(2) is amended by striking `shall not exceed 12 cents' and inserting `shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041 or 4091, as the case may be'.

(6) CONFORMING AMENDMENTS-

(A) Paragraph (1) of section 4091(c) is amended--

(i) by striking `9 cents' and inserting `13.75 cents' and by striking `10 cents' and inserting `15.28 cents', and

(ii) by striking `shall be 1/9 cent per gallon' and inserting `and the diesel fuel deficit reduction rate shall be 10/9th of the otherwise applicable such rates under subsection (b)'.

(B) Paragraph (2) of section 4091(c) is amended by striking `9 cents' and inserting `13.75 cents'.

(C) Paragraph (1) of section 4041(a) is amended by striking `of 15 cents a gallon' and by inserting before the last sentence the following new sentence:

`The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use.'

(D) Subparagraph (A) of section 4041(b)(2) is amended to read as follows:

`(A) IN GENERAL- In the case of--

`(i) qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 6 cents per gallon less than the otherwise applicable rate under such subsection,

`(ii) qualified ethanol fuel, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and

`(iii) qualified methanol or ethanol fuel, subsection (d)(1) shall be applied by substituting `0.05 cent' for `0.1 cent' with respect to sales and uses to which clause (i) or (ii) applies.'.

(E) Paragraph (1) of section 4041(k) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

`(A) with respect to liquids containing any alcohol other than ethanol, the Highway Trust Fund financing rates under paragraphs (1) and (2) of subsection (a) shall be 6 cents per gallon less than the otherwise applicable rates under such paragraphs,

`(B) with respect to liquids containing ethanol, the deficit reduction financing rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates under such paragraphs plus 0.5 cent per gallon, and'.

(F) Section 4041(m)(1) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting before subparagraph (C) the following new subparagraphs:

`(A) with respect to partially exempt methanol, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 4.5 cents per gallon less than the otherwise applicable rate under such subsection,

`(B) with respect to partially exempt ethanol, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and'.

(G) Subsection (d) of section 9502 is amended by adding at the end thereof the following new paragraph:

`(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED- The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used.'

(H) Subparagraph (D) of section 9503(c)(4) is amended by striking `(to the extent attributable to the Highway Trust Fund financing rate)' and by inserting before the period `, but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections'.

(7) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992- Section 4091 is amended by adding at the end thereof the following new subsection:

`(e) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992-

`(1) HIGHWAY TRUST FUND FINANCING RATES-

`(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991--

`(i) subsection (b)(2) shall be applied by substituting `17 cents' for `19.75 cents', and

`(ii) subsection (c) shall be applied by substituting--

`(I) `11 cents' for `13.75 cents' each place it appears, and

`(II) `12.22 cents' for `15.28 cents'.

`(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992--

`(i) subsection (b)(2) shall be applied by substituting `19.5 cents' for `19.75 cents', and

`(ii) subsection (c) shall be applied by substituting--

`(I) `13.5 cents' for `13.75 cents' each place it appears, and

`(II) `15 cents' for `15.28 cents'.

`(2) DIESEL FUEL DEFICIT REDUCTION RATE-

`(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991, subsection (b)(4) shall be applied by substituting `2 cents a gallon (2.5 cents a gallon' for `4.75 cents a gallon (5.25 cents a gallon'.

`(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992, subsection (b)(4) shall be applied by substituting `4.5 cents a gallon (5 cents a gallon' for `4.75 cents a gallon (5.25 cents a gallon'.'`4.5 cents' for `4.75 cents'.'

(8) EFFECTIVE DATE- The amendments made by this subsection shall

take effect on December 1, 1990.

(c) EXTENSION OF TAXES- The following provisions are each amended by striking `1993' each place it appears and inserting `1995':

(1) Section 4041(a)(4) (relating to tax on diesel and special fuels), as redesignated by subsection (b)(4)(C).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

(4) Section 4081(d)(1) (relating to gasoline tax).

(5) Section 4091(b)(6)(A) (relating to diesel fuel tax), as redesignated by section 13211(b).

(6) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(d) EXTENSION OF EXEMPTIONS-

(1) Paragraph (3) of section 4041(f) (relating to exemptions for farm use) is amended by striking `1993' and inserting `1995'.

(2) The last sentence of section 4041(g) (relating to other exemptions) is amended by striking `1993' and inserting `1995'.

(3) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by striking `1993' and inserting `1995'.

(4) Subsection (g) of section 4483 (relating to termination of exemptions for highway use tax) is amended by striking `1993' and inserting `1995'.

(5) Section 6420 (relating to gasoline used on farms) is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(6)(A) Section 6421 (relating to gasoline used for certain nonhighway purposes, etc.) is amended by striking subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsections (a) and (b) of section 6421 are each amended by striking `subsection (j)' and by inserting `subsection (i)'.

(7) Paragraph (5) of section 6427(g) (relating to advance repayment of increased diesel fuel tax) is amended by striking `1993' and inserting `1995'.

(e) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL- The following provisions are each amended by striking `1993' each place it appears and inserting `2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect':

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(k)(3) (relating to fuels containing alcohol).

(3) Section 4081(c)(4) (relating to gasoline mixed with alcohol).

(4) Subsections (c) and (d) of section 4091 (relating to diesel fuel and aviation fuel mixed with alcohol and aviation fuel used to produce certain alcohol fuels).

(5) Section 6427(f)(3) (relating to fuels used to produce certain alcohol fuels).

(f) OTHER PROVISIONS-

(1) FLOOR STOCKS REFUNDS- Section 6412(a)(1) (relating to floor stocks refunds) is amended--

(A) by striking `1993' each place it appears and inserting `1995', and

(B) by striking `1994' each place it appears and inserting `1996'.

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX- Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles) is amended by striking `1993' and inserting `1995'.

(g) EXTENSION OF DEPOSITS INTO TRUST FUND-

(1) IN GENERAL- Subsection (b), and paragraphs (2), (3), and (4) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended--

(A) by striking `1993' each place it appears and inserting `1995', and

(B) by striking `1994' each place it appears and inserting `1996'.

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND- Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended--

(A) by striking `1993' and inserting `1995', and

(B) by striking `1994' each place it appears and inserting `1996'.

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT-

(1) IN GENERAL- Paragraph (2) of section 9503(e) is amended by striking `1 cent' and inserting `1.95 cents'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply to amounts attributable to taxes imposed on or after December 1, 1990.

(3) TAXES IMPOSED BEFORE JANUARY 1, 1991-

(A) In the case of taxes imposed after November 30, 1990, and before July 1, 1991, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting `1.4 cents' for `1.95 cents'.

(B) In the case of taxes imposed after June 30, 1991, and before January 1, 1992, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting `1.9 cents' for `1.95 cents'.

(i) ESTABLISHMENT OF WETLANDS FUND ACCOUNT-

(1) IN GENERAL- Section 9504 (relating to aquatic resources trust fund) is amended--

(A) by striking `and' at the end of subsection (a)(2)(A),

(B) by striking the period at the end of subsection (a)(2)(B) and inserting `, and',

(C) by inserting after subsection (a)(2)(B) the following new subparagraph:

`(C) a Wetlands Fund Account.',

(D) by inserting `Wetlands Fund Account,' before `Boat Safety

Account' in subsection (d), and

(E) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

`(d) EXPENDITURES FROM WETLANDS FUND ACCOUNT- Amounts in the Wetlands Fund Account shall be available, as provided by appropriation Acts, for making expenditures to carry out the purposes of any law which is substantially identical to sections 4 through 8 of S. 1731 of the 101st Congress as passed the Senate on August 2, 1990.'

(2) TRANSFER OF NEW MOTORBOAT FUEL TAXES TO ACCOUNT- Section 9503(c)(4) (relating to transfers from the trust fund for motorboat fuel taxes), as amended, is further amended--

(A) by inserting `, at the rates in effect before December 1, 1990' after `1995' in subparagraph (A)(i), and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new paragraph:

`(D) TRANSFER TO WETLANDS FUND ACCOUNT- Any amount received in the Highway Trust Fund--

`(i) which is attributable to motorboat fuel taxes, and

`(ii) which is not transferred from the Highway Trust Fund under subparagraphs (A), (B), or (C),

shall be transferred by the Secretary from the Highway Trust Fund into the Wetlands Fund Account in the Aquatics Resources Trust Fund.'

(3) EFFECTIVE DATE- The amendments made by this subsection shall take effect on December 1, 1990.

(j) FLOOR STOCKS TAXES-

(1) IMPOSITION OF TAX- In the case of gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of such Code before any tax-increase date (other than gasoline on which tax is imposed under section 4041(c)(2) of such Code) and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline and diesel fuel.

(2) RATE OF TAX- The rate of the tax imposed by paragraph (1) shall be--

(A) 4 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.5 cent per gallon in the case of the tax imposed on January 1, 1992.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT-

(A) LIABILITY FOR TAX- A person holding gasoline or diesel fuel on any tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT- The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT- The tax imposed by paragraph (1) shall be paid on or before--

(i) May 31, 1991, in the case of the tax imposed on December

1, 1990,

(ii) September 15, 1991, in the case of the tax imposed on July 1, 1991, and

(iii) June 30, 1992, in the case of the tax imposed on January 1, 1992.

(4) DEFINITIONS- For purposes of this subsection--

(A) TAX-INCREASE DATE- The term `tax-increase date' means December 1, 1990, July 1, 1991, and January 1, 1992.

(B) HELD BY A PERSON- Gasoline and diesel fuel shall be considered as `held by a person' if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) GASOLINE- The term `gasoline' has the meaning given such term by section 4082 of such Code.

(D) DIESEL FUEL- The term `diesel fuel' has the meaning given such term by section 4092 of such Code.

(E) SECRETARY- The term `Secretary' means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR EXEMPT USES- The tax imposed by paragraph (1) shall not apply to gasoline or diesel fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(6) EXCEPTION FOR FUEL HELD IN VEHICLE TANK- No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(7) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL-

(A) IN GENERAL- No tax shall be imposed by paragraph (1)--

(i) on gasoline held on any tax-increase date by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel held on any tax-increase date by any person if the aggregate amount of diesel fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL- For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS- For purposes of this paragraph, rules similar to the rules of paragraph (5) of section 13201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE- All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

(8) TRANSFER OF PORTION OF FLOOR STOCKS REVENUE TO HIGHWAY TRUST FUND- For purposes of determining the amount transferred to the Highway Trust Fund, the tax imposed by paragraph (1) shall be treated as imposed at a Highway Trust Fund financing rate to the extent of--

(A) 2 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 2.5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.25 cent per gallon in the case of the tax imposed on January 1, 1992.

(k) AMENDMENTS RELATING TO IMPROVED ENFORCEMENT OF GASOLINE TAX-

(1) REPORTING REQUIREMENTS- Section 4082 (relating to definitions) is amended by adding at the end thereof the following new subsection:

`(c) REPORTING REQUIRED OF TERMINAL OPERATORS-

`(1) IN GENERAL- Each person--

`(A) who is registered (or is required to be registered) under section 4101 as a terminal operator, and

`(B) from whose terminal gasoline is removed,

shall make a return (at such time and in such form as the Secretary may by regulations prescribe).

`(1) SPECIFIC REPORT REQUIREMENTS- The report described in paragraph (1) shall specify--

`(A) the name, address, and registration number under section 4101 of the owner (or the owner of record in such cases as the Secretary deems appropriate) of the gasoline,

`(B) the amount of gasoline removed, and

`(C) such other information as the Secretary may require.'

(2) REGISTRATION AND BOND-

(A) IN GENERAL- Section 4101 is amended to read as follows:

`SEC. 4101. REGISTRATION AND BOND.

`(a) REGISTRATION- Each person--

`(1) before incurring any liability for tax under section 4091, or

`(2) required by the Secretary as the Secretary determines to be necessary to carry out this part,

shall register with the Secretary at such time, in such manner and form, 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 subsection. Rules similar to the rules of section 4222(c) shall apply for purposes of this subsection.

`(b) BONDS AND LIENS- Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting any person to be registered under subsection (a), that such person--

`(1) give a bond in such sum as the Secretary determines appropriate, and

`(2) agree to the imposition of a lien on such property (or rights to

property) of such person as the Secretary determines appropriate.

If a lien is imposed pursuant to paragraph (2), the Secretary shall release such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by the Secretary) a bond in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to release a lien imposed pursuant to paragraph (2) in connection with a transfer of the property not later than 90 days after the date the request for such a release is made.'

(B) DISCLOSURE PERMITTED OF REGISTRATION INFORMATION- Subsection (k) of section 6103 (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

`(7) DISCLOSURE OF NAMES AND REGISTRATION NUMBERS FOR ADMINISTRATION OF EXCISE TAXES- The name, address, and registration number of any person registered with the Secretary under subtitle D may be disclosed to the extent necessary to permit the effective administration of such subtitle. In the case of the tax imposed by section 4081, the terminals owned by such person may also be disclosed.'

(3) CONFORMING AMENDMENT- The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by inserting `and special rules' in the item relating to section 4082.

(4) EFFECTIVE DATE- The amendments made by this subsection shall take effect on January 1, 1991.

SEC. 7405A. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION-

(1) TRANSPORTATION OF PERSONS- Subsections (a) and (b) of section 4261 are each amended by striking `8 percent' and inserting `10 percent'.

(2) TRANSPORTATION OF PROPERTY- Subsection (a) of section 4271 is amended by striking `5 percent' and inserting `6.25 percent'.

(3) EFFECTIVE DATE- The amendments made by this subsection shall apply to transportation beginning after December 31, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL-

(1) NONCOMMERCIAL AVIATION JET FUELS- Paragraph (3) of section 4091(b) is amended by striking `14 cents' and inserting `17.5 cents'.

(2) CONFORMING AMENDMENTS-

(A) Paragraph (1) of section 4041(c) is amended by striking `14 cents' and inserting `17.5 cents'.

(B)(i) Subparagraph (B) of section 4041(k)(1), as redesignated by section 13211 of this Act, is amended to read as follows:

`(B) subsection (c) shall be applied by substituting `3.5 cents' for `17.5 cents' and `3 cents' for `15 cents'.'

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

`(B) subsection (c) shall be applied by substituting `3.5 cents' for `17.5 cents' and `3 cents' for `15 cents'.'

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

`(1) IN GENERAL- The Airport and Airway Trust Fund financing rate shall be--

`(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if--

`(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

`(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

`(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon.

`(2) LATER SEPARATION- If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel.'

(ii) The heading for subsection (d) of section 4091 is amended by striking `EXEMPTION FROM' and inserting `REDUCED RATE OF'.

(3) Subsection (f) of section 6427 is amended to read as follows:

`(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS-

`(1) IN GENERAL- Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

`(2) DEFINITIONS- For purposes of paragraph (1)--

`(A) REGULAR TAX RATE- The term `regular tax rate' means--

`(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

`(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

`(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

`(B) INCENTIVE TAX RATE- The term `incentive tax rate' means--

`(i) in the case of gasoline, the aggregate rate of tax imposed

by section 4081 with respect to fuel described in subsection (c)(1) thereof,

`(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

`(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

`(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS- No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

`(4) TERMINATION- This subsection shall not apply with respect to any mixture sold or used after September 30, 2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect.'

(4) EFFECTIVE DATES- The amendments made by this subsection shall take effect on January 1, 1991.

(5) FLOOR STOCKS TAXES-

(A) IMPOSITION OF TAX- In the case of gasoline or aviation fuel on which tax was imposed under section 4041(c)(2) or 4091 of the Internal Revenue Code of 1986 before January 1, 1991, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline or fuel.

(B) RATE OF TAX- The rate of the tax imposed by subparagraph (A) shall be--

(i) 3 cents per gallon in the case of gasoline, and

(ii) 3.5 cents per gallon in the case of aviation fuel.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT-

(i) LIABILITY FOR TAX- A person holding gasoline or aviation fuel on January 1, 1991, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT- The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT- The tax imposed by this paragraph shall be paid on or before June 30, 1991.

(D) DEFINITIONS- For purposes of this paragraph--

(i) HELD BY A PERSON- Gasoline or aviation fuel shall be considered as `held by a person' if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) GASOLINE- The term `gasoline' has the meaning given such term by section 4082 of such Code.

(iii) AVIATION FUEL- The term `aviation fuel' has the meaning given such term by section 4092(a) of such Code.

(iv) SECRETARY- The term `Secretary' means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES- The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of

such Code).

(F) OTHER LAWS APPLICABLE- All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) EXTENSION OF TAXES AND TRUST FUND-

(1) TRANSPORTATION TAXES- Sections 4261(g) and 4271(d) are each amended by striking `January 1, 1991' and inserting `January 2, 1996'.

(2) FUEL TAXES-

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking `January 2, 1991' and inserting `January 2, 1996'.

(B) Paragraph (5) of section 4041(c) is amended by striking `December 31, 1990' and inserting `December 31, 1995'.

(3) DEPOSITS INTO TRUST FUND- Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking `January 1, 1991' each place it appears and inserting `January 1, 1996'.

(4) CONFORMING AMENDMENT- Section 9502(b)(2) is amended by inserting `and the deficit reduction financing rate' after `rate'.

(d) REPEAL OF REDUCTION IN RATES-

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 7405B. SENSE OF THE SENATE.

It is the sense of the Senate that the conferees be instructed to adjust the taxes imposed by sections 4041(a)(3) or 4091 on any diesel fuel used on a diesel-powered train so that such taxes will not exceed the increases to taxes imposed under sections 4041, 4081 and 4091 (other than on trains) which will not be dedicated to the Highway Trust Fund.

SEC. 7406. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL- Subsection (b) of section 4461 is amended by striking `0.04 percent' and inserting `0.125 percent'.

(b) HARBOR MAINTENANCE COSTS- Section 210(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(a)) is amended by striking paragraph (2) and inserting in lieu thereof the following new paragraph:

`(2) up to 100 percent of the eligible operations and maintenance costs assigned to commercial navigation of all harbors within the United States, including all necessary dredged material management and disposal costs, including studies, monitoring, structures required for disposal, and any alternative method of disposal.'

(b) EFFECTIVE DATE- The amendments made by this section shall take effect on January 1, 1991.

SEC. 7407. EXTENSION OF LEAKING UNDERGROUND STORAGE

TANK TRUST FUND TAXES.

(a) IN GENERAL- Paragraph (2) of section 4081(d) is amended to read as follows:

`(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE- The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995.'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on December 1, 1990.

SEC. 7408. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if--

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

Subpart C--Taxes on Luxury Items

SEC. 7409. TAXES ON LUXURY ITEMS.

(a) IN GENERAL- Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

`Subchapter A--Certain Luxury Items

`PART I. IMPOSITION OF TAXES

`Subpart A--Passenger Vehicles, Boats, and Aircraft

`SEC. 4001. PASSENGER VEHICLES.

`(a) IMPOSITION OF TAX- There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold

to the extent such price exceeds $30,000.

`(b) PASSENGER VEHICLE-

`(1) IN GENERAL- For purposes of subsection (a), the term `passenger vehicle' means any 4-wheeled vehicle--

`(A) which is manufactured primarily for use on public streets, roads, and highways, and

`(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

`(2) SPECIAL RULES-

`(A) TRUCKS AND VANS- In the case of a truck or van, paragraph (1)(B) shall be applied by substituting `gross vehicle weight' for `unloaded gross vehicle weight'.

`(B) LIMOUSINES- In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

`(c) EXCEPTIONS FOR TAXICABS, ETC- The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

`SEC. 4002. BOATS.

`(a) IMPOSITION OF TAX- There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

`(b) EXCEPTIONS- The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of--

`(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

`(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

`SEC. 4003. AIRCRAFT.

`(a) IMPOSITION OF TAX- There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $250,000.

`(b) AIRCRAFT- For purposes of this section, the term `aircraft' means any aircraft--

`(1) which is propelled by a motor, and

`(2) which is capable of carrying 1 or more individuals.

`(c) EXCEPTIONS- The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively--

`(1) in the aerial application of fertilizers or other substances,

`(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

`(3) in a trade or business of providing flight training, or

`(4) in a trade or business of transporting persons or property for compensation or hire.

`(d) REFUND AND CREDIT OF TAX RESULTING FROM BUSINESS EXPERIENCE- Any tax paid by a purchaser of any aircraft under this section may be refunded or credited to the purchaser, without interest, if after the 12-month period beginning on the date of purchase, such purchaser demonstrates to the satisfaction of the Secretary that 80 percent of the use of such aircraft during such period was in the purchaser's trade or business. Such refund or claim shall be filed with the purchaser's return with respect to income taxes under subtitle A, the due date of which first occurs after such period.

`SEC. 4004. RULES APPLICABLE TO SUBPART A.

`(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC- No tax shall be imposed under this subpart on the sale of any article--

`(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

`(2) to any person for use exclusively in providing emergency medical services.

`(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR- Under regulations prescribed by the Secretary--

`(1) IN GENERAL- Except as provided in paragraph (2), if--

`(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

`(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

`(2) LIMITATION- The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of--

`(A) the sum of--

`(i) the price of such part or accessory and its installation,

`(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

`(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

`(B) $30,000 ($100,000 in the case of a boat or $250,000 in the case of an aircraft).

`(3) EXCEPTIONS- Paragraph (1) shall not apply if--

`(A) the part or accessory installed is a replacement part or accessory, or

`(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

`(4) INSTALLERS SECONDARILY LIABLE FOR TAX- The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

`(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE-

`(1) IN GENERAL- If--

`(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

`(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

`(2) EXEMPT USE- For purposes of this subsection, the term `exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

`Subpart B--Jewelry and Furs

`SEC. 4006. JEWELRY.

`(a) IMPOSITION OF TAX- There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

`(b) JEWELRY- For purposes of subsection (a), the term `jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

`(c) MANUFACTURE FROM CUSTOMER'S MATERIAL- If--

`(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

`(2) the jewelry so manufactured is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

`SEC. 4007. FURS.

`(a) IMPOSITION OF TAX- There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000:

`(1) Articles made of fur on the hide or pelt.

`(2) Articles of which such fur is a major component.

`(b) MANUFACTURE FROM CUSTOMER'S MATERIAL- If--

`(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

`(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

`PART II--RULES OF GENERAL APPLICABILITY

`Sec. 4011. Definitions and special rules.

`SEC. 4011. DEFINITIONS AND SPECIAL RULES.

`(a) 1ST RETAIL SALE- For purposes of this subchapter, the term `1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

`(b) USE TREATED AS SALE-

`(1) IN GENERAL- If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him.

`(2) EXEMPTION FOR FURTHER MANUFACTURE- Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him.

`(3) COMPUTATION OF TAX- In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

`(c) LEASES CONSIDERED AS SALES- For purposes of this subchapter--

`(1) IN GENERAL- Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

`(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT-

`(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE- The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

`(B) QUALIFIED LEASE- For purposes of subparagraph (A), the term `qualified lease' means--

`(i) any lease in the case of a boat or an aircraft, and

`(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

`(C) SPECIAL RULES- In the case of a qualified lease of an article which is treated as the 1st retail sale of such article--

`(i) DETERMINATION OF PRICE- The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

`(ii) PAYMENT OF TAX- Rules similar to the rules of section 4217(e)(2) shall apply.

`(iii) NO TAX WHERE EXEMPT USE BY LESSEE- No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

`(d) DETERMINATION OF PRICE-

`(1) IN GENERAL- In determining price for purposes of this subchapter--

`(A) there shall be included any charge incident to placing the article in condition ready for use,

`(B) there shall be excluded--

`(i) the amount of the tax imposed by this subchapter,

`(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State, territory, or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

`(iii) the value of any component of such article if--

`(I) such component is furnished by the 1st user of such article, and

`(II) such component has been used before such furnishing, and

`(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

`(2) OTHER RULES- Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

`(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE- Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

`(f) PARTIAL PAYMENTS, ETC- In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter.'

(b) EXEMPTION FOR EXPORTS-

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking `section 4051' and inserting `subchapter A or C of chapter 31'.

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: `In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply.'

(c) EXEMPTION FOR SALES TO THE UNITED STATES- Section 4293 is amended by inserting `subchapter A of chapter 31,' before `section 4041'.

(d) TECHNICAL AMENDMENTS-

(1) Subsection (c) of section 4221 is amended by striking `section 4053(a)(6)' and inserting `section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)'.

(2) Paragraph (1) of section 4221(d) is amended by striking `the tax imposed by section 4051' and inserting `taxes imposed by subchapter A or C of chapter 31'.

(3) Subsection (d) of section 4222 is amended by striking `sections 4053(a)(6)' and inserting `sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)'.

(e) CLERICAL AMENDMENT- The table of subchapters for chapter 31 is amended to read as follows:

`Subchapter A. Certain luxury items.

`Subchapter B. Special fuels.

`Subchapter C. Heavy trucks and trailers.'

(f) EFFECTIVE DATE- The amendments made by this section shall take effect after December 31, 1990, and before January 1, 2000.

Subpart D--Telephone Tax

SEC. 7410. PERMANENT EXTENSION OF TELEPHONE EXCISE TAX.

(a) IN GENERAL- Paragraph (2) of section 4251(b) is amended by striking `percent;' and all that follows through the period and inserting `percent.'

(b) TIME FOR DEPOSIT OF TELEPHONE EXCISE TAXES- Section 4251 is amended by adding at the end thereof the following new subsection:

`(d) TIME FOR DEPOSIT OF TAXES- If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by this section with respect to amounts considered collected by such person during any semi-monthly period, such deposits shall be made not later than the third day (not including Saturdays, Sundays, or legal holidays) after the close of the first week of the second semi-monthly period following the period to which such amounts relate.'

(c) ONE-TIME FILING OF TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES- Section 4253 is amended by adding at the end thereof the following new subsection:

`(k) FILING OF EXEMPTION CERTIFICATES-

`(1) IN GENERAL- In order to claim an exemption under subsection (c), (h), (i), or (j), a person shall provide to the provider of communications services a statement (in such form and manner as the Secretary may provide) certifying that such person is entitled to such exemption.

`(2) DURATION OF CERTIFICATE- Any statement provided under paragraph (1) shall remain in effect until--

`(A) the provider of communications services has actual knowledge that the information provided in such statement is false, or

`(B) such provider is notified by the Secretary that the provider of the statement is no longer entitled to an exemption described in paragraph (1).

If any information provided in such statement is no longer accurate, the person providing such statement shall inform the provider of communications services within 30 days of any change of information.'

(d) EFFECTIVE DATES-

(1) SUBSECTION (a)- The amendment made by subsection (a) shall take effect on January 1, 1991.

(2) SUBSECTION (b)- The amendment made by subsection (b) shall apply to the payment of taxes considered collected for semi-monthly periods beginning after December 31, 1990.

(3) SUBSECTION (c)-

(A) IN GENERAL- The amendment made by subsection (c) shall apply to any claim for exemption made after the date of the enactment of this Act.

(B) DURATION OF EXISTING CERTIFICATES- Any annual certificate of exemption effective on the date of the enactment of this Act shall remain effective until the end of the annual period.

PART II--INSURANCE PROVISIONS

Subpart A--Provisions Related to Policy Acquisition Costs

SEC. 7411. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE- Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

`SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

`(a) GENERAL RULE- In the case of an insurance company--

`(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

`(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

`(b) 5-YEAR AMORTIZATION FOR FIRST $5,000,000 OF SPECIFIED POLICY ACQUISITION EXPENSES-

`(1) IN GENERAL- Paragraph (2) of subsection (a) shall be applied with respect to so much of the specified policy acquisition expenses of an insurance company for any taxable year as does not exceed $5,000,000 by substituting `60-month' for `120-month'.

`(2) PHASE-OUT- If the specified policy acquisition expenses of an insurance company exceed $10,000,000 for any taxable year, the $5,000,000 amount under paragraph (1) shall be reduced (but not below zero) by the amount of such excess.

`(3) SPECIAL RULE FOR MEMBERS OF CONTROLLED GROUP- In the case of any controlled group--

`(A) all insurance companies which are members of such group shall be treated as 1 person for purposes of this subsection, and

`(B) the amount to which paragraph (1) applies shall be allocated among such companies in such manner as the Secretary may prescribe.

For purposes of the preceding sentence, the term `controlled group' means any controlled group of corporations as defined in section 1563(a); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply, and subsection (b)(2)(C) of section 1563 shall not apply to the extent it excludes a foreign corporation to which section 842 applies.

`(4) EXCEPTION FOR ACQUISITION EXPENSES ATTRIBUTABLE TO CERTAIN REINSURANCE CONTRACTS- This subsection shall not apply to any specified policy acquisition expenses for any taxable year which are attributable to premiums or other consideration under any reinsurance contract.

`(c) SPECIFIED POLICY ACQUISITION EXPENSES- For purposes of this

section--

`(1) IN GENERAL- The term `specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of--

`(A) 1.85 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

`(B) 2.2 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts or noncancellable accident and health insurance contracts, and

`(C) 8.3 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

`(2) GENERAL DEDUCTIONS- The term `general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

`(d) NET PREMIUMS- For purposes of this section--

`(1) IN GENERAL- The term `net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (c)(1), the excess (if any) of--

`(A) the gross amount of premiums and other consideration on such contracts, over

`(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

`(2) AMOUNTS DETERMINED ON ACCRUAL BASIS- In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

`(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS- Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

`(4) SPECIAL RULE FOR CERTAIN REINSURANCE- Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

`(e) CLASSIFICATION OF CONTRACTS- For purposes of this section--

`(1) SPECIFIED INSURANCE CONTRACT-

`(A) IN GENERAL- Except as otherwise provided in this paragraph, the term `specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (or any combination thereof).

`(B) EXCEPTIONS- The term `specified insurance contract' shall not include--

`(i) any pension plan contract (as defined in section 818(a)),

`(ii) any flight insurance or similar contract, and

`(iii) any qualified foreign contract (as defined in section 807(e)(4) without regard to paragraph (5) of this subsection).

`(2) GROUP LIFE INSURANCE CONTRACT- The term `group life insurance contract' means any life insurance contract--

`(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

`(B) the premiums for which are determined on a group basis, and

`(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

`(3) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS- The rules of section 816(e) shall apply for purposes of this section.

`(4) TREATMENT OF REINSURANCE CONTRACT- A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

`(f) Special Rule Where Negative Net Premiums-

`(1) IN GENERAL- If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (c)(1)--

`(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

`(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))--

`(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

`(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

`(2) NEGATIVE CAPITALIZATION AMOUNT- For purposes of paragraph (1), the term `negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which--

`(A) the amount determined under subparagraph (B) of subsection (d)(1) with respect to such category, exceeds

`(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

`(g) TREATMENT OF CERTAIN CEDING COMMISSIONS- Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

`(h) SECRETARIAL AUTHORITY TO ADJUST CAPITALIZATION AMOUNTS-

`(1) IN GENERAL- Except as provided in paragraph (2), the Secretary may provide that a type of insurance contract will be treated as a separate

category for purposes of this section (and prescribe a percentage applicable to such category) if the Secretary determines that the deferral of acquisition expenses for such type of contract which would otherwise result under this section is substantially greater than the deferral of acquisition expenses which would have resulted if actual acquisition expenses (including indirect expenses) and the actual useful life for such type of contract had been used.

`(2) ADJUSTMENT TO OTHER CONTRACTS- If the Secretary exercises his authority with respect to any type of contract under paragraph (1), the Secretary shall adjust the percentage which would otherwise have applied under subsection (c)(1) to the category which includes such type of contract so that the exercise of such authority does not result in a decrease in the amount of revenue received under this chapter by reason of this section for any fiscal year.

`(i) TREATMENT OF QUALIFIED FOREIGN CONTRACTS UNDER ADJUSTED CURRENT EARNINGS PREFERENCE- For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subsection applied to such contracts for all taxable years.

`(j) TRANSITIONAL RULE- In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year.'

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX- Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT- The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

`Sec. 848. Capitalization of certain policy acquisition expenses.'

(d) EFFECTIVE DATE-

(1) IN GENERAL- The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b)-

(A) IN GENERAL- The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990, except that, in the case of a small insurance company, such amendment shall apply to taxable years beginning after December 31, 1989. For purposes of this paragraph, the term `small insurance company' means any insurance company which meets the requirements of section 806(a)(3) of the Internal Revenue Code of 1986; except that paragraph (2) of section 806(c) of such Code shall not apply.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990- In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) by a company which is not a small insurance company shall be the

amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 7412. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE- Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

`(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES-

`(A) IN GENERAL- The amount taken into account for purposes of subsection (a) and (b) as--

`(i) the opening balance of the items referred to in subparagraph (C), and

`(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

`(B) TRANSITIONAL RULE-

`(i) IN GENERAL- In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3 1/3 percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

`(ii) TERMINATION AS LIFE INSURANCE COMPANY- Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

`(C) DESCRIPTION OF ITEMS- For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B).'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 7413. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE- Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking `section 807, pertaining' and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting `section 807.'.

(b) TECHNICAL AMENDMENT- Subparagraph (A) of section 832(b)(7) is amended--

(1) by striking `amounts included in unearned premiums under the 2nd sentence of such subparagraph' and inserting `insurance contracts described in section 816(b)(1)(B)', and

(2) by striking `such amounts into account' and inserting `such contracts into account'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B--Treatment of Salvage Recoverable

SEC. 7414. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE- Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

> *`(A) IN GENERAL- The term `losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:*
>
> > *`(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.*
> >
> > *`(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.*
> >
> > *`(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.*
>
> *The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations.'*

(b) CONFORMING AMENDMENT- Subsection (g) of section 846 is amended by adding `and' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE-

> *(1) IN GENERAL- The amendments made by this section shall apply to taxable years beginning after December 31, 1989.*
>
> *(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING-*
>
> > *(A) IN GENERAL- In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred--*
> >
> > > *(i) such change shall be treated as a change in a method of accounting,*
> > >
> > > *(ii) such change shall be treated as initiated by the taxpayer, and*
> > >
> > > *(iii) such change shall be treated as having been made with the consent of the Secretary.*
> >
> > *(B) ADJUSTMENTS- In applying section 481 of the Internal Revenue Code of 1986 with respect to the change referred to in subparagraph (A)--*
> >
> > > *(i) only 77 percent of the net amount of adjustments*

(otherwise required by such section 481 to be taken into account by the taxpayer) shall be taken into account, and

(ii) the portion of such net adjustments which is required to be taken into account by the taxpayer (after the application of clause (i)) shall be taken into account over a period not to exceed 4 taxable years beginning with the taxpayer's 1st taxable year beginning after December 31, 1989.

(3) TREATMENT OF COMPANIES WHICH TOOK INTO ACCOUNT SALVAGE RECOVERABLE- In the case of any insurance company which took into account salvage recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, 23 percent of the discounted amount of estimated salvage recoverable as of the close of such last taxable year shall be allowed as a deduction ratably over its 1st 4 taxable years beginning after December 31, 1989.

(4) SPECIAL RULE FOR OVERESTIMATES- If for any taxable year beginning after December 31, 1989--

(A) the amount of the section 481 adjustment which would have been required without regard to paragraph (2) and any discounting, exceeds

(B) the sum of the amount of salvage recovered taken into account under section 832(b)(5)(A)(i) for the taxable year and any preceding taxable year beginning after December 31, 1989, attributable to losses incurred with respect to any accident year beginning before 1990 and the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such losses,

23 percent of such excess (adjusted by the discount rate used in determining the amount of salvage recoverable as of the close of the last taxable year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

(5) EFFECT ON EARNINGS AND PROFITS- The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the section 481 adjustment which would have been required but for paragraph (2). For purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, earnings and profits of a corporation shall be determined by applying the principles of paragraph (2)(B).

Subpart C--Waiver of Estimated Tax Penalties

SEC. 7415. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART III--COMPLIANCE PROVISIONS

SEC. 7421. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE- Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

`(k) EXTENSION IN CASE OF CERTAIN SUMMONSES-

`(1) IN GENERAL- If any designated summons is issued by the Secretary

with respect to any return of tax, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended--

`(A) during any judicial enforcement period--

`(i) with respect to such summons, or

`(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

`(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

`(2) DESIGNATED SUMMONS- For purposes of this subsection--

`(A) IN GENERAL- The term `designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if--

`(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

`(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

`(B) LIMITATION- A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

`(3) JUDICIAL ENFORCEMENT PERIOD- For purposes of this subsection, the term `judicial enforcement period' means, with respect to any summons, the period--

`(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

`(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons.'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 7422. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE- Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

`(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1-

`(1) IN GENERAL- For purposes of this section, there is a substantial valuation misstatement under chapter 1 if--

`(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200

percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

`(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

`(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

`(2) LIMITATION- No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

`(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT- For purposes of this subsection, the term `net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply.'

(b) CONFORMING AMENDMENTS-

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

`(3) Any substantial valuation misstatement under chapter 1.'

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

`(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting--

`(i) `400 percent' for `200 percent' each place it appears,

`(ii) `25 percent' for `50 percent', and

`(iii) `$20,000,000' for `$10,000,000','.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 7423. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE- Subsection (n) of section 6103 (relating to certain other persons) is amended--

(1) by striking `and the programming' and inserting `the programming', and

(2) by inserting after `of equipment,' the following `and the providing of other services,'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 7424. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE- The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to--

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES- In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 7425. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE- Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

`SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

`(a) REQUIREMENT- If a foreign corporation (hereinafter in this section referred to as the `reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year--

`(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

`(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

`(b) REQUIRED INFORMATION- For purposes of subsection (a), the information described in this subsection is--

`(1) the information described in section 6038A(b), and

`(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

`(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS- The provisions of subsection (d) of section 6038A shall apply to--

`(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

`(2) any failure to maintain (or cause another to maintain) records as

required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

`(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS-

`(1) AGREEMENT TO TREAT CORPORATION AS AGENT- The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

`(2) RULES WHERE INFORMATION NOT FURNISHED- If--

`(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

`(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

`(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

`(3) APPLICABLE RULES- If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

`(4) JUDICIAL PROCEEDINGS- The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting `transaction or item' for `transaction'.

`(e) DEFINITIONS- For purposes of this section, the terms `related party', `foreign person', and `records' have the respective meanings given to such terms by section 6038A(c).'

(b) CONFORMING AMENDMENTS-

(1) Paragraph (1) of section 6038A(a) is amended by striking `or is a foreign corporation engaged in trade or business within the United States'.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

`Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business.'

(c) EFFECTIVE DATE- The amendments made by this section shall apply to--

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 7426. STUDY OF SECTION 482.

(a) GENERAL RULE- The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of--

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT- Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART IV--EMPLOYER REVERSIONS

Subpart A--Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 7431. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking `15 percent' and inserting `20 percent'.

SEC. 7432. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL- Section 4980 is amended by adding at the end thereof the following new subsection:

`(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS-

`(1) IN GENERAL- Subsection (a) shall be applied by substituting `40 percent' for `20 percent' with respect to any employer reversion from a qualified plan unless--

`(A) the employer establishes or maintains a qualified replacement plan, or

`(B) the plan provides benefit increases meeting the requirements of paragraph (3).

`(2) QUALIFIED REPLACEMENT PLAN- For purposes of this subsection, the term `qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the `replacement plan') with respect to which the following requirements are met:

`(A) PARTICIPATION REQUIREMENT- Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

`(B) ASSET TRANSFER REQUIREMENT-

`(i) 20 PERCENT CUSHION- A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of--

`(I) 20 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

`(II) the amount determined under clause (ii).

`(ii) REDUCTION FOR INCREASE IN BENEFITS- The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which--

`(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

`(II) takes effect immediately on the termination date.

`(iii) TREATMENT OF AMOUNT TRANSFERRED- In the case of the transfer of any amount under clause (i)--

`(I) such amount shall not be includible in the gross income of the employer,

`(II) no deduction shall be allowable with respect to such transfer, and

`(III) such transfer shall not be treated as an employer reversion for purposes of this section.

`(C) ALLOCATION REQUIREMENTS-

`(i) IN GENERAL- In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is--

`(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

`(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

`(ii) COORDINATION WITH SECTION 415 LIMITATION- If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause--

`(I) such amount shall be allocated to the accounts of other participants, and

`(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

`(iii) TREATMENT OF INCOME- Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

`(iv) UNALLOCATED AMOUNTS AT TERMINATION- If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan--

`(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

`(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

`(3) PRO RATA BENEFIT INCREASES-

`(A) IN GENERAL- The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which--

`(i) have an aggregate present value not less than 15 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

`(ii) take effect immediately on the termination date.

`(B) PRO RATA INCREASE- For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as--

`(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

`(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting `equal to' for `not less than'.

`(4) Coordination with other provisions-

`(A) LIMITATIONS- A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

`(B) TREATMENT AS EMPLOYER CONTRIBUTIONS- Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

`(C) 10-YEAR PARTICIPATION REQUIREMENT- Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

`(5) DEFINITIONS AND SPECIAL RULES- For purposes of this subsection--

`(A) NONACTIVE PARTICIPANT- The term `nonactive participant' means an individual who--

`(i) is a participant in pay status as of the termination date,

`(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

`(iii) is a participant not described in clause (i) or (ii)--

`(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

`(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

`(B) PRESENT VALUE- Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

`(C) REALLOCATION OF INCREASE- Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

`(D) AGGREGATION OF PLANS- The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

`(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY- This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State

law.'

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT-

(1) FIDUCIARY RESPONSIBILITY- Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

`(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

`(A) In the case of a fiduciary of the terminated plan, any requirement--

`(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

`(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

`(B) In the case of a fiduciary of a qualified replacement plan, any requirement--

`(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

`(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

`(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

`(2) For purposes of this subsection--

`(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

`(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991.'

(2) Conforming amendments-

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking `or title IV' and inserting `and title IV'.

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting `, section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)' after `paragraph (3)'.

SEC. 7433. EFFECTIVE DATE.

(a) IN GENERAL- Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION- The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if--

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B--Transfers to Retiree Health Accounts

SEC. 7434. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL- Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

`Subpart E--Treatment of Transfers to Retiree Health Accounts

`Sec. 420. Transfers of excess pension assets to retiree health accounts.

`SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

`(a) GENERAL RULE- If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan--

`(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

`(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

`(3) such transfer shall not be treated--

`(A) as an employer reversion for purposes of section 4980, or

`(B) as a prohibited transaction for purposes of section 4975, and

`(4) the limitations of subsection (d) shall apply to such employer.

`(b) QUALIFIED TRANSFER- For purposes of this section--

`(1) IN GENERAL- The term `qualified transfer' means a transfer--

`(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

`(B) which does not contravene any other provision of law, and

`(C) with respect to which the plan meets--

`(i) the use requirements of subsection (c)(1),

`(ii) the vesting requirements of subsection (c)(2), and

`(iii) the minimum benefit requirements of subsection (c)(3).

`(2) Only 1 transfer per year-

`(A) IN GENERAL- No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

`(B) EXCEPTION- A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

`(3) LIMITATION ON AMOUNT TRANSFERRED- The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

`(4) Special rule for 1990-

`(A) IN GENERAL- Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer--

`(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of--

`(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

`(II) the date such return is filed, and

`(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

`(B) REDUCTION IN DEDUCTION- The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

`(C) COORDINATION WITH REDUCTION RULE- Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

`(5) EXPIRATION- No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

`(c) Requirements of Plans Transferring Assets-

`(1) USE OF TRANSFERRED ASSETS-

`(A) IN GENERAL- Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

`(B) Amounts not used to pay for health benefits-

`(i) IN GENERAL- Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

`(ii) TAX TREATMENT OF AMOUNTS- Any amount transferred out of an account under clause (i)--

`(I) shall not be includible in the gross income of the employer for such taxable year, but

`(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

`(C) ORDERING RULE- For purposes of this section, any amount paid

out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

`(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER-

`(A) IN GENERAL- The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

`(B) SPECIAL RULE FOR 1990- In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

`(3) MINIMUM COST REQUIREMENTS-

`(A) IN GENERAL- The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

`(B) APPLICABLE EMPLOYER COST- For purposes of this paragraph, the term `applicable employer cost' means, with respect to any taxable year, the amount determined by dividing--

`(i) the qualified current retiree health liabilities of the employer for such taxable year determined--

`(I) without regard to any reduction under subsection (e)(1)(B), and

`(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

`(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

`(C) ELECTION TO COMPUTE COST SEPARATELY- An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

`(D) COST MAINTENANCE PERIOD- For purposes of this paragraph, the term `cost maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

`(d) LIMITATIONS ON EMPLOYER- For purposes of this title--

`(1) DEDUCTION LIMITATIONS- No deduction shall be allowed--

`(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

`(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

`(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of--

`(i) the amount determined under subparagraph (A) (and income allocable thereto), over

`(ii) the amount determined under subparagraph (B).

`(2) NO CONTRIBUTIONS ALLOWED- An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

`(e) DEFINITION AND SPECIAL RULES- For purposes of this section--

`(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES- For purposes of this section--

`(A) IN GENERAL- The term `qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if--

`(i) such benefits were provided directly by the employer, and

`(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

`(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE- The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

`(C) APPLICABLE HEALTH BENEFITS- The term `applicable health benefits' mean health benefits or coverage which are provided to--

`(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

`(ii) their spouses and dependents.

`(D) KEY EMPLOYEES EXCLUDED- If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

`(2) EXCESS PENSION ASSETS- The term `excess pension assets' means the excess (if any) of--

`(A) the amount determined under section 412(c)(7)(A)(ii), over

`(B) the greater of--

`(i) the amount determined under section 412(c)(7)(A)(i), or

`(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

`(3) HEALTH BENEFITS ACCOUNT- The term `health benefits account' means an account established and maintained under section 401(h).

`(4) COORDINATION WITH SECTION 412- In the case of a qualified transfer to a health benefits account--

`(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

`(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting `10 plan years' for `5 plan years'.'

(b) CONFORMING AMENDMENT- Section 401(h) is amended by inserting `, and subject to the provisions of section 420' after `Secretary'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 7435. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT- Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting `, or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)' after `insured plans)'.

(b) FIDUCIARY DUTIES- Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting `and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991),' after `4044,'.

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS- Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

`(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991).'

(d) FUNDING LIMITATIONS- Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

`(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS- For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)--

`(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

`(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting `10 plan years' for `5 plan years'.'

(e) NOTICE REQUIREMENTS-

(1) IN GENERAL- Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

`(e) Notice of Transfer of Excess Pension Assets to Health Benefits Accounts-

`(1) NOTICE TO PARTICIPANTS- Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

`(2) Notice to secretaries, administrator, and employee organizations-

`(A) IN GENERAL- Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

`(B) INFORMATION RELATING TO TRANSFER- Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

`(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS- The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

`(3) DEFINITIONS- For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section.'

(2) Penalties-

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting `or section 101(e)(1)' after `section 606'.

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended--

(i) by inserting `or who fails to meet the requirements of section 101(e)(2) with respect to any person' after `beneficiary' the first place it appears, and

(ii) by inserting `or to such person' after `beneficiary' the second place it appears.

(f) EFFECTIVE DATE- The amendments made by this section shall apply to

qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART V--CORPORATE PROVISIONS

SEC. 7441. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE- Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

`(c) TAXABILITY OF CORPORATION ON DISTRIBUTION-

`(1) IN GENERAL- Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

`(2) DISTRIBUTION OF APPRECIATED PROPERTY-

`(A) IN GENERAL- If--

`(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

`(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

`(B) QUALIFIED PROPERTY- For purposes of subparagraph (A), the term `qualified property' means any stock or securities in the controlled corporation.

`(C) TREATMENT OF LIABILITIES- If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

`(3) Coordination with sections 311 and 336(a)- Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1).

`(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION-

`(1) IN GENERAL- In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

`(2) DISQUALIFIED DISTRIBUTION- For purposes of this subsection, the term `disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution--

`(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

`(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

`(3) DISQUALIFIED STOCK- For purposes of this subsection, the term `disqualified stock' means--

`(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

`(B) any stock in any controlled corporation--

`(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

`(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

`(4) 50-PERCENT OR GREATER INTEREST- For purposes of this subsection, the term `50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

`(5) AGGREGATION RULES-

`(A) IN GENERAL- For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sentence, sections 267(b) and 707(b)(1) shall be applied by substituting `10 percent' for `50 percent' each place it appears.

`(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS- If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

`(6) PURCHASE- For purposes of this subsection--

`(A) IN GENERAL- Except as otherwise provided in this paragraph, the term `purchase' means any acquisition but only if--

`(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

`(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

`(iii) the property is not acquired in any other transaction described in regulations.

`(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES- The term `purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for--

`(i) any cash or cash item,

`(ii) any marketable security, or

`(iii) any debt of the transferor.

`(C) CARRYOVER BASIS TRANSACTIONS- If--

`(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

`(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

`(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK-

`(A) IN GENERAL- If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

`(B) STOCK TO WHICH SUSPENSION APPLIES- This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by--

`(i) an option,

`(ii) a short sale,

`(iii) any special class of stock,

`(iv) any device limiting risk from any portion of the activities of the corporation, or

`(v) any other device or transaction.

`(8) ATTRIBUTION FROM ENTITIES-

`(A) IN GENERAL- Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting `10 percent' for `50 percent' in subparagraph (C) of such paragraph (2)).

`(B) DEEMED PURCHASE RULE- If--

`(i) any person acquires by purchase an interest in any entity, and

`(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

`(9) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements.'

(b) TECHNICAL AMENDMENTS- Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

`(5) CROSS REFERENCE-

`For provision providing for recognition of gain in certain distributions, see section 355(d)'.

(c) EFFECTIVE DATE-

(1) IN GENERAL- The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES- For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or

before October 9, 1990 if--

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer--

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 7442. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE- Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: `Regulations prescribed under the preceding sentence shall provide that--

`(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

`(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

`(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be taken into account under principles similar to the principles of section 1272(a).'

(b) EFFECTIVE DATE-

(1) IN GENERAL- Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION- The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if--

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 7443. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS- Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: `If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the

transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate.'

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES-

(1) IN GENERAL- Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

`(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES-

`(1) IN GENERAL- If--

`(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

`(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

`(2) 10-PERCENT OWNER- For purposes of this subsection--

`(A) IN GENERAL- The term `10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

`(B) CONSTRUCTIVE OWNERSHIP- Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

`(3) RELATED PERSON- For purposes of this subsection, the term `related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner.'

(2) TECHNICAL AMENDMENT- Clause (x) of section 6724(d)(1)(B) is amended by striking `section 1060(b)', and inserting `subsection (b) or (e) of section 1060'.

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) TRANSACTIONS- Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

`(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY- Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

`(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

`(ii) Any modification of the amount described in clause (i).

`(iii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph.'

(d) EFFECTIVE DATE-

(1) IN GENERAL- Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION- The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 7444. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES- Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

> *`(ii) EXCEPTION- The term `major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies.'*

(b) EFFECTIVE DATE-

(1) IN GENERAL- Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION- The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 7445. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT-

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

`(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT-

(A) IN GENERAL- For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE- For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter.'

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION-

(1) IN GENERAL- Subparagraph (B) of section 108(e)(10) is amended to read as follows:

> *`(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS-*
>
> > *`(i) IN GENERAL- Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)--*
> >
> > > *`(I) by a debtor in a title 11 case, or*
> > >
> > > *`(II) by any other debtor but only to the extent such*

debtor is insolvent.

`(ii) DISQUALIFIED STOCK- For purposes of clause (i), the term `disqualified stock' means any stock with a stated redemption price if--

`(I) such stock has a fixed redemption date,

`(II) the issuer of such stock has the right to redeem such stock at one or more times, or

`(III) the holder of such stock has the right to require its redemption at one or more times.'

(2) CONFORMING AMENDMENT- Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence:

`Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph.'

(c) EFFECTIVE DATE-

(1) IN GENERAL- Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS- The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)--

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) is pursuant to a transaction--

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART VI--EMPLOYMENT TAX PROVISIONS

SEC. 7451. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX-

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

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

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

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

`(x) APPLICABLE CONTRIBUTION BASE- For purposes of this chapter--

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

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

`(A) $89,000 for calendar year 1991, and

`(B) for any calendar year after 1991, the applicable contribution base for the preceding year adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230(b) of the Social Security Act.'

(b) SELF-EMPLOYMENT TAX-

(1) IN GENERAL- Subsection (b) of section 1402 is amended by striking `the contribution and benefit base (as determined under section 230 of the Social Security Act)' and inserting `the applicable contribution base (as determined under subsection (k))'.

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

`(k) APPLICABLE CONTRIBUTION BASE- For purposes of this chapter--

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

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

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

`(i) TIER 1 TAXES-

`(I) IN GENERAL- Except as provided in subclause (II) of this clause and in clause (ii), the term `applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

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

(d) TECHNICAL AMENDMENT-

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

`(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES- In applying this subsection with respect to--

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

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

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

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

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

SEC. 7452. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL-

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

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

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

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

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

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

(c) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES-

(1) IN GENERAL-

(A) EMPLOYEES NEWLY SUBJECT TO TAX- For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1992, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a),

the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1992, shall be considered to be `employment' (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act

for months beginning with January 1992.

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

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

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

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

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

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

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

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

(B) by inserting `(1)' after `(g)', and

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

`(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for and conditions of such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability.'.

SEC. 7453. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI- Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended--

(1) by striking `or' at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting `, or'; and

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

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

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

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

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

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

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

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

(b) EMPLOYMENT UNDER FICA- Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended--

(1) by striking `or' at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting `, or'; and

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

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

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

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

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

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

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

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

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

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

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

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

(d) EFFECTIVE DATE- The amendments made by this section shall apply with respect to service performed after December 31, 1991.

SEC. 7454. EXTENSION OF FUTA SURTAX.

(a) IN GENERAL- Section 3301 (relating to rate of FUTA tax) is amended--

(1) by striking `1988, 1989, and 1990' in paragraph (1) and inserting `1988 through 1995', and

(2) by striking `1991' in paragraph (2) and inserting `1996'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to wages paid after December 31, 1990.

SEC. 7455. INCREASE IN TIER 2 RAILROAD RETIREMENT TAXES.

(a) TAX ON EMPLOYEES- Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended by striking `4.90 percent' and inserting `5 percent'.

(b) TAX ON EMPLOYEE REPRESENTATIVES- Paragraph (2) of section 3211(a) of such Code (relating to rate of tax) is amended to read as follows:

`(2) TIER 2 TAX- In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 15.05 percent of the compensation received during any calendar year by such employee representative for services rendered by such employee representative.'

(c) TAX ON EMPLOYERS- Subsection (b) of section 3221 of such Code (relating to rate of tax) is amended by striking `16.10 percent' and inserting `16.4 percent'.

(d) EFFECTIVE DATES-

(1) IN GENERAL- Except as provided in paragraph (2), the amendments made by this section shall apply to compensation received after December 31, 1990.

(2) EMPLOYER TAX- The amendment made by subsection (c) shall apply to compensation paid after December 31, 1990.

SEC. 7456. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

(a) IN GENERAL- Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) of the Internal Revenue Code of 1986, revenue increase transferred to certain railroad accounts) is amended by striking `1990' and inserting `1991'.

(b) EFFECTIVE DATE- The amendment made by this section shall take effect on September 30, 1990.

SEC. 7457. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) TAX ON EMPLOYEES- Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended--

(1) by striking `following' and inserting `applicable', and

(2) by striking `employee:' and all that follows and inserting `employee. For purposes of the preceding sentence, the term `applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year.'

(b) TAX ON EMPLOYEE REPRESENTATIVES- Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended--

(1) by striking `following' and inserting `applicable', and

(2) by striking `representative:' and all that follows and inserting `representative. For purposes of the preceding sentence, the term `applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.'

(c) TAX ON EMPLOYERS- Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended--

(1) by striking `following' and inserting `applicable', and

(2) by striking `employer:' and all that follows and inserting `employer. For purposes of the preceding sentence, the term `applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year.'

SEC. 7458. DEPOSITS OF PAYROLL TAXES.

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

`(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES- If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.'

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

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

PART VII--MISCELLANEOUS PROVISIONS

SEC. 7461. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

(a) IN GENERAL- Part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new section:

`SEC. 68. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

`(a) GENERAL RULE- In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the taxable year shall be reduced by the lesser of--

`(1) 5 percent of the excess of adjusted gross income over the applicable amount, or

`(2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

`(b) APPLICABLE AMOUNT- For purposes of this section, the term `applicable

amount' means $100,000 ($50,000 in the case of a separate return by a married individual within the meaning of section 7703).

`(c) EXCEPTION FOR CERTAIN ITEMIZED DEDUCTIONS- For purposes of this section, the term `itemized deductions' does not include--

`(1) the deduction under section 213 (relating to medical, etc. expenses),

`(2) any deduction for investment interest (as defined in section 163(d)), and

`(3) the deduction under section 165(a) for losses described in section 165(c)(3).

`(d) COORDINATION WITH OTHER LIMITATIONS- This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

`(e) EXCEPTION FOR ESTATES AND TRUSTS- This section shall not apply to any estate or trust.'

(b) COORDINATION WITH MINIMUM TAX- Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

`(F) SECTION 68 NOT APPLICABLE- Section 68 shall not apply.'

(c) MINIMUM TAX TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY- Section 57(a)(6)(A) is amended by inserting `(other than tangible personal property)' after `capital gain property'.

(d) CLERICAL AMENDMENT- The table of sections for part I of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

`Sec. 68. Overall limitation on itemized deductions.'

(e) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7462. DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.

(a) GENERAL RULE- Section 163 (relating to interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

`(k) Disallowance of Deduction for Interest on Unpaid Corporate Taxes-

`(1) IN GENERAL- In the case of a corporation, no deduction shall be allowed under this subtitle for any interest--

`(A) paid or accrued under subtitle F on any underpayment of tax imposed by this title or on any other liability arising under this title, and

`(B) attributable to periods after the 30th day following the earlier of--

`(i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or

`(ii) the date on which the deficiency notice under section 6212 is sent.

`(2) NOTICE FOR TAXES OTHER THAN INCOME TAXES- In the case of any underpayment of tax imposed by this title other than under chapter

1, or any other liability imposed by this title not relating to chapter 1, paragraph (1)(B) shall be applied by reference to any letter or notice provided by the Secretary which is similar to the letter or notice described in paragraph (1)(B).'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to interest attributable to periods after December 31, 1990.

SEC. 7463. DENIAL OF DEDUCTION FOR UNNECESSARY COSMETIC SURGERY.

(a) IN GENERAL- Section 213(b) (relating to limitation with respect to medicine and drugs) is amended to read as follows:

`(b) Limitations-

`(1) MEDICINE AND DRUGS- An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

`(2) COSMETIC SURGERY-

`(A) IN GENERAL- An amount paid during the taxable year for cosmetic surgery or other similar procedures shall not be taken into account under subsection (a), unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

`(B) DEFINITION- For purposes of this paragraph, the term `cosmetic surgery' means any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.'

(b) EFFECTIVE DATE- The amendment made by this section shall apply to taxable years beginning after December 31, 1990.

Subtitle E--Other Provisions

SEC. 7471. TAX-RELATED USER FEES MADE PERMANENT.

(a) IN GENERAL- Section 10511(c) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking `and before September 30, 1990'.

(b) EFFECTIVE DATE- The amendment made by this section shall take effect on September 29, 1990, except that no advance payment shall be required for any fee for any requests filed after September 29, 1990, and before the 30th day after the date of the enactment of this Act.

SEC. 7472. PUBLIC DEBT LIMIT EXTENSION.

The public debt limit as set forth in subsection (b) of section 3101 of title 31, United States Code, shall be increased by so much of an amount not exceeding $321,000,000,006, as is necessary.

SEC. 7473. REPORTS OF REFUNDS AND CREDITS.

(a) IN GENERAL- Section 6405 (relating to reports of refunds and credits) is amended--

(1) by striking `$200,000' in subsection (a) and inserting `$1,000,000'; and

(2) by striking `$200,000' in subsection (b) and inserting `$1,000,000'.

(b) EFFECTIVE DATE- The amendments made by this section shall take effect

on the date of the enactment of this Act, except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act.

TITLE VIII--CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 8001. ELIMINATION OF LUMP-SUM CREDIT FOR INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) ELIMINATION OF LUMP-SUM CREDIT- (1) Sections 8343a and 8420a of title 5, United States Code, are repealed.

(2)(A) The table of sections for chapter 83 of title 5, United States Code, is amended by striking out the item relating to section 8343a.

(B) The table of sections for chapter 84 of title 5, United States Code, is amended by striking out the item relating to section 8420a.

(3) Section 8424(a) of title 5, United States Code, is amended by striking out `Except as provided in section 8420a, payment' and inserting in lieu thereof `Payment'.

(4) Section 807(e) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)) is repealed.

(5) Section 294 of the Central Intelligence Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is repealed.

(6) The provisions of this subsection shall be effective on and after November 2, 1990, and (except as provided under subsection (b)) shall apply to any annuity payable to an employee or Member with a commencement date on or after November 2, 1990 in accordance with regulations prescribed by the Office of Personnel Management.

(b) LUMP-SUM CREDIT FOR ALTERNATIVE FORMS OF ANNUITIES ON OR BEFORE NOVEMBER 1, 1990- (1) Notwithstanding any other provision of law, the provisions of section 4005 of the Omnibus Budget Reconciliation Act of 1989 shall apply to any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, if the annuity of such employee or Member commences on or before November 1, 1990.

(2) Notwithstanding any other provision of law, the provisions repealed under subsection (a) (4) and (5) shall apply to any lump-sum credit payable to an employee (to which such provisions would otherwise apply) if the annuity of such employee commences on or before November 1, 1990.

(c) DEFINITIONS- For purposes of this section, the terms `lump-sum credit', `employee', and `Member' each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

SEC. 8002. UNITED STATES POSTAL SERVICE CONTRIBUTIONS FOR CERTAIN EMPLOYEE AND ANNUITANT HEALTH BENEFITS.

Section 8906(g)(2) of title, 5, United States Code, is amended to read as follows:

> *`(2) The Government contributions authorized by this section for health benefits for an annuitant shall be paid by--*
>
> > *`(A) the United States Postal Service, in the case of annuitant whose eligibility for an annuity is based on a separation from service with the Postal Service on or after June 30, 1971, or who is a survivor of such an annuitant or a survivor of an employee who died while employed by the Postal Service on or after June 30, 1971; or*

`(B) the government of the District of Columbia, in the case of an annuitant whose eligibility for an annuity is based on a separation from service with such government, or who is a survivor of such an annuitant or a survivor of an employee who died while employed by such government.'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on October 1, 1990, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 8003. PROHIBITION OF CERTAIN TAXATION ON PAYMENTS FROM THE EMPLOYEES' HEALTH BENEFITS FUND.

Section 8909 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

`(f)(1) No tax, fee, or other monetary payment may be imposed directly or indirectly on a carrier or an underwriting or plan administration subcontractor of an approved health benefit plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to payments made from the Fund.

`(2) Paragraph (1) of this subsection shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.'.

SEC. 8004. COMPUTER MATCHING OF FEDERAL BENEFITS INFORMATION AND PRIVACY PROTECTION.

(a) SHORT TITLE- This section may be cited as the `Computer Matching and Privacy Protection Amendments of 1990'.

(b) VERIFICATION REQUIREMENTS AMENDMENT- (1) Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

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

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

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

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

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

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

`(C)(i) the expiration of any time period established for the program by

statute or regulation for the individual to respond to that notice; or

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

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

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

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

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

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

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

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

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

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

SEC. 8005. APPLICATION OF CERTAIN MEDICARE LIMITS TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM- Section 8904 of title 5, United States Code, is amended by inserting `(a)' before the first sentence and by adding at the end of the section the following new subsection:

`(b)(1) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits, in the case of any retired enrolled individual who is age 65 or older and is not covered to receive medicare hospital and insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), to pay a charge imposed by any health care provider, for inpatient hospital services which are covered for purposes of benefit payments under this chapter and part A of title XVIII of the Social Security Act, to the extent that such charge exceeds applicable limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww). Hospital providers who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1814(a) and 1866 of the Social Security Act (42 U.S.C. 1395f(a) and 1395cc), whereby the participating provider accepts medicare benefits as full payment for covered items and services after applicable patient copayments under section 1813 of such Act (42 U.S.C. 1395e) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for services described in the preceding sentence. The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital is found to knowingly

and willfully violate this subsection on a repeated basis and the Secretary may invoke appropriate sanctions in accordance with section 1866(b)(2) of the Social Security Act (42 U.S.C. 1395cc(b)(2)) and applicable regulations.

`(2) Notwithstanding any other provision of law, the Secretary of Health and Human Services and the Director of the Office of Personnel Management, and their agents, shall exchange any information necessary to implement this subsection.'.

(b) EFFECTIVE DATES- The amendments made by this section apply to inpatient hospital admissions that occur on and after October 1, 1990.

SEC. 8006. PORTABILITY OF BENEFITS FOR EMPLOYEES CONVERTING TO THE CIVIL SERVICE SYSTEM.

(a) SHORT TITLE- This section may be cited as the `Portability of Benefits for Nonappropriated Fund Employees Act of 1990'.

(b) DEFINITIONAL AMENDMENT- Section 2105(c) of title 5, United States Code, is amended--

(1) by amending paragraph (1) to read as follows:

`(1) laws administered by the Office of Personnel Management, except--

`(A) section 7204;

`(B) as otherwise specifically provided in this title;

`(C) the Fair Labor Standards Act of 1938; or

`(D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or'; and

(2) in paragraph (2), by striking `chapter 84' and inserting `chapter 84 (except to the extent specifically provided therein)'.

(c) AMENDMENT RELATING TO ORDER OF RETENTION- Section 3502(a)(C) of title 5, United States Code, is amended to read as follows:

`(C) is entitled to credit for--

`(i) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act; and

`(ii) service rendered as an employee described in section 2105(c) if such employee moves or has moved, on or after January 1, 1987, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).'.

(d) AMENDMENT RELATING TO PAY ON A CHANGE OF POSITION- Section 5334 of title 5, United States Code, is amended by adding at the end the following new subsection:

`(g) An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, may have such employee's initial rate of basic pay fixed at the minimum rate of the appropriate grade or at any step of such grade that does not exceed the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c). In the

case of a nonappropriated fund employee who is moved involuntarily from such nonappropriated fund instrumentality without a break in service of more than 3 days and without substantial change in duties to a position that is subject to this subchapter, the employee's pay shall be set at a rate (not above the maximum for the grade, except as may be provided for under section 5365) that is not less than the employee's rate of basic pay under the nonappropriated fund instrumentality immediately prior to so moving.'.

(e) AMENDMENT RELATING TO PERIODIC STEP INCREASES- Section 5335 of title 5, United States Code, is amended by adding at the end the following new subsection:

`(g) In computing periods of service under subsection (a) in the case of an employee who moves without a break in service of more than 3 days from a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) to a position under the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, service under such instrumentality shall, under regulations prescribed by the Office, be deemed service in a position subject to this subchapter.'.

(f) AMENDMENT RELATING TO GRADE AND PAY RETENTION- Section 5365(b) of title 5, United States Code, is amended by adding at the end the following:

`Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).'.

(g) AMENDMENT RELATING TO PAY FOR ACCUMULATED AND ACCRUED LEAVE- Section 5551(a) of title 5, United States Code, is amended by adding at the end the following new sentence: `For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).'.

(h) AMENDMENTS RELATING TO TRANSFERS BETWEEN POSITIONS UNDER DIFFERENT LEAVE SYSTEMS- Section 6308 of title 5, United States Code, is amended--

(1) by inserting `(a)' before `The annual'; and

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

`(b) The annual leave, sick leave, and home leave to the credit of a nonappropriated fund employee of the Department of Defense or the Coast Guard described in section 2105(c) who moves without a break in service of more than 3 days to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter shall be transferred to the employee's credit. The annual leave, sick leave, and home leave to the credit of an employee of the Department of Defense or the Coast Guard who is subject to this subchapter and who moves without a break in service of more than 3 days to a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c), shall be transferred to the employee's credit under the nonappropriated fund instrumentality. The Secretary of Defense or the Secretary of Transportation, as appropriate, may provide for a transfer of funds in an amount equal to the value of the transferred annual leave to compensate the gaining entity for the cost of a transfer of annual leave under this subsection.'.

(i) AMENDMENTS TO INCLUDE ADDITIONAL SERVICE FOR LEAVE ACCRUAL PURPOSES- (1) Section 6312 is amended to read as follows:

`Sec. 6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees

`(a) Credit shall be given in determining years of service for the purpose of section 6303(a) for--

`(1) service as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or an association of producers described in section 10(b) of the Agricultural Adjustment Act; and

`(2) service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) by an employee who has moved without a break in service of more than 3 days to a position subject to this subchapter in the Department of Defense or the Coast Guard, respectively.

`(b) The provisions of subsections (a) and (b) of section 6308 for transfer of leave between leave systems shall apply to the leave systems established for such county office employees and employees of such Department of Defense and Coast Guard nonappropriated fund instrumentalities, respectively.'.

(2) The item relating to section 6312 in the table of sections for chapter 63 of title 5, United States Code, is amended to read as follows:

`6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees.'.

(j) Amendments Relating to the Civil Service Retirement System- (1) Section 8331 of title 5, United States Code, is amended--

(A) by striking `and' at the end of paragraph (1)(J);

(B) by inserting `and' after the semicolon at the end of paragraph (1)(K);

(C) by inserting after paragraph (1)(K) the following new paragraph:

`(L) an employee described in section 2105(c) who has made an election under section 8347(p)(1) to remain covered under this subchapter;';

(D) in paragraph (1)(ii), by striking the matter following `Government employees' through the semicolon and inserting `(besides any employee excluded by clause (x), but including any employee who has made an election under section 8347(p)(2) to remain covered by a retirement system established for employees described in section 2105(c));'; and

(E) in paragraph (7), by striking `and Gallaudet College;' and inserting `Gallaudet College, and, in the case of an employee described in paragraph (1)(L), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);'.

(2) Section 8347 of title 5, United States Code, is amended by adding at the end the following new subsection:

`(p)(1) Under regulations prescribed by the Office of Personnel Management, an employee of the Department of Defense or the Coast Guard who--

`(A) has not previously made or had an opportunity to make an election under this subsection;

`(B) has 5 or more years of civilian service creditable under this subchapter; and

`(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this subchapter during any employment described in section 2105(c) after such move.

`(2) Under regulations prescribed by the Office of Personnel Management, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c), who--

`(A) has not previously made or had an opportunity to make an election under this subsection;

`(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term `vested participant' is defined by such system;

`(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c); and

`(D) is excluded from coverage under chapter 84 by section 8402(b),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined in section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described in section 2105(c) rather than be subject to this subchapter.'.

(k) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM- (1) Section 8401 of title 5, United States Code, is amended--

(A) in paragraph (11)--

(i) by striking `and' at the end of subparagraph (A);

(ii) by inserting `and' after the semicolon at the end of subparagraph (B);

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

`(C) an employee described in section 2105(c) who has made an election under section 8461(n)(1) to remain covered under this chapter;';

(iv) by striking `or' at the end of clause (ii);

(v) by inserting `or' after the semicolon at the end of clause (iii); and

(vi) by inserting after clause (iii) the following new clause:

`(iv) an employee who has made an election under section 8461(n)(2) to remain covered by a retirement system established for employees described in section 2105(c);'; and

(B) in paragraph (15), by striking `and Gallaudet College;' and inserting `, Gallaudet College, and, in the case of an employee described in paragraph (11)(C), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);'.

(2) Section 8461 of title 5, United States Code, is amended by adding at the end the following new subsection:

`(n)(1) Under regulations prescribed by the Office, an employee of the Department of Defense or the Coast Guard who--

`(A) has not previously made or had an opportunity to make an election under this subsection;

`(B) has 5 or more years of civilian service creditable under this chapter; and

`(C) moves, without a break in service of more than 3 days, to

employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this chapter during any employment described in section 2105(c) after such move.

`(2) Under regulations prescribed by the Office, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), who--

`(A) has not previously made or had an opportunity to make an election under this subsection;

`(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term `vested participant' is defined by such system;

`(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described by section 2105(c); and

`(D) is not eligible to make an election under section 8347(p),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined by section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described by section 2105(c) rather than be subject to this chapter.'.

(l) AMENDMENTS RELATING TO HEALTH BENEFITS- Section 8901(3)(A) of title 5, United States Code, is amended--

(1) by striking `or' at the end of clause (ii);

(2) by inserting `or' after the semicolon at the end of clause (iii); and

(3) by inserting after clause (iii) the following new clause:

`(iv) on an immediate annuity under a retirement system established for employees described in section 2105(c), in the case of an individual who elected under section 8347(p)(2) or 8461(n)(2) to remain subject to such a system;'.

(m) APPLICABILITY- (1) The amendments made by this section shall apply with respect to any individual who, on or after January 1, 1987--

(A) moves without a break in service of more than 3 days from employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard that is described in section 2105(c) of title 5, United States Code, to employment in the Department of Defense or the Coast Guard, respectively, that is not described in such section 2105(c); or

(B) moves without a break in service from employment in the Department of Defense or the Coast Guard that is not described in such section 2105(c) to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, that is described in such section 2105(c).

(2) The Secretary of Defense, the Secretary of Transportation, the Director of the Office of Personnel Management, and the Executive Director of the Federal Retirement Thrift Investment Board, as applicable, shall take such actions as may be practicable to ensure that each individual who has moved as described under paragraph (1) on or after January 1, 1987, and before the date of enactment of this Act, receives the benefit of the amendments made by this section as if such amendments had been in effect at the time such individual so moved. Each such individual who wishes to make an election of

retirement coverage under the amendments made by subsection (j) or (k) of this section shall complete such election within 180 days after the date of enactment of this Act.

(n) CLARIFYING PROVISIONS RELATING TO TREATMENT OF INDIVIDUALS ELECTING TO REMAIN SUBJECT TO THEIR FORMER RETIREMENT SYSTEM- (1) For the purpose of this section, the term `nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c) of title 5, United States Code.

(2)(A) If an individual makes an election under section 8347(p)(1) of title 5, United States Code, to remain covered by subchapter III of chapter 83 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and contribute to the Thrift Savings Fund such sums as are required for such individual in accordance with section 8351 of such title.

(B) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8347(p)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b), make any election described in section 8432(b)(1)(A) of such title.

(3)(A) If an individual makes an election under section 8461(n)(1) of title 5, United States Code, to remain covered by chapter 84 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and shall contribute to the Thrift Savings Fund the funds deducted, together with such other sums as are required for such individual under subchapter III of such chapter.

(B) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8461(n)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b), make any election described in section 8432(b)(1)(A) of such title.

(4) If an individual makes an election under section 8347(p)(2) or 8461(n)(2) of title 5, United States Code, to remain covered by a retirement system established for employees described in section 2105(c) of such title, any Government agency thereafter employing such individual shall, in lieu of any deductions or contributions for which it would otherwise be responsible with respect to such individual under chapter 83 or 84 of such title, make such deductions from pay and such contributions as would be required (under the retirement system for nonappropriated fund employees involved) if it were a nonappropriated fund instrumentality. Any such deductions and contributions shall be remitted to the Department of Defense or the Coast Guard, as applicable, for transmission to the appropriate retirement system.

SEC. 8007. FEDERAL EMPLOYEE HEALTH BENEFITS REFORM.

(a) HOSPITALIZATION-COST-CONTAINMENT MEASURES- Section 8902 of title 5, United States Code, is amended by adding at the end the following:

`(n) A contract for a plan described by section 8903(1), (2), or (3), or section 8903a, shall require the carrier--

`(1) to implement hospitalization-cost-containment measures, including measures--

`(A) for verifying the medical necessity of any proposed treatment or surgery;

`(B) for determining the feasibility or appropriateness of providing services on an outpatient rather than on an inpatient basis;

`(C) for determining the appropriate length of stay (through concurrent review or otherwise) in cases involving inpatient care; and

`(D) involving cases management, if the circumstances so warrant; and

`(2) to establish incentives to encourage compliance with measures under paragraph (1).'.

`(b) IMPROVED CASH MANAGEMENT- Section 8909(a) of title 5, United States Code, is amended by adding at the end (as a flush left sentence) the following:

`Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made only on a checks-presented basis (as defined under regulations of the Department of the Treasury).'.

(c) IMPROVED COORDINATION WITH MEDICARE- Section 8910 of title 5, United States Code, is amended by adding at the end the following:

`(d) The Office, in consultation with the Department of Health and Human Services, shall develop and implement a system through which the carrier for an approved health benefits plan described by section 8903 or 8903a will be able to identify those annuitants or other individuals covered by such plan who are entitled to benefits under part A or B of title XVIII of the Social Security Act in order to ensure that payments under coordination of benefits with Medicare do not exceed the statutory maximums which physicians may charge Medicare enrollees.'.

(d) EFFECTIVE DATE- The amendments made by this section shall be effective as of January 1, 1991, and shall apply with respect to contract years beginning on or after that date.

SEC. 8008. 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.

(a) In general- Subsection (a) of section 6502 of the Internal Revenue Code of 1986 (relating to collection after assessment) is amended--

(1) by striking `6 years' in paragraph (1) and inserting `10 years', and

(2) by striking `6-year period' in paragraph (2) and inserting `10-year period'.

(b) Effective Date- The amendments made by subsection (a) shall apply to levies made, proceedings begun, or agreements made after the date of the enactment of this Act, with respect to assessments made after such date or assessments pending on such date (determined without regard to the amendments made by this section).

TITLE IX--COMMITTEE ON THE JUDICIARY

SEC. 9001. PATENT AND TRADEMARK OFFICE USER FEES.

(a) SURCHARGES- There shall be a surcharge, during fiscal years 1991 through 1995, of 56 percent, rounded by standard arithematic rules, on all fees authorized by subscriptions (a) and (b) of section 41 of title 35, United States Code.

(b) USE OF SURCHARGES- Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 1991, all surcharges collected by the Patent and Trademark Office shall be credited to a separate account established in the Department of Treasury and ascribed to the Patent and Trademark activities of the Department of Commerce as offsetting receipts, to

be available only to the Patent and Trademark Office to the extent provided in advance in appropriations acts for all authorized activities and operations of the Office, and to remain available until expended.

(c) REVISIONS- In fiscal years 1991 through 1995, surcharges established under subsection (a) may be revised periodically by the Commissioner of Patents and Trademarks, subject to the provisions of section 553 of title 5, United States Code, in order to ensure that the following amounts, of patent and trademark user fees are collected.

(1) $91,000,000 in fiscal year 1991.

(2) $95,000,000 in fiscal year 1992.

(3) $99,000,000 in fiscal year 1993.

(4) $103,000,000 in fiscal year 1994.

(5) $107,000,000 in fiscal year 1995.

(d) REPEAL- Section 105(a) of Public Law 100-703 (102 Stat. 4675) is repealed.

(e) REPORT ON FEES- The Commissioner of Patents and Trademarks shall study the structure of all fees collected by the Patent and Trademark Office and, not later than May 1, 1991, shall submit to the Congress a report on all fees to be collected by the office in fiscal years 1992 through 1995. The report shall include a proposed schedule of fees that would distribute the surcharge provided by subsection (a) among all fees collected by the office, and recommendations for any statutory changes that may be necessary to implement the proposals contained in the report.

SEC. 9002. FEDERAL AGENCY STATUS.

For the purposes of Federal law, the Patent and Trademark Office shall be considered a Federal Agency. In particular, the Patent and Trademark Office shall be subject to all Federal laws pertaining to the procurement of goods and services that would apply to a Federal agency using appropriated funds, including the Federal Property and Administrative Services Act of 1949 and the Office of Federal Procurement Policy Act.

SEC. 9003. EFFECT ON OTHER LAW.

Except for section 6001(d), nothing in this title affects the provisions of Public Law 100-703 (102 Stat. 4674 and following).

TITLE X--LABOR

SEC. 10001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE- This title may be cited as the `Labor Reconciliation Act of 1990'.

(b) TABLE OF CONTENTS- The table of contents is as follows:

Subtitle A--Education Provisions

SEC. 10101. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(a) AMENDMENT- Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-7(b)(1)) is amended to read as follows:

`(b) Initial Disbursement and Endorsement Requirements-

`(1) FIRST YEAR STUDENTS- The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of an undergraduate program of postsecondary education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be endorsed by the eligible institution until 30 days after the borrower begins a course of study but may be delivered to the eligible institution prior to the end of the 30-day period.'.

(b) EFFECTIVE DATE- The amendment made by this section shall be effective for loans made on or after the date of enactment to cover periods of instruction beginning on or after January 1, 1991.

SEC. 10102. INELIGIBILITY BASED ON HIGH DEFAULT RATES.

(a) IN GENERAL- Section 435(a) of the Higher Education Act of 1965 (20 U.S.C. 1085(a)) is amended by adding at the end the following new paragraph:

`(3) INELIGIBILITY BASED ON HIGH DEFAULT RATES- (A) An institution whose cohort default rate, as defined in section 435(m), is equal to or

greater than the threshold specified in subparagraph (B) for each of the three immediately preceding fiscal years for which data are available shall not be eligible to participate in a program under this title unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. Upon appeal, the Secretary may permit such institution to continue to participate in a program under this title if the institution demonstrates to the satisfaction of the Secretary that--

`(i) the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold level specified in subparagraph (B); or

`(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable, except that, during the pendency of an appeal based in whole or in part upon this clause, the Secretary may suspend the eligibility of the institution in accordance with his authority to take emergency actions under section 487(c)(1)(E).

`(B) For purposes of subparagraph (A), the threshold level for each of the three fiscal years immediately preceding--

`(i) fiscal year 1991 is 40 percent;

`(ii) fiscal year 1992 is 30 percent; and

`(iii) fiscal year 1993 and each succeeding fiscal year is 25 percent.'.

(b) EFFECTIVE DATE- The amendment made by this section shall be effective July 1, 1991.

SEC. 10103. ABILITY TO BENEFIT.

(a) IN GENERAL- Section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)) is amended--

(1) by redesignating subparagraphs (A) and (B) of paragraph (3) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by inserting `(1)' before `A student who is admitted';

(4) by designating the second sentence of paragraph (1) (as designated by paragraph (3) of this subsection) as paragraph (2); and

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

`(3) In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any loan under part B of this title, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.'.

(b) CONFORMING AMENDMENT- Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended in the fourth sentence by inserting `, except in accordance with section 484(d) of this Act,' after `shall not'.

(c) EFFECTIVE DATE- The amendments made by this section shall be effective for any loan made not earlier than the date of enactment of this Act to cover a period of instruction beginning not earlier than January 1, 1991.

SEC. 10104. MAXIMUM LOAN AMOUNTS.

(a) EFFECTIVE DATE EXTENSION- Paragraph (2) of section 2003(b) of the

Omnibus Budget Reconciliation Act of 1989 is amended by striking `1991' and inserting `1996'.

(b) MAXIMUM LOAN AMOUNTS- Paragraph (1) of section 428A(b) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)) is amended by striking `9 consecutive' and inserting `7 consecutive'.

SEC. 10105. AMENDMENTS TO BANKRUPTCY LAWS.

(a) AUTOMATIC STAY AND PROPERTY OF THE ESTATE-

(1) ACTION BY AN AGENCY- Section 362(b) of title 11, United States Code, 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 a semicolon; and

(C) by inserting immediately following paragraph (13) the following new paragraphs:

`(14) under subsection (a) of this section, of any action by an accrediting agency regarding the accreditation status of the debtor as an educational institution;

`(15) under subsection (a) of this section, of any action by a State licensing body regarding the licensure of the debtor as an educational institution; or

`(16) under subsection (a) of this section, of any action by a guaranty agency, as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or the Secretary of Education regarding the eligibility of the debtor to participate in programs authorized under such Act.'.

(2) ELIGIBILITY TO PARTICIPATE IN HIGHER EDUCATION PROGRAMS- Section 541(b) of title 11, United States Code, is amended--

(A) in paragraph (1), by striking `or' at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon and `or'; and

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

`(3) any eligibility of the debtor to participate in programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; 42 U.S.C. 2751 et seq.), or any accreditation status or State licensure of the debtor as an educational institution.'.

(3) EFFECTIVE DATE- The amendments made by this subsection shall be effective on the date of enactment of this Act.

(b) TREATMENT OF CERTAIN EDUCATION LOANS IN BANKRUPTCY PROCEEDINGS-

(1) DISCHARGE- Section 1328(a)(2) of title 11, United States Code, is amended by striking `section 523(a)(5)' and inserting `paragraph (5) or (8) of section 523(a)'.

(2) COMMENCED CASES- The amendment made by paragraph (1) shall not apply to any case under the provisions of title 11, United States Code, commenced before the date of the enactment of this Act.

SEC. 10106. SUNSET PROVISION.

The amendments made by this subtitle shall cease to have effect on September 30, 1996.

Subtitle B--Labor-Related Penalties

SEC. 10201. OCCUPATIONAL SAFETY AND HEALTH.

(a) IN GENERAL- Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended--

(1) in subsection (a), by striking `$10,000 for each violation' and inserting `$50,000 for each violation';

(2) in subsection (b), by striking `$1,000 for each such violation' and inserting `$5,000 for each such violation';

(3) in subsection (c), by striking `$1,000 for each such violation' and inserting `$5,000 for each such violation';

(4) in subsection (d), by striking `$1,000' and inserting `$5,000';

(5) in subsection (j) (as redesignated), by striking `$1,000' and inserting `$5,000'; and

SEC. 10202. MINE SAFETY AND HEALTH.

Section 110(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) is amended by striking `$10,000' and inserting `$30,000'.

Subtitle C--Employee Retirement Income

PART 1--TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS

SEC. 10301. INCREASE IN REVERSION TAX.

Section 4980(a) of the Internal Revenue Code of 1986 (relating to tax on reversion of qualified plan assets to employer) is amended by striking `15 percent' and inserting `20 percent'.

SEC. 10302. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL- Section 4980 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

`(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS-

`(1) IN GENERAL- Subsection (a) shall be applied by substituting `40 percent' for `20 percent' with respect to any employer reversion from a qualified plan unless--

`(A) the employer establishes or maintains a qualified replacement plan, or

`(B) the plan provides benefit increases meeting the requirements of paragraph (3).

`(2) QUALIFIED REPLACEMENT PLAN- For purposes of this subsection, the term `qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the `replacement plan') with respect to which the following requirements are met:

`(A) PARTICIPATION REQUIREMENT- Substantially all of the active participants in the terminated plan are active participants in the

replacement plan.

`(B) ASSET TRANSFER REQUIREMENT-

`(i) 20 PERCENT CUSHION- A direct transfer from the terminated plan to the replacement plan is made before any employer reversion in an amount equal to the excess (if any) of--

`(I) 20 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

`(II) the amount determined under clause (ii).

`(ii) REDUCTION FOR INCREASE IN BENEFITS- The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which--

`(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

`(II) takes effect immediately on the termination date.

`(iii) TREATMENT OF AMOUNT TRANSFERRED- In the case of the transfer of any amount under clause (i)--

`(I) such amount shall not be includible in the gross income of the employer,

`(II) no deduction shall be allowable with respect to such transfer, and

`(III) such transfer shall not be treated as an employer reversion for purposes of this section.

`(C) ALLOCATION REQUIREMENTS-

`(i) IN GENERAL- In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is--

`(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

`(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer (or, if any limitation under section 415 applies, the period allowable under such section).

`(ii) TREATMENT OF INCOME- Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause.

`(iii) UNALLOCATED AMOUNTS AT TERMINATION- If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan--

`(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of

other participants, and

`(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

`(3) BENEFIT INCREASES- The requirements of this paragraph are met if either of the following requirements are met:

`(A) Pro rata increase in benefits-

`(i) IN GENERAL- A plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which--

`(I) have an aggregate present value not less than 15 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

`(II) take effect immediately on the termination date.

`(ii) PRO RATA INCREASE- For purposes of clause (i), a pro rata increase is an increase in the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under clause (i)(I) as--

`(I) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

`(II) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under clause (i)(I).

`(B) BENEFIT INCREASE OF 20 PERCENT OR GREATER- The aggregate present value of the increases in nonforfeitable accrued benefits described in paragraph (2)(B)(ii) is 20 percent or more of the maximum amount which the employer could receive as an employer reversion without regard to this subsection.

`(4) COORDINATION WITH OTHER PROVISIONS-

`(A) LIMITATIONS- A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

`(B) TREATMENT AS EMPLOYER CONTRIBUTIONS- Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an employer contribution for purposes of section 415.

`(C) 10-YEAR PARTICIPATION REQUIREMENT- Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

`(5) DEFINITIONS AND SPECIAL RULES- For purposes of this subsection--

`(A) NONACTIVE PARTICIPANT- The term `nonactive participant' means an individual who--

`(i) is a participant in pay status as of the termination date,

`(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

`(iii) is a participant not described in clause (i) or (ii)--

`(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

`(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

`(B) PRESENT VALUE- Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

`(C) REALLOCATION OF INCREASE- Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

`(D) AGGREGATION OF PLANS- The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

`(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY- This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code.'

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT-

(1) FIDUCIARY RESPONSIBILITY- Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

`(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

`(A) In the case of a fiduciary of the terminated plan, any requirement--

`(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

`(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

`(B) In the case of a fiduciary of a qualified replacement plan, any requirement--

`(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

`(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

`(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

`(2) For purposes of this subsection--

`(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

`(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991.'

(2) CONFORMING AMENDMENTS-

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking `or title IV' and inserting `and title IV'.

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting `, section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)' after `paragraph (3)'.

SEC. 10303. EFFECTIVE DATE.

(a) IN GENERAL- Except as provided in subsection (b), the amendments made by this part all apply to reversions occurring after September 30, 1990.

(b) EXCEPTION- The amendments made by this part shall not apply to any reversion after September 30, 1990, if--

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

PART 2--TRANSFERS TO RETIREE HEALTH ACCOUNTS

SEC. 10311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL- Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following new subpart:

`Subpart E--Treatment of Transfers to Retiree Health Accounts

`Sec. 420. Transfers of excess pension assets to retiree health accounts.

`SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

`(a) GENERAL RULE- If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health

benefits account which is part of such plan--

`(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

`(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

`(3) such transfer shall not be treated--

`(A) as an employer reversion for purposes of section 4980, or

`(B) as a prohibited transaction for purposes of section 4975, and

`(4) the limitations of subsection (d) shall apply to such employer.

`(b) QUALIFIED TRANSFER- For purposes of this section--

`(1) IN GENERAL- The term `qualified transfer' means a transfer--

`(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

`(B) which does not contravene any other provision of law, and

`(C) with respect to which the plan meets--

`(i) the use requirements of subsection (c)(1),

`(ii) the vesting requirements of subsection (c)(2), and

`(iii) the minimum benefit requirements of subsection (c)(3).

`(2) Only 1 transfer per year-

`(A) IN GENERAL- No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

`(B) EXCEPTION- A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

`(3) LIMITATION ON AMOUNT TRANSFERRED- The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

`(4) Special rule for 1990-

`(A) IN GENERAL- Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer--

`(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of--

`(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

`(II) the date such return is filed, and

`(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

`(B) REDUCTION IN DEDUCTION- The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

`(C) COORDINATION WITH REDUCTION RULE- Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

`(5) EXPIRATION- No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

`(c) Requirements of Plans Transferring Assets-

`(1) USE OF TRANSFERRED ASSETS-

`(A) IN GENERAL- Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

`(B) Amounts not used to pay for health benefits-

`(i) IN GENERAL- Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

`(ii) TAX TREATMENT OF AMOUNTS- Any amount transferred out of an account under clause (i)--

`(I) shall not be includible in the gross income of the employer for such taxable year, but

`(II) shall be treated as an employer reversion for purposes of section 4980.

`(C) ORDERING RULE- For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

`(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER-

`(A) IN GENERAL- The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

`(B) SPECIAL RULE FOR 1990- In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

`(3) MINIMUM BENEFIT REQUIREMENTS-

`(A) IN GENERAL- The requirements of this paragraph are met if each health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the

qualified transfer.

`(B) APPLICABLE EMPLOYER COST- For purposes of this paragraph, the term `applicable employer cost' means, with respect to any taxable year, the amount determined by dividing--

`(i) the qualified current retiree health liabilities of the employer for such taxable year determined--

`(I) without regard to any reduction under subsection (e)(1)(B), and

`(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer, by

`(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

`(C) ELECTION TO COMPUTE COST SEPARATELY- An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

`(D) BENEFIT MAINTENANCE PERIOD- For purposes of this paragraph, the term `benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

`(d) LIMITATIONS ON EMPLOYER- For purposes of this title--

`(1) DEDUCTION LIMITATIONS- No deduction shall be allowed--

`(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

`(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

`(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of--

`(i) the amount determined under subparagraph (A) (and income allocable thereto), over

`(ii) the amount determined under subparagraph (B).

`(2) NO CONTRIBUTIONS ALLOWED- An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

`(e) DEFINITION AND SPECIAL RULES- For purposes of this section--

`(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES- For purposes of this section--

`(A) IN GENERAL- The term `qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been

allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if--

`(i) such benefits were provided directly by the employer, and

`(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

`(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE- The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities.

`(C) APPLICABLE HEALTH BENEFITS- The term `applicable health benefits' mean health benefits which are provided to--

`(i) former employees who, immediately before the qualified transfer, are entitled to receive benefits through the account by reason of their participation under the plan, and

`(ii) their spouses and dependents.

`(D) KEY EMPLOYEES EXCLUDED- If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year.

`(2) EXCESS PENSION ASSETS- The term `excess pension assets' means the excess (if any) of--

`(A) the amount determined under section 412(c)(7)(A)(ii), over

`(B) the greater of--

`(i) the amount determined under section 412(c)(7)(A)(i), or

`(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

`(3) HEALTH BENEFITS ACCOUNT- The term `health benefits account' means an account established and maintained under section 401(h).

`(4) COORDINATION WITH SECTION 412- In the case of a qualified transfer to a health benefits account--

`(A) any assets transferred in a plan year after the valuation date for such year shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

`(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such section shall be applied to such amount by substituting `10 plan years' for `5 plan years'.'

(b) CONFORMING AMENDMENT- Section 401(h) of the Internal Revenue Code of 1986 is amended by inserting `, and subject to the provisions of section 420' after `Secretary'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to

transfers in taxable years beginning after December 31, 1990.

SEC. 10312. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT- Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting `, or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)' after `insured plans)'.

(b) FIDUCIARY DUTIES- Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting `and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991),' after `4044,'.

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS- Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

> *`(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991).'*

(d) FUNDING LIMITATIONS- Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end the following new subsection:

`(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS- For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)--

> *`(1) any assets transferred in a plan year after the valuation date for such year shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and*
>
> *`(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such subsection shall be applied to such amount by substituting `10 plan years' for `5 plan years'.'*

(e) NOTICE REQUIREMENTS-

> *(1) IN GENERAL- Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:*

`(e) Notice of Transfer of Excess Pension Assets to Health Benefits Accounts-

> *`(1) NOTICE TO PARTICIPANTS- Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.*
>
> *`(2) Notice to secretaries, administrator, and employee organizations-*
>
> > *`(A) IN GENERAL- Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a*

written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

`(B) INFORMATION RELATING TO TRANSFER- Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

`(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS- The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

`(3) DEFINITIONS- For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section.'

(2) PENALTIES-

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting `or section 101(e)(1)' after `section 606'.

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended--

(i) by inserting `or who fails to meet the requirements of section 101(e)(2) with respect to any person' after `beneficiary' the first place it appears, and

(ii) by inserting `or to such person' after `beneficiary' the second place it appears.

(f) EFFECTIVE DATE- The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART 3--PREMIUM RATES

SEC. 10321. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM-

(1) IN GENERAL- Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking `for plan years beginning after December 31, 1987, an amount equal to the sum of $16' and inserting `for plan years beginning after December 31, 1990, an amount equal to the sum of $19'.

(2) CONFORMING AMENDMENT- Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended by adding at the end the following new clause:

`(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and'.

(b) INCREASE IN ADDITIONAL PREMIUM- Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended--

(1) by striking `$6.00' in clause (ii) and inserting `$9.00', and

(2) by striking `$34' in clause (iv)(I) and inserting `$53'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to plan years beginning after December 31, 1990.

TITLE XI--VETERANS

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Subtitle A--Compensation and Pension

SEC. 11001. COMPENSATION BENEFITS FOR INCOMPETENT VETERANS HAVING ESTATES.

(a) IN GENERAL- Section 3203 of title 38, United States Code, is amended--

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c), the following new subsection (d):

`(d)(1) In any case in which a veteran having neither spouse, child, nor dependent parent is rated by the Secretary in accordance with regulations as being incompetent and the value of the veteran's estate exceeds $25,000, further payment of compensation to which the veteran would otherwise be entitled may not be made until the value of such estate is reduced to less than $10,000.

`(2)(A) Subject to subparagraph (B) of this paragraph, if a veteran denied payment of compensation pursuant to paragraph (1) of this subsection is subsequently rated as being competent, the Secretary shall pay to the veteran a lump sum equal to the total of the compensation which was denied the veteran pursuant to such paragraph. The Secretary shall make the lump-sum payment after the end of 90 days following the date of the competency rating.

`(B) A lump-sum payment shall not be made under this paragraph to a veteran who, within such 90-day period, dies or is again rated by the Secretary as being incompetent.

`(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

`(4) For the purposes of this subsection, the term `veteran's estate' means the market value (exclusive of the value of any mortgages or encumbrances) of all real and personal property owned by a veteran other than a principal residence and other personal effects suitable to, and consistent with, such veteran's reasonable mode of living, as determined by the Secretary.'.

(b) EFFECTIVE DATE- The amendment made by this section shall apply with respect to payments of compensation for months after October 1990.

SEC. 11002. ELIMINATION OF PRESUMPTION OF TOTAL DISABILITY IN DETERMINATION OF PENSION FOR CERTAIN VETERANS.

(a) ELIMINATION OF PRESUMPTION- Section 502(a) of title 38, United States Code, is amended by striking out `sixty-five years of age or older or'.

(b) APPLICABILITY- The amendment made by subsection (a) shall take effect with respect to veterans who, on November 1, 1990, are not receiving pension under laws administered by the Secretary of Veterans Affairs.

SEC. 11003. REDUCTION IN PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) IN GENERAL- Section 3203 of title 38, United States Code, as amended by section 11001, is further amended by adding at the end the following:

`(g)(1) For the purposes of this subsection--

`(A) the term `Medicaid plan' means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

`(B) the term `nursing facility' means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r).

`(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

`(3) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) of this subsection.

`(4) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran by reason of the inability or failure of the Secretary to reduce the veteran's pension under this subsection unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make a reduction in pension under this subsection.

`(5) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on November 1, 1990.

SEC. 11004. INELIGIBILITY OF REMARRIED SURVIVING SPOUSES FOR REINSTATEMENT OF DEPENDENCY AND INDEMNITY COMPENSATION UPON BECOMING SINGLE.

(a) IN GENERAL- Section 103(d) of title 38, United States Code, is amended--

(1) in paragraph (2), by inserting `(other than dependency and indemnity compensation or pension)' after `benefits'; and

(2) in paragraph (3), by striking out `shall not apply' and inserting in lieu thereof `shall apply only to dependency and indemnity compensation and to pension'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall apply to persons remarrying after October 30, 1990.

SEC. 11005. POLICY REGARDING COST-OF-LIVING INCREASES IN COMPENSATION RATES.

(a) POLICY- The fiscal year 1991 cost-of-living adjustments in the rates of compensation payable under chapter 11 of title 38, United States Code, and of the dependency and indemnity compensation payable under chapter 13 of such title will be no more than a 4.5-percent increase, all increases will be rounded down to the next lower dollar, and the increases for disabilities rated at 10 percent and at 20 percent shall be $1 less than the amount equal to a 4.5-percent increase.

(b) PROVISION NOT AUTHORITY TO INCREASE RATES- Subsection (a) shall not be construed to increase or to authorize the Secretary of Veterans Affairs to increase the rates of compensation and of dependency and indemnity compensation referred to in such subsection.

Subtitle B--Health Care

SEC. 11011. MEDICAL-CARE COST RECOVERY.

(a) APPLICABILITY- Section 629(a)(2) of title 38, United States Code, is amended--

(1) by striking out `or' at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof `; or'; and

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

`(E) for which care and services are furnished under this chapter to a

veteran who--

`(i) has a service-connected disability; and

`(ii) is entitled to care (or payment of the expenses of care) under a health-plan contract.'.

(b) MAXIMUM AMOUNT RECOVERABLE- Clause (B) of section 629(c)(2) of such title is amended by striking out `in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with' and inserting in lieu thereof `if provided by'.

(c) ESTABLISHMENT OF MEDICAL-CARE COST RECOVERY FUND- Section 629(g) of such title is amended to read as follows:

`(g)(1) There is established in the Treasury a fund to be known as the Department of Veterans Affairs Medical-Care Cost Recovery Fund (hereafter referred to in this section as the `Fund').

`(2) Amounts recovered or collected under this section shall be credited to the Fund.

`(3) Sums in the Fund shall be available to the Secretary for the following:

`(A) Payment of necessary expenses for the identification, billing, and collection of the cost of care and services furnished under this chapter, including--

`(i) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

`(ii) personnel training and travel costs;

`(iii) personnel and administrative costs for attorneys in the Office of General Counsel of the Department and for support personnel of such office;

`(iv) other personnel and administrative costs; and

`(v) the costs of any contract for identification, billing, or collection services.

`(B) Payment of the Secretary for reasonable charges, as determined by the Secretary, imposed for (i) services and utilities (including light, water, and heat) furnished by the Secretary, (ii) recovery and collection activities under this section, and (iii) administration of the Fund.

`(C) Payment of costs related to the administration and collection of payments required under section 610(f) of this title for hospital care or nursing home care, under section 612(f) of this title for medical services, and under section 622A of this title for medications.

`(4) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30 of the preceding year minus any part of such balance that the Secretary of Veterans Affairs determines is necessary to defray, during the fiscal year in which the deposit is made, the expenses, payments, and costs described in paragraph (3).'.

(d) TRANSFER TO FUND-

(1) AMOUNT TO BE TRANSFERRED- The Secretary of the Treasury shall transfer $25,000,000 from the Department of Veterans Affairs Loan Guaranty Revolving Fund to the Department of Veterans Affairs Medical-Care Cost Recovery Fund established by section 629(g) of title 38, United States Code (as amended by subsection (c)). The amount so transferred shall be available until the end of September 30, 1991, for the support of

the equivalent of 800 full-time employees and other expenses described in paragraph (3) of such section.

(2) REIMBURSEMENT OF LOAN GUARANTY REVOLVING FUND- Notwithstanding section 629(g) of title 38, United States Code (as amended by subsection (c)), the first $25,000,000 recovered or collected by the Department of Veterans Affairs during fiscal year 1991 as a result of third-party medical recovery activities shall be credited to the Department of Veterans Affairs Loan Guaranty Revolving Fund.

(3) THIRD-PARTY MEDICAL RECOVERY ACTIVITIES DEFINED- For the purposes of this subsection, the term `third-party medical recovery activities' means recovery and collection activities carried out under section 629 of title 38, United States Code.

(e) EFFECTIVE DATE- The amendments made by this section shall take effect as of October 1, 1990.

SEC. 11012. COPAYMENT FOR MEDICATION.

(a) COPAYMENT REQUIRED-

(1) IN GENERAL- Subchapter III of chapter 17 of title 38, United States Code, is amended by inserting after section 622 the following new section:

` 622A. Copayment for medication

`(a) The Secretary shall require a veteran (other than a veteran with a service-connected disability rated 50 percent or more) to pay the United States $2 for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the initial amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

`(b) Amounts collected under this section shall be credited to the Department of Veterans Affairs Medical-Care Cost Recovery Fund.'.

(2) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 622 the following new item:

`622A. Copayment for medication.'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect with respect to medications furnished to a veteran after October 31, 1990.

SEC. 11013. MODIFICATION OF HEALTH-CARE CATEGORIES AND COPAYMENTS.

(a) INPATIENT CARE- Section 610 of title 38, United States Code, is amended--

(1) in subsection (a)(1)(I), by striking out `622(a)(1)' and inserting in lieu thereof `622(a)';

(2) by amending paragraph (2) of subsection (a) to read as follows:

`(2) In the case of a veteran who is not described in paragraph (1) of this subsection, the Secretary may, to the extent resources and facilities are available, furnish hospital care and nursing home care to a veteran which the Secretary determines is needed for a non-service-connected disability, subject to the provisions of subsection (f) of this section.';

(3) in subsection (f), by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

`(1) The Secretary may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care under subsection (a)(2) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

`(2)(A) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of--

`(i) the cost of furnishing such care, as determined by the Secretary, or

`(ii) the amount equal to the sum of the amount determined under paragraph (3) of this subsection plus an amount equal to $10 for every day the veteran receives hospital care, and $5 for every day the veteran receives nursing home care.

`(B) Effective on January 1 of each year, the amounts in effect under clause of subparagraph (A) shall be increased by the percentage increase (if any) in the Consumer Price Index of all Urban Consumers (as published by the Bureau of Labor Statistics of the Department of Labor) for the 12-month period ending on the previous November 30.'; and

(4) in subparagraphs (A) and (B) of subsection (f)(3), by striking out `(2)(B)' each place it appears and inserting in lieu thereof `(2)(A)(ii)'.

(b) OUTPATIENT CARE- Subsection (f) of section 612 of title 38, United States Code, is amended--

(1) in paragraph (1), by striking out `610(a)(2)(B)' and inserting in lieu thereof `610(a)(2)';

(2) by striking out paragraphs (3), (4), and (6); and

(3) by redesignating paragraphs (5) and (7) as (3) and (4), respectively.

(c) INCOME THRESHOLDS-

(1) IN GENERAL- Subsection (a) of section 622 of title 38, United States Code, is amended--

(A) in paragraph (1)--

(i) by striking out `(1)' at the beginning of the subsection;

(ii) by redesignating clauses (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) by striking out `Category A threshold' in paragraph (3), as so redesignated, and inserting in lieu thereof `applicable income threshold amount under subsection (b)'; and

(B) by striking out paragraph (2).

(2) CALENDAR YEAR 1990- Subsection (b) of such section is amended to read as follows:

`(b)(1) For purposes of subsection (a)(3), the income threshold amount for the calendar year beginning on January 1, 1990, is--

`(A) $17,240 in the case of a veteran with no dependents; and

`(B) $20,688 in the case of a veteran with one dependent, plus $1,150 for each additional dependent.

`(2) For a calendar year beginning after December 31, 1990, the amounts in effect for purposes of this subsection shall be the amounts in effect for the preceding calendar year as adjusted under subsection (c) of this section.'.

(3) TECHNICAL AMENDMENT- Subsection (c) of such section is amended by striking out `paragraphs (1) and (2) of'.

(4) ABILITY DETERMINATION- Paragraph (2) of subsection (d) of such section is amended to read as follows:

`(2) A determination described in this paragraph is a determination that, for purposes of subsection (a)(3) of this section, a veteran's attributable income is not greater than the amount determined under subsection (b) of this section.'.

(5) HARDSHIP- Subsection (e) of such section is amended--

(A) in paragraph (1), by striking out `the Category A threshold or the Category B threshold, as appropriate' and inserting in lieu thereof `the applicable income threshold amount under subsection (b) of this section'; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

`(2) A veteran is described in this paragraph for the purposes of subsection (a) of this section if--

`(A) the veteran has an attributable income greater than the applicable income threshold amount under subsection (b) of this section; and

`(B) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below the applicable income threshold amount under subsection (b).'.

(d) EFFECTIVE DATE- The amendments made by this section shall apply with respect to hospital care and medical services received after October 31, 1990.

Subtitle C--Educational and Vocational Assistance

SEC. 11021. INTERTERM REDUCTION OF EDUCATIONAL ASSISTANCE.

(a) ALL VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM-

(1) BASIC EDUCATIONAL ASSISTANCE-

(A) IN GENERAL- Section 1415 of title 38, United States Code, is amended by adding at the end the following new subsection:

`(e)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly basic educational assistance payable under this subchapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to 1/3 of the last rate of such monthly assistance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid educational assistance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

`(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

`(3) In the computation of the amount of the basic educational assistance under paragraph (1) of this subsection, any fraction of a dollar equal to 50› or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50› shall be rounded to the next lower dollar.'.

(B) TECHNICAL AMENDMENT- Subsection (a) of such section is amended by striking out `subsections (b) and (c)' and inserting in lieu thereof `subsections (b), (c), (d), and (e)'.

(2) SUPPLEMENTAL EDUCATIONAL ASSISTANCE- Section 1422 of such title is amended by adding at the end the following new subsection:

`(c)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly supplemental educational assistance payable under this subchapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to 1/3 of the last rate of such monthly assistance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid supplemental educational assistance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

`(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

`(3) In the computation of the amount of the supplemental educational assistance under paragraph (1) of this subsection, any fraction of a dollar equal to 50› or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50› shall be rounded to the next lower dollar.'.

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE- Section 1631 of title 38, United States Code, is amended by adding at the end the following new subsection:

`(f)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly benefit payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to 1/3 of the last rate of such monthly benefit paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid such benefit for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

`(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

`(3) In the computation of the amount of the monthly benefit payment under paragraph (1) of this subsection, any fraction of a dollar equal to 50› or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50› shall be rounded to the next lower dollar.'.

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE- Section 1732 of title 38, United States Code, is amended by adding at the end the following new subsection:

`(f)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to 1/3 of the last rate of such monthly assistance allowance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

`(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

`(3) In the computation of the amount of the educational assistance allowance under paragraph (1) of this subsection, any fraction of a dollar equal to 50› or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50› shall be rounded to the next lower dollar.'.

(d) EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE- Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

`(h)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(a) of title 38 shall be reduced to 1/3 of the last rate of such monthly assistance allowance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

`(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

`(3) In the computation of the amount of the educational assistance allowance under paragraph (1) of this subsection, any fraction of a dollar equal to 50› or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50› shall be rounded to the next lower dollar.'.

(e) ADMINISTRATIVE COSTS- The costs of administering sections 1415(e), 1422(c), 1631(f), and 1732(f) of title 38, United States Code (as added by this section), and section 2131(h) of title 10, United States Code (as added by this section), shall be paid for from amounts available to the Department of Veterans Affairs for the payment of readjustment benefits.

SEC. 11022. ELIMINATION OF VOCATIONAL REHABILITATION BENEFITS FOR CERTAIN DISABLED VETERANS.

(a) IN GENERAL- Section 1502(1)(A) of title 38, United States Code, is amended by inserting `at a rate of 30 percent or more' after `compensable' both places it appears.

(b) SAVINGS PROVISION- In the case of any person who is participating in a rehabilitation program under chapter 31 of title 38, United States Code, on the date of the enactment of this Act, the amendment made by subsection (a) shall not affect the eligibility of such person to continue to participate in such program for so long as there is no break in such person's participation in such program after such date.

Subtitle D--Home Loan Guaranties

SEC. 11031. ELECTION OF CLAIM UNDER GUARANTY OF MANUFACTURED HOME LOANS.

(a) IN GENERAL- Paragraph (3) of section 1812(c) of title 38, United States Code, is amended to read as follows:

`(3)(A) The Secretary's guaranty may not exceed the lesser of (i) the lesser of $20,000 or 40 percent of the loan, or (ii) the maximum amount of the guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection.

`(B) A claim under the Secretary's guaranty shall, at the election of the holder of a loan, be made--

`(i) by application to the Secretary within a reasonable time after the receipt by such holder of an appraisal by the Secretary of the value of the security for the loan; or

`(ii) after liquidation of the security for the loan, by the filing of an accounting with the Secretary.

`(C) If the holder of a loan applies for payment of a claim under clause (i) of subparagraph (B) of this paragraph, the amount of such claim payable by the Secretary shall be the lesser of--

`(i) the amount equal to the excess, if any, of the loan balance over the value of the appraisal referred to in such subclause; or

`(ii) the amount equal to the excess, if any, of the amount of the guaranty over the value of such appraisal.

`(D) If the holder of a loan files for payment of a claim under clause (ii) of subparagraph (B) this paragraph, the amount of such claim payable by the Secretary shall be the lesser of--

`(i) the amount equal to the excess, if any, of the loan balance over the amount of the liquidation or loan proceeds; or

`(ii) the amount equal to the excess, if any, of the amount of the guaranty over the amount of the liquidation or resale proceeds.

`(E) In any accounting filed pursuant to subparagraph (B)(ii) of this subsection, the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.

`(F) The liability of the United States under the guaranty provided for by this paragraph shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.'.

(b) EFFECTIVE DATE- The amendment made by this section shall apply to claims filed with the Secretary of Veterans Affairs on or after the date of the enactment of this Act.

SEC. 11032. INCREASE IN CERTAIN LOAN FEES.

(a) INCREASED FEE PERCENTAGES- Section 1829(b)(1) of title 38, United States Code, is amended--

(1) in the matter above clause (A), by striking out `1.25 percent' and inserting in lieu thereof `2 percent';

(2) in clause (B), by striking out `0.75 percent' and inserting in lieu thereof `1.5 percent'; and

(3) in clause (C), by striking out `0.50 percent' and inserting in lieu thereof `1.25 percent'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect with respect to housing loans guaranteed, insured, or made under chapter 37 of title 38, United States Code, on or after the date of the enactment of this Act.

Subtitle E--Burial Benefits and Grave Markers

SEC. 11041. ELIGIBILITY FOR BURIAL PLOT ALLOWANCE.

(a) IN GENERAL- Section 903 of title 38, United States Code, is amended by adding at the end the following new subsection:

`(c) The Secretary may not pay a plot or interment allowance under clause (2) of subsection (b) for any veteran whose eligibility for such allowance is based on such veteran's status as a veteran of any war.'.

(b) EFFECTIVE DATE- Subsection (c) of section 903 of title 38, United States Code (as added by subsection (a)), shall take effect with respect to deaths occurring after October 30, 1990.

SEC. 11042. ELIMINATION OF HEADSTONE ALLOWANCE.

(a) IN GENERAL- Section 906 of title 38, United States Code, is amended--

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect with respect to deaths occurring after October 30, 1990.

Subtitle F--Miscellaneous

SEC. 11051. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) DISCLOSURE OF TAX INFORMATION-

(1) IN GENERAL- Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended--

(A) by striking out `and' at the end of clause (vi);

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

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

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

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

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

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

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

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS-

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

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

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

`(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986,

terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

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

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

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

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

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

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

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

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

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

`(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

`(f) The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pension.'.

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

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

(c) NOTICE TO CURRENT BENEFICIARIES-

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

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

(3) LIMITATION UNTIL NOTICE MADE- The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human

Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until notification under paragraph (1) is made.

SEC. 11052. LINE OF DUTY.

(a) ELIMINATION OF COMPENSATION FOR SECONDARY EFFECTS OF MISCONDUCT- Title 38, United States Code, is amended--

(1) in section 105(a), by striking out `the result of the person's own willful misconduct' in the first sentence and inserting in lieu thereof `a result of the person's own willful misconduct or abuse of alcohol or drugs';

(2) in section 310, by striking out `the result of the veteran's own willful misconduct' and inserting in lieu thereof `a result of the veteran's own willful misconduct or abuse of alcohol or drugs'; and

(3) in section 331, by striking out `the result of the veteran's own willful misconduct' and inserting in lieu thereof `a result of the veteran's own willful misconduct or abuse of alcohol or drugs'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect with respect to line of duty determinations made on or after November 1, 1990.

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

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

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

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

`(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.'.

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS-

(1) IN GENERAL- Chapter 53 of title 38, United States Code, as amended by section 11051(b), is further amended by adding at the end the following new section:

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

`(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is

being paid with Department of Health and Human Services death information for the purposes of--

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

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

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

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

(2) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter, as amended by section 11051(b), is further amended by adding at the end the following:

`3118. Review of Department of Health and Human Services death information.'.

TITLE XII--BUDGET PROCESS REFORM ACT OF 1990

SEC. 12001. SHORT TITLE.

This title may be cited as the `Budget Process Reform Act of 1990'.

SEC. 12002. TABLE OF CONTENTS.

TITLE XII--BUDGET PROCESS REFORM ACT OF 1990

Subtitle A--Deficit Reduction

Subtitle B--Pay-As-You-Go

Subtitle C--Social Security Trust Fund

Subtitle A--Deficit Reduction

SEC. 12051. DEFICIT TARGETS.

(a) DEFINITION OF MAXIMUM DEFICIT- Section 3(7) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (F), (G), and (H), and inserting the following:

> *`(F) with respect to the fiscal year beginning October 1, 1990, $242,000,000,000;*
>
> *`(G) with respect to the fiscal year beginning October 1, 1991, $219,000,000,000;*
>
> *`(H) with respect to the fiscal year beginning October 1, 1992, $165,000,000,000;*
>
> *`(I) with respect to the fiscal year beginning October 1, 1993, $86,000,000,000; and*
>
> *`(J) with respect to the fiscal year beginning October 1, 1994, $62,000,000,000; or*

with respect to each such fiscal year, such revised amounts as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(E) of that Act.'.

(b) BUDGET ESTIMATES AND DETERMINATIONS- Section 251(a)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended--

> *(1) in subparagraph (A), by inserting after `such fiscal year' the following: `(and each other fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts)';*
>
> *(2) in subparagraph (C), by striking `and' at the end thereof; and*
>
> *(3) by inserting at the end thereof the following new subparagraphs:*
>
> > *`(E)(i) in calendar years 1991 and 1992, estimate the necessary revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused solely by--*
> >
> > > *`(I) changes in the budgetary accounting for credit and in the definition of `budget authority', and*
> > >
> > > *`(II) economic and technical changes, which shall equal--*
> > >
> > > > *`(aa) the deficit in the budget baseline set forth pursuant to paragraph (6) of this subsection, minus*

`(bb)(aaa) the net deficit increase (if any) caused by laws (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)) enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (adjusting for any sequestration), and

`(bbb) the maximum deficit amount as it existed immediately before the issuance of the report, and

`(ii) in calendar year 1993, estimate the revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused by only changes in the budgetary accounting for credit; and

`(F) estimate the necessary revisions to the defense, international, and domestic discretionary spending allocations set forth in section 12052 of the Omnibus Budget Reconciliation Act of 1990 for each appropriate fiscal year caused solely by--

`(i) changes in the budgetary accounting for credit and in the definition of `budget authority', and

`(ii) changes in forecasted inflation using only changes in the forecast of the fiscal year average of the estimated gross national product fixed-weight price deflator.'.

SEC. 12052. DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE- The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 050 (National Defense) shall be--

(1)(A) for fiscal year 1991:

(i) new budget authority, $288,918,000,000,

(ii) outlays, $297,660,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $291,643,000,000,

(ii) outlays, $295,744,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $291,785,000,000,

(ii) outlays, $292,686,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(b) AGGREGATE ALLOCATIONS FOR INTERNATIONAL AFFAIRS- The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 150 (International Affairs) shall be--

(1)(A) for fiscal year 1991:

(i) new budget authority, $20,100,000,000,

(ii) outlays, $18,600,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $20,500,000,000,

(ii) outlays, $19,100,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $21,400,000,000,

(ii) outlays, $19,600,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(c) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING- The levels of total budget authority and outlays for fiscal years 1991, 1992, and 1993 for all discretionary spending in categories other than major functional categories 050 (National Defense) and 150 (International Affairs) shall be--

(1)(A) for fiscal year 1991:

(i) new budget authority, $182,700,000,000,

(ii) outlays, $198,100,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $191,300,000,000,

(ii) outlays, $210,100,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $198,300,000,000,

(ii) outlays, $221,700,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(d) AGGREGATE ALLOCATIONS FOR DISCRETIONARY SPENDING- The levels of budget authority and outlays for fiscal years 1994 and 1995 for discretionary spending shall be--

(1)(A) for fiscal year 1994:

(i) new budget authority, $510,800,000,000,

(ii) outlays, $534,800,000,000, and

(B) for fiscal year 1995;

(i) new budget authority, $517,700,000,000,

(ii) outlays, $540,800,000,000, or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(e) BUDGET RESOLUTIONS-

(1) HOUSE OF REPRESENTATIVES- The Committee on the Budget of the House of Representatives shall report a concurrent resolution on the budget for fiscal years 1992, 1993, 1994, and 1995 pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional category 050 as set forth in subsections (a), (b), and (c).

(g)(1) ADDITIONAL TECHNICAL REVISIONS- Notwithstanding any other provision of law, the Director of the Office of Management and Budget shall make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985) to allow increased funding in the following amounts, and such amounts shall be added to the allocations under section 12052 and shall not be counted as increasing the deficit for purposes of sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985--

(A) in addition to any other amounts under this paragraph, for each of fiscal years 1992 and 1993, in the amounts of--

(i) up to 0.021 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for defense discretionary spending budget authority under subsection (a); and

(ii) up to 0.079 percent of the total of budget authority in the allocations made in subsections (a), (b), and (c) (together) for fiscal years 1991, 1992, and 1993 (together), for international affairs discretionary spending budget authority under subsection (b);

(iii) 0.1 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for domestic discretionary spending budget authority under subsection (c);

(B) in addition to any other amounts under this paragraph, the estimated costs of an appropriation enacted in calendar year 1990 or 1991 that forgives the Arab Republic of Egypt's Foreign Military Sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States;

(C) in the addition to any other amounts under this paragraph, the amount provided by an appropriation enacted in fiscal year 1992 to purchase Special Drawing Rights from the International Monetary Fund as part of its Ninth General Review of Quotas;

(D) in addition to any other amounts under this paragraph, amounts not to exceed the following for the Internal Revenue Service compliance initiative to be provided to raise additional revenues from increased Internal Revenue Service compliance--

(i) for fiscal year 1991:

(I) new budget authority, $191,000,000,

(II) outlays, $183,000,000,

(ii) for fiscal year 1992:

(I) new budget authority, $172,000,000,

(II) outlays, $169,000,000,

(iii) for fiscal year 1993:

(I) new budget authority, $183,000,000,

(II) outlays, $179,000,000,

(iv) for fiscal year 1994:

(I) new budget authority, $187,000,000,

(II) outlays, $183,000,000, and

(v) for fiscal year 1995:

(I) new budget authority, $188,000,000,

(II) outlays, $184,000,000; and

the prior-year outlays resulting from these appropriations of budget authority; and

(E) in addition to any other amounts under this paragraph, such amounts as the President designates as emergency requirements in a request for appropriations and that the Congress so designates in statute.

Emergency Desert Shield costs mean those incremental costs directly associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

(2) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 301 or 304 of the Congressional Budget Act of 1974 may set forth levels consistent with allocations increased by--

(A) the budget authority amounts in subparagraph (A) and by the composite outlays per category consistent with them; and

(B) the budget authority and outlay amounts in subparagraph (B), (C), (D), (E), and (F).

(h)(1) FURTHER ADDITIONAL TECHNICAL REVISIONS- (1) Notwithstanding any other provision of law, the Director of the Office of Management and Budget may make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985, but solely due to outlays exceeding the amount of outlays set forth in subsections (a), (b), and (c), resulting from changes between outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in subsections (a), (b), and (c), less any outlays used pursuant to subsections (g)(1)(A) to allow increased funding in the following amounts and such amounts shall not be counted as increasing the deficit under sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985--

(A) for each of fiscal years 1991, 1992, and 1993, in the amounts of--

(i) $2,500,000,000 for defense discretionary spending outlays under subsection (a);

(ii) $1,500,000,000 for international affairs discretionary spending outlays under subsection (b); and

(iii) $2,500,000,000 for domestic discretionary spending outlays under subsection (c); and

(B) for each of fiscal years 1994 and 1995, in the amount of $6,500,000,000 for discretionary spending outlays under subsection (d).

SEC. 12053. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

(a) DATE OF FINAL ORDER-

(1)(A) The Balanced Budget and Emergency Deficit Control Act of 1985 is amended--

(i) in section 251(c)(1), by striking `October 10' and inserting `November 10';

(ii) in section 253, by striking `November 15' and inserting `December 15';

(iii) in section 252(b)(1), by striking `October 15' and inserting `November 15';

(iv) in section 252(c)(2)(D), by striking `October 20' and inserting `November 20'; and

(v) in section 257(c)(2), by striking `October 15' and inserting `November 15'.

(B) The amendments made by this paragraph shall take effect beginning in calendar year 1991.

(b) SPENDING CATEGORY SEQUESTER- Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after section 252 the following:

`SEC. 252A. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

`(a) REPORTING OF EXCESS-

`(1) ESTIMATES AND DETERMINATIONS- The Directors shall, with respect to each appropriations Act--

`(A) determine the aggregate budget levels of outlays that may be anticipated as a result of the enactment of such appropriations Act--

`(i) for the defense, international affairs, and domestic discretionary categories as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1991, 1992, and 1993; and

`(ii) for discretionary spending as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1994 and 1995; and

`(B) determine whether such Appropriations Act causes the aggregate allocation for budget authority or outlays in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as revised under that section and section 251(a)(1)(F) of this Act) to be exceeded.

`(2) REPORT- Based on the determinations required in paragraph (1), the Directors of the Congressional Budget Office and the Office of Management and Budget shall each report to the President not later than 5 days after the enactment of an appropriations Act identifying the amount of any budget authority or outlay excess in any spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 resulting from the enactment of the appropriations Act, estimating the aggregate amount of budget authority or outlay reductions in the spending category necessary to eliminate the excess, and specifying by account within the spending category the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this section.

`(b) SEQUESTER ORDER- Based on the report the Director of the Office of

Management and Budget issued pursuant to subsection (a), the President shall issue a sequester order (making reductions uniformly across each nonexempt account, and within each account, uniformly across each program, project, and activity) applicable to any spending category in excess of the allocation limit for such category 15 days after the enactment of the appropriation Act appropriating amounts in excess of allocation limits (or on November 15, if the date of enactment is after June 30 or before November 1 of the fiscal year for which such Act makes appropriations).

`(c) ECONOMIC AND TECHNICAL ASSUMPTIONS- Under this section, the Director of the Office of Management and Budget shall use the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.

`(d) OMB ESTIMATES- Within 5 calendar days after the enactment of any appropriations Act, the Director of the Office of Management and Budget shall submit to the Senate and the House of Representatives an estimate of the amount of change in budget authority, outlays, or receipts (if any) in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.'.

(c) CONFORMING CHANGES- The Balanced Budget and Deficit Reduction Act of 1985 is amended--

(1) in section 251(a)(3)(B), by inserting after `and 257,' the following: `and after having made such reductions, if any, as may be required by sections 252A and 252B,';

(2) in section 251(a)(6)--

(A) by amending subparagraphs (C) and (D) to read as follows:

`(C) in the case of all accounts to which subparagraph (A) does not apply, assuming appropriations at the levels set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as adjusted under that section and section 251(a)(1)(F) of this Act), except assuming such lower levels in annual appropriations or continuing appropriations that have been enacted before the date of the report for the entire fiscal year that are enacted at a lower level, when appropriations have been enacted covering all subcommittees covered by the relevant category;

`(D) assuming that any sequester under section 252B that will be ordered on November 15 has been put into effect before the snapshot date;';

(3) in section 252(a)(1), by inserting after `251(a)(2)(B),' the following: `and after having ordered such reductions, if any, as may be required by sections 252A and 252B,';

(4) in section 252(a)(4), by striking subparagraph (A) and inserting the following:

`(A) IN GENERAL- Notwithstanding section 257(7), the net amount of deficit increase caused by laws enacted after November 15 of the previous calendar year and before October 1 (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)), after taking effect any sequestration during that period, shall be withheld in amounts equal to those that would be sequestered if the appropriate sequester orders under this section, section 252A, and section 252B were issued on October 1, pending the issuance of final order under those sections, and shall be permanently sequestered or reduced in accordance with those final orders upon the issuance of those final orders.';

(5) in section 252(a)(4)(B)(ii)--

(A) by striking `order under subsection (b)' and inserting `orders under subsection (b) and section 252B'; and

(B) by striking `2 percent' and inserting `4 percent'; and

(6) in section 256(d)(1)(B), by striking `2 percent' and inserting `4 percent'.

SEC. 12054. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED- Upon the enactment of this Act, the orders issued by the President on August 25, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are rescinded.

(b) AMOUNTS RESTORED- Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 12055. CONFORMING CHANGES.

(a) EXPIRATION- Section 275(b)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by striking `1993' and inserting `1995'.

(b) MARGIN- The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended--

(1) in section 251(a)(1)(B), by striking `$10,000,000,000 (zero in the case of fiscal year 1993)' and inserting `the margin';

(2) in section 251(a)(2), by striking $10,000,000,000 (zero in the case of fiscal year 1993)' and inserting `the margin'; and

(3) in section 257, by amending paragraph (10) to read as follows:

`(10) The term `margin' means zero with respect to each of fiscal years 1991, 1992, and 1993, and $15,000,000,000 with respect to each of fiscal years 1994 and 1995.'.

Subtitle B--Pay-As-You-Go

SEC. 12101. PAY-AS-YOU-GO PROVISIONS IN BUDGET RESOLUTIONS.

Section 301(b) of the Congressional Budget Act of 1974 is amended--

(1) in paragraph (3), by striking `and';

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

`(4) set forth pay-as-you-go procedures whereby--

`(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered by the

concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

`(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate or the House of Representatives (as the case may be) may file with the Senate or the House of Representatives (as the case may be) appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

`(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

`(D) the appropriate committee shall report appropriately revised allocations pursuant to section 302(b) of this Act to carry out this paragraph; and'.

SEC. 12102. PAY-AS-YOU-GO SEQUESTRATION.

(a) REPORTS- Section 251(a)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking `estimating the aggregate amount of required outlay reductions' and inserting `estimating the amount of required mandatory outlay reductions under section 252B and the aggregate amount of required outlay reductions'.

(b) MANDATORY REDUCTIONS- The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by adding after section 252 the following new section:

`SEC. 252B. ENFORCING PAY-AS-YOU-GO.

`(a) FISCAL YEARS 1992-1995 ENFORCEMENT- The purpose of this section is to assure that any legislation enacted after the date of enactment of this section that affects direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

`(b) SEQUESTRATION; LOOK-BACK- On November 15 of each fiscal year, there shall be a sequestration pursuant to subsection (d) to offset the amount of any net deficit increase in that fiscal year or the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts in a prior year). The Director of OMB shall calculate the amount of net deficit increase, if any, in each such fiscal year by adding--

`(1) all estimates of the effect of direct spending and receipts legislation on the deficit published under subsection (d) applicable to each such fiscal year; and

`(2) the estimated amount of deficit reduction applicable to each such fiscal year resulting from the prior year's sequestration, if any, as published in the Director of OMB's final sequestration report for that year.

`(c) ELIMINATING A DEFICIT INCREASE- (1) Actions to reduce direct spending accounts shall be taken in the following order:

`(A) All reductions in automatic spending increases specified in section 257(1) shall be made.

`(B) If additional reductions in direct spending accounts are required to be made, the maximum reduction permissible under sections 256(c) (guaranteed student loans) and 256(f) (foster care and adoption assistance) shall be made.

`(C) If additional reductions in direct spending accounts are required to be made, each remaining nonexempt mandatory account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required except that--

`(i) the medicare program specified in section 256(d) shall not be reduced by more than 4 percent; and

`(ii) the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

`(2) For purposes of this subsection, accounts shall be assumed to be at the level in the budget baseline determined under section 251(a)(6).

`(d) OMB ESTIMATES- Within 5 calendar days after the enactment of any direct spending or receipts legislation, the Director of OMB shall submit to the Senate and the House of Representatives an estimate of the amount of change in the deficit in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.'.

Subtitle C--Social Security Trust Fund

SEC. 12151. EXCLUSION OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT- Section 3(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the second sentence.

(b) SOCIAL SECURITY ACT- Section 710(a) of the Social Security Act is amended by striking `shall not be included in the totals of the budget' and inserting `shall not be included in the budget deficit or any other totals of the budget'.

(c) EFFECTIVE DATE- The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning with fiscal year 1991.

SEC. 12152. SOCIAL SECURITY FIREWALL AND POINT OF ORDER.

(a) EXCLUSION FROM RECONCILIATION PROCESS- Section 310(g) of the Congressional Budget Act of 1974 is amended by striking beginning with `that contains recommendations' and all that follows through the period and inserting: `that changes the old-age, survivors, and disability program established under title II of the Social Security Act or its financing without regard to whether such changes increase, decrease, or have no impact on the outlays of and income to such program.'.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET- Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: `The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.'.

(c) CONCURRENT RESOLUTION ON THE BUDGET- Section 301(a) of the Congressional Budget Act of 1974 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 a semicolon; and

(3) by adding after paragraph (5) the following new paragraphs:

`(6) Social Security outlays, which for purposes of this title shall be composed of outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act; and

`(7) Social Security revenues, which for purposes of this title shall be composed of revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act and the related provisions of the Internal Revenue Code of 1986.'.

(d) POINT OF ORDER- Section 301(i) is amended by adding at the end thereof the following new paragraph:

`(3) It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate that would decrease the difference between Social Security revenues and Social Security outlays in any of fiscal years covered by the concurrent resolution.'.

(e) COMMITTEE ALLOCATIONS-

(1) Section 302(a)(2) of the Congressional Budget Act of 1974 is amended by inserting `Social Security outlays,' after `budget outlays,'.

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: `or provides for Social Security outlays in excess of the appropriate allocation of Social Security outlays under subsection (a)'.

(3) Section 302(f)(2) of such Act is further amended by adding at the end thereof the following: `In applying this paragraph--

`(A) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

`(B) estimated Social Security outlays shall be deemed increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b).'.

(f) POINT OF ORDER UNDER SECTION 311- Section 311(a) of the Congressional Budget Act of 1974 is amended--

(1) by inserting `or Social Security outlays' after `total budget outlays';

(2) by inserting `(or Social Security revenues to be less than the appropriate level of Social Security revenues)' after `total revenues'; and

(3) by adding at the end thereof the following: `In applying this subsection--

`(A)(i) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues specified in the most recently agreed to concurrent resolution on the budget;

`(ii) estimated Social Security revenues shall be deemed to be increased to the extent that estimated Social Security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of Social Security outlays in the most recently agreed to concurrent resolution on the budget; and

`(B)(i) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

`(ii) estimated Social Security revenues shall be deemed to be reduced by the excess of estimated Social Security outlays (including Social Security outlays provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) above the appropriate level of Social Security outlays specified in the most recently adopted concurrent resolution on the budget.

The chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate Committees shall report revised allocations pursuant to section 302(b).'

(g) LONG-RANGE ACTUARIAL ESTIMATES- Title II of the Social Security Act is amended by adding at the end thereof the following new section:

`ACTUARIAL EVALUATION OF LEGISLATION

`SEC. 234. (a)(1) The Secretary shall prepare and transmit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives an actuarial analysis of the 75-year effect of legislation affecting the programs established by this title--

`(A) when it appears that such legislation is likely to be acted upon by the Congress, or

`(B) upon the request of a Member of the United States Senate.

`(2) The estimate required by paragraph (1) shall, at a minimum, display the change in long-range balance under each of the alternative sets of assumptions used in the most recent report of the Board of Trustees pursuant to section 201(c)(2). Each such estimate shall bear a certification by the Chief Actuary of the Social Security Administration as to whether or not the techniques and methodology used in its preparation are generally accepted within the actuarial profession and whether or not the assumptions and resulting cost estimates are reasonable. Upon receipt of an actuarial analysis described in this subsection, the chairman of the Committee on Finance shall file such analysis with the Senate.

`(b)(1) It shall not be in order in the Senate to consider any measure or amendment that would modify the program established by this title (or the

revenue provisions that provide funding for such program), unless--

(A) the Committee on Finance has submitted to the Senate the actuarial analysis described in subsection (a) with respect to such bill, resolution, amendment, or conference report, or

(B) the Senate has agreed by unanimous consent or by motion described in paragraph (2) to dispense with such actuarial analysis.

`(2) A motion described in paragraph (1)(B) shall not be considered to be agreed to unless it receives the affirmative vote of three fifths of the membership of the Senate duly chosen and sworn, except that such a motion shall be considered approved upon an affirmative vote of a majority of Senators present and voting if--

`(A) an actuarial analysis was requested from the Secretary more than 72 hours before the motion is voted on (or 24 hours if such motion relates to an amendment in the first degree to a bill dealing with Social Security other than a Committee amendment or 1 hour if the motion relates to an amendment in the second degree to an amendment or a bill dealing with Social Security); and

`(B) such analysis has not been provided by the Secretary.'.

Subtitle D--Multiyear Budgeting to Ensure Permanent Savings

SEC. 12201. MULTIYEAR BUDGETING.

(a) APPROPRIATE LEVELS- Section 301(a) of the Congressional Budget Act of 1974 is amended in the matter before paragraph (1) by striking `planning levels for each of the two' and inserting `for each of the 4'.

(b) DECLARATION OF PURPOSE- Section 2(2) of that Act is amended by striking `each year'.

(c) CONCURRENT RESOLUTION ON THE BUDGET-

(1) Section 301(b)(3) of that Act is amended by striking `for such fiscal year' and inserting `for any one of the fiscal years covered by the concurrent resolution'.

(2) Section 301(e) of that Act is amended--

(A) in the first sentence by striking `for each fiscal year'; and

(B) in paragraph (6) by striking `such fiscal year' and inserting `the first fiscal year covered by the concurrent resolution';

(3) Paragraphs (1) and (2) of section 301(f) of that Act are amended by striking `for the fiscal year beginning after the date on which such Economic Report is received by the Congress' each place it appears.

(4) Section 301(i)(1)(A) of that Act is amended--

(A) by striking `for a fiscal year'; and

(B) by striking `for such fiscal year' the first place it appears and inserting `for the first fiscal year'.

(d) COMMITTEE ALLOCATIONS-

(1) Paragraphs (1) and (2) of section 302(a) of that Act are amended by inserting `for each fiscal year in such resolution' after `estimated allocation' each place it appears.

(2) Section 302(b) of that Act is amended--

(A) in paragraph (1) by inserting after `to it' the following: `for the first fiscal year'; and

(B) in paragraph (2)--

(i) by inserting after `(2)' the following: `for'; and

(ii) by striking all after `statement' through the period and inserting the following: `, for purposes of subsections (c) and (f), the allocation made pursuant to subsection (a) shall constitute the allocation pursuant to this subsection.'.

(3) Section 302(c) of that Act is amended--

(A) by inserting after `for a fiscal year' each place it appears the following: `or fiscal years'; and

(B) by inserting after `for such fiscal year' each place it appears the following: `or fiscal years'.

(4) Section 302(f)(1) of that Act is amended by--

(A) striking `for a fiscal year'; and

(B) striking `such fiscal year' each place it appears in the matter preceding subparagraph (A) and inserting the following: `the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years'.

(5) Section 302(f)(2) of that Act is amended by--

(A) striking `for a fiscal year'; and

(B) striking `such outlays or authority' inserting the following: `the appropriate outlays and authority for the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years'.

(e) SECTION 303 POINT OF ORDER- Section 303(a) of that Act is amended in the matter following paragraph (5) by inserting after `budget for such fiscal year' the following: `(for committees covered by section 302(b)(2)) or budget for which such fiscal year is the first fiscal year covered (for committees covered by section 302(b)(1))'.

(f) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS- Subsections (a)(3) and (b)(3) of section 305 of that Act are amended by striking `for a fiscal year'.

(g) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS-

(1)(A) Section 308(a)(1) of that Act is amended--

(i) in the matter preceding subparagraph (A) by inserting after `fiscal year' the following: `(or fiscal years)';

(ii) in subparagraph (A) by inserting after `fiscal year' the following: `(or fiscal years)'; and

(iii) in subparagraph (C) by inserting after `such fiscal year' the following: `(or fiscal years)'.

(B) Section 308(a)(2) of that Act is amended by inserting after `fiscal year' the following: `(or fiscal years)'.

(2) Section 308(b)(1) of that Act is amended--

(A) by striking `for a fiscal year' in the first sentence and inserting `for each fiscal year covered by a concurrent resolution on the budget'; and

(B) by striking `such fiscal year' in the second sentence and inserting `the first fiscal year covered by the appropriate concurrent

resolution'.

(h) RECONCILIATION PROCESS- Section 310(a) of that Act is amended--

(1) by inserting after `shall' in the matter preceding paragraph (1) the following: `(for at least 3 fiscal years)';

(2) in paragraph (1) by striking `such fiscal year' each place it appears and inserting the following: `such fiscal years'; and

(3) by adding at the end thereof the following:

`To the extent that a concurrent resolution on the budget specifies and directs matters described in paragraphs (1), (2), or (4), the concurrent resolution shall specify and direct deficit reduction for the 5 years covered by the concurrent resolution in amounts equal to or greater than 5 times that specified and directed for the first year covered for each committee directed.'.

(i) SECTION 311 POINT OF ORDER-

(1) Section 311(a) of that Act is amended--

(A) by striking `for a fiscal year';

(B) by inserting `for the first fiscal year' after `set forth' the first place it appears;

(C) by striking `budget for such fiscal year' and inserting `budget covering such fiscal year';

(D) by inserting `for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years' after `set forth' the second place it appears; and

(E) by striking `deficit for such fiscal year' and inserting `deficit for the first fiscal year covered by the resolution'.

(2) Section 311(b) of that Act is amended by inserting after `such fiscal year' each place it appears the following: `(or fiscal years)'.

(j) BILLS PROVIDING NEW SPENDING AUTHORITY- Section 401(b)(2) of that Act is amended by inserting after `for such fiscal year' the second place it appears the following: `(or fiscal years)'.

SEC. 12202. PRESIDENT'S BUDGET TO ADDRESS OUT-YEARS.

(a) PRESIDENTS' BUDGET TO ADDRESS OUT-YEARS- Section 1105(f) of title 31, United States Code, is amended--

(1) in paragraph (1) by inserting after `such fiscal year' each time it appears `and the 4 fiscal years after that year';

(2) in paragraph (2) by inserting after `any fiscal year' the following: `(including the 4 fiscal years after the fiscal year for which the budget is submitted)'; and

(3) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) DETAIL OF PRESIDENTS' BUDGETS- The second sentence of section 1104(b) of title 31, United States Code, is amended by striking `fiscal year 1950' and inserting `fiscal year 1990 submitted on January 9, 1989'.

SEC. 12203. STRENGTHENING THE PROHIBITION OF SPENDING BEFORE BUDGETING.

Section 303(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the first sentence.

Subtitle E--Credit Reform

SEC. 12251. CREDIT REFORMS.

The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

`TITLE XI--CREDIT REFORM

`SHORT TITLE

`SEC. 1100. This title may be cited as the `Federal Credit Reform Act of 1990'.

`PURPOSES

`SEC. 1101. The purposes of this title are to--

`(1) measure accurately the costs of Federal credit programs;

`(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

`(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries;

`(4) improve the allocation of resources among credit programs and between credit and other spending programs;

`(5) provide for the coordinated accounting and review of Federal credit programs by the Congressional Budget Office and Office of Management and Budget;

`(6) enhance the ability of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives to analyze and review of Federal credit programs; and

`(7) modify the legislative and executive budgetary processes to carry out these purposes.

`DEFINITIONS

`SEC. 1102. For purposes of this title--

`(1) The term `Federal agency' means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress that is owned in whole or in part by the United States. The term does not include the Board of Governors of the Federal Reserve System or the College Construction Loan Insurance Association.

`(2) The term `direct loan' means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation. For the purpose of carrying out this title, direct loans may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

`(3) The term `direct loan obligation' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to make a direct loan when specified conditions are fulfilled by the borrower.

`(4) The term `loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions. For the purposes of carrying out the provisions of this title, loan guarantees may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

`(5) The term `loan guarantee commitment' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to guarantee a loan when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

`(6)(A) The term `cost to the Government' means--

`(i) the estimated long-term net cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis; and

`(ii) the cost to the Government resulting from any change or modification in direct or guaranteed loan contract terms that results or will result in additional expenditures by the Government or loss of receipts to the Government.

`(B) In determining the amount of cost to the Government of a direct loan or loan guarantee, the estimator shall take into account--

`(i) any cash flows to or from the Government resulting from the terms and conditions of the direct loan obligation or guarantee commitment, including those resulting from--

`(I) direct outlays,

`(II) repayments (of principal or interest),

`(III) interest payments,

`(IV) interest receipts,

`(V) fees charged by (or on behalf of) the Government,

`(VI) the term to maturity,

`(VII) the payment schedule,

`(VIII) defaults in repayments,

`(IX) delays in repayments,

`(X) prepayments,

`(XI) forbearance and restructuring rights,

`(XII) grace periods,

`(XIII) penalties,

`(XIV) recoveries from the liquidation of collateral, and

`(XV) degree of guarantee;

`(ii) the likelihood (based on analysis of historical data) of deviations from the terms and conditions of the direct loan or loan guarantee, including those resulting from--

`(I) changes in the payment schedule,

`(II) defaults in repayments,

`(III) delays in repayments,

`(IV) prepayments,

`(V) forbearance and restructuring rights,

`(VI) grace periods,

`(VII) penalties,

`(VIII) recoveries from the liquidation of collateral, and

`(IX) degree of guarantee; and

`(iii) where historical data is not available or adequate, private market analogues, adjusted to estimate the cost to the Government.

`(C) The cost to the Government shall not include administrative costs.

`(7) The term `subsidy account' means the budget account or accounts into which subsidies are appropriated to cover the cost to the Government of a direct loan or loan guarantee program.

`(8) The term `financing account' means the budget account or accounts associated with each subsidy account that--

`(A) provides the non-subsidized funding to non-Government borrowers for Government direct loans obligated on or after October 1, 1991;

`(B) provides direct loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default and serves as a reserve for agency loan guarantee commitments made on or after October 1, 1991; and

`(C) receives payments of principal, interest, fees, and premiums from or on behalf of borrowers and subsidy payments from subsidy accounts for direct loans obligated or loan guarantees committed on or after October 1, 1991.

If an appropriated account includes both direct loans and loan guarantees, the affected agency shall maintain separate financing accounts for each.

`(9) The term `liquidating account' means the budget account or accounts that--

`(A) provides the funding for direct loans obligated prior to October 1, 1991;

`(B) disburses loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default for direct loans and guaranteed loans obligated prior to October 1, 1991; and

`(C) receives payments of principal, interest, fees, and premiums from on or on behalf of borrowers for all direct loans or loan guarantees obligated prior to October 1, 1991.

`(10) The term `Director' means the Director of the Office of Management and Budget.

`OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW

`SEC. 1103. (a) IN GENERAL- The Director shall be responsible for coordinating estimates by Federal agencies required by this title.

`(b) ESTIMATES OF COST TO THE GOVERNMENT BY THE DIRECTOR- With regard to direct loans and loan guarantees, the Director shall--

`(1) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for each new direct loan and loan guarantee or for groups of similar new direct loans and loan guarantees, taking into account the factors specified in section 1102(6);

`(2) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for changes or modification in the provisions of existing direct loan and loan guarantee agreements that result in increased cost to the Government;

`(3) if estimates of the cost to the Government are made by the Director, furnish the appropriate Federal agency with the estimates in a timely fashion;

`(4) require timely uniform reporting from Federal agencies on the actual long-term cost to the Government of direct loans and loan guarantees, calculated on a basis prescribed by the Director and consistent with this title, and on loan performance and borrower characteristics;

`(5) in the case of a program for which historical data is inadequate to determine the cost to the Government, oversee the development and implementation of systems that will make the collection and maintenance of credit data adequate in the future;

`(6) monitor due diligence debt collection efforts;

`(7) assess Federal agency performance; and

`(8) otherwise study and undertake improvements in Federal agency credit management.

`(c) DEVELOPMENT OF ESTIMATES-

`(1) IN GENERAL- In developing estimate criteria to be used by Federal agencies, the Director shall, in cooperation with the Director of Congressional Budget Office--

`(A) coordinate the development of accurate data on historical performance of loans and guarantees; and

`(B) review historical budget data and issue guidelines for the agencies to follow to develop the best possible broad estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

`(2) CONSULTATION WITH CONGRESS- The Director shall also consult with the chairmen and ranking members of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives in developing criteria under paragraph (1).

`(d) REVISION OF CRITERIA- Any change by the Director in the criteria for estimating developed pursuant to subsection (c) may be made only after consultation with the Director of the Congressional Budget Office, and the chairmen and ranking members of the Committees on the Budget and Appropriations of the Senate and the House of Representatives.

`(e) ADMINISTRATIVE COSTS- The Director and the Director of the Congressional Budget Office shall analyze differences in long-term administrative costs for credit programs versus grant programs and, 6 months after the date of enactment of this title and when appropriate thereafter, propose changes to Congress for incorporating administrative costs in the credit reform accounting process.

`DIRECT LOAN PROGRAMS

`SEC. 1104. (a) AGENCY BUDGET PROPOSAL- For each fiscal year, beginning with fiscal year 1992, each Federal agency shall include in its budget proposal and submission to Congress--

`(1) the planned level of new direct loan obligations; and

`(2) the estimated cost to the Government associated with the proposed direct loan obligations.

`(b) DIRECT LOAN OBLIGATIONS- On or after October 1, 1991, a Federal agency shall not enter into a direct loan obligation unless--

`(1) an appropriation has been made to the Federal agency for the cost to the Government; or

`(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

`(c) COST TO THE GOVERNMENT OF DIRECT LOAN OBLIGATION-

`(1) ESTIMATE OF COST- At the time a direct loan obligation is incurred, the Federal agency shall obtain an estimate of the cost to the Government of the loan from the Director or, at the discretion of the Director, shall make such an estimate based upon guidelines established by the Director.

`(2) BUDGET TREATMENT- For the purposes of section 1501 of title 31, United States Code--

`(A) the amount of an estimate made under paragraph (1) shall constitute an obligation of the subsidy account to pay to the financing account; and

`(B) the face value of the direct loan shall constitute an obligation of the financing account.

`(d) PAYMENT OF COST TO THE GOVERNMENT- The cost to the Government associated with a direct loan as determined in subsection (c) shall be paid from the subsidy account into the financing account as the loan is disbursed.

`(e) MODIFICATION- No direct loan agreement may be modified in a manner that increases the cost to the Government (except modifications within the terms of the loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or, in the case of entitlement accounts, charged against the 302(a) and 302(b) allocations of the committee making the modification. In calculating the costs of altering a direct loan the calculation shall include the current estimates of the direct loan's present value.

`(f) ELIGIBILITY AND ASSISTANCE- Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan.

`LOAN GUARANTEE PROGRAMS

`SEC. 1105. (a) AGENCY BUDGET PROPOSAL- For each fiscal year, beginning with fiscal year 1992, each Federal agency authorized to make loan guarantee commitments shall include in its budget proposal and submission to Congress--

`(1) the level of new loan guarantee commitments; and

`(2) the estimated cost to the Government associated with the proposed loan guarantee commitments.

`(b) LOAN GUARANTEE- On or after October 1, 1991, a Federal agency shall not guarantee a loan unless--

`(1) an appropriation has been made to the Federal agency for the cost to the Government, or

`(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

`(c) COST TO THE GOVERNMENT OF LOAN GUARANTEE-

`(1) IN GENERAL- At the time a loan guarantee commitment is made, the Federal agency shall obtain an estimate of the cost to the Government of the loan guarantee from the Director or, at the discretion of the Director, shall make an estimate of the cost to the Government based upon guidelines provided by the Director.

`(2) OBLIGATION- The amount of an estimate made under paragraph (1) shall constitute an obligation of the Federal agency for the purposes of section 1501 of title 31, United States Code.

`(d) PAYMENT OF COST TO THE GOVERNMENT- The cost to the Government associated with a loan guarantee determined under subsection (c) shall be paid from the subsidy account into the financing account at the time the underlying guaranteed loan is disbursed.

`(e) MODIFICATION- No loan guarantee agreement may be modified in a manner that would increase the cost to the Government (except modifications within the terms of a loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or is charged against the 302(a) and 302(b) allocations of the committee making the modifications. In calculating the costs of modifying loan guarantee agreements, the calculation shall include the current estimates of the loan guarantee's present value.

`(f) REINSURANCE- Nothing in this title shall be construed as authorizing or requiring the purchase of reinsurance for a Federal guarantee from private insurers.

`(g) ELIGIBILITY AND ASSISTANCE- Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, a loan guarantee.

`AGENCY RESPONSIBILITIES

`SEC. 1106. The head of each Federal agency authorized to make or guarantee loans covered by this title shall--

`(1) provide the Director in a timely fashion with information about the Federal agency's direct loan or loan guarantee programs sufficient to enable the Director to calculate the estimated cost to the Government, or shall, as required by the Director, estimate the cost to the Government in accordance with the Director's guidance;

`(2) request annual appropriations, or limitations on funds otherwise available, for the subsidies attributable to that Federal agency's direct loan or loan guarantee programs in each fiscal year;

`(3) carry out the Federal agency's direct loan or loan guarantee programs within the lesser of--

`(A) applicable appropriations Act limitations on direct loan obligations or loan guarantee commitments; or

`(B) annual appropriations or funds otherwise available to cover

cost to the Government for the program; and

`(4) maintain reserves in a financing account to cover loan guarantee defaults, which reserves in the financing account shall be treated as uninvested funds.

`BUDGETARY TREATMENT

`SEC. 1107. (a) DIRECT LOAN COST TO THE GOVERNMENT- For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any direct loan made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the subsidy account. The cost to the Government shall be included in the budget function of the direct loan program.

`(b) LOAN GUARANTEE COST TO THE GOVERNMENT- For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any loan guarantee commitment made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the account charged with the subsidy payment. The cost to the Government shall be included in the budget function of the guaranteed loan program.

`(c) CREDIT FINANCING ACTIVITIES-

`(1) For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, financing requirements of Federal credit programs in excess of costs to the Government paid by a Federal agency shall be chargeable to a financing account for each program. Financing requirements of direct loans or loan guarantees made or obligated on or after October 1, 1991, shall also be treated as obligations of the financing accounts. Such financing transactions shall be recorded in a budget function entitled `credit financing activities'. The Antideficiency Act shall apply to the financing accounts.

`(2) Amounts recorded in the budget function entitled `credit financing activities' pursuant to this subsection shall not be included--

`(A) for purposes of determining, in accordance with sections 301(i) and 311(a) of this Act, whether the maximum deficit amount for a fiscal year has been exceeded;

`(B) for purposes of other points of order under section 311 of this Act;

`(C) for purposes of reconciliation under section 310 of this Act; or

`(D) for purposes of allocations and points of order under section 302 of this Act.

`(3) Transactions in the financing account shall be treated as a means of financing of the Government.

`AUTHORIZATION OF APPROPRIATIONS

`SEC. 1108. (a) DIRECT LOAN OBLIGATIONS- There are authorized to be appropriated to each Federal agency otherwise authorized to make obligations for direct loans, such sums as may be necessary to pay the cost to the Government associated with proposed direct loan obligations and the costs of administering direct loans.

`(b) LOAN GUARANTEE COMMITMENTS- There are authorized to be appropriated to each Federal agency otherwise authorized to make guaranteed loan commitments, such sums as may be necessary to pay the cost to the Government associated with proposed loan guarantee commitments and the costs of administering loan guarantees.

`(c) TREASURY NOTES FINANCING- If at any time the monies available in its financing account are insufficient to enable the head of the Federal agency to discharge its responsibilities under this title, the head of a Federal agency shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and containing such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the head of such agency from monies otherwise available to its financing account or from appropriations made pursuant to subsection (d). Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date of issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations.

`(d) LIQUIDATING OBLIGATIONS-

`(1) If funds are insufficient to liquidate obligations of the financing account incurred under subsection (c), for the purposes of titles III and IV of this Act, the Director or the Federal agency as designated by the Director shall estimate the level of funds needed to meet those obligations. If at any time it is determined that funds are insufficient to repay those obligations, under subsection (c), there are authorized to be appropriated such sums as are necessary to repay those obligations.

`(2) To the extent that the resources of the financing account exceed those needed to liquidate obligations of the account or to maintain actuarially determined reserve requirements, the excess funds shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time, but at least once a year.

`(3) The Director shall include detailed descriptions of the financial condition of the financing accounts in the President's annual budget submission under section 1105 of title 31 of the United States Code.

`(e) AUTHORIZATION OF APPROPRIATIONS FOR SALARIES AND EXPENSES- There are authorized to be appropriated to the Director such sums as may be necessary for the salaries and expenses incurred to carry out the responsibilities of the Director under this title.

`TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS

`SEC. 1109. (a) IN GENERAL-

`(1) The provisions of this title shall not apply to the credit and insurance activities of the credit activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, Insurance Development Fund, Crop Insurance, or to the credit or other activities of the Tennessee Valley Authority.

`(2) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal insurance programs, including deposit insurance programs, should be on a cash basis. Each Director shall report findings and recommendations to the President and the Congress by September 30, 1991.

`(3) For the purposes of paragraph (2) the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

`(b) ELIGIBILITY AND ASSISTANCE- Nothing in this section shall be construed to change the responsibility of the entities that administer the programs described in subsection (a) to determine the terms and conditions of eligibility for, or the amount of assistance provided by those entities.

`EFFECT ON OTHER LAWS

`SEC. 1110. (a) FEDERAL AGENCY AUTHORITY- Nothing in this title shall be construed as limiting the authority of any Federal agency to enter into agreements to make or to guarantee loans under statutes that were in effect prior to the date of enactment of this title or that may be enacted subsequently. All such agreements shall be contingent upon meeting the requirements of this title.

`(b) EFFECT ON OTHER LAWS- This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

`(c) CREDITING OF COLLECTIONS- Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

`IMPLEMENTATION FOR FISCAL YEAR 1992

`SEC. 1111. (a) IN GENERAL- Beginning with the President's budget submission to Congress for fiscal year 1992, the President shall include, in the Budget Appendix, an estimate for the cost to the Government, as defined in section 1102(6), of all Federal direct loan and loan guarantee authority by program and by account.

`(b) BUDGET COMMITTEES- At the time of the President's budget submission to Congress, the Director shall provide the Committees on the Budget of both the Senate and the House of Representatives and the Congressional Budget Office with a document explaining the methodology used in development of the Director's cost to the Government estimates for direct loan and loan guarantee programs. Upon request by the Committees on the Budget of both the Senate or the House of Representatives or the Congressional Budget Office, the Director shall provide additional documentation, as required, regarding the cost to the Government estimates included in the Budget Appendix.

`(c) CONGRESSIONAL BUDGET OFFICE-

`(1) IN GENERAL- Beginning on January 1, 1991, the Congressional Budget Office shall include a cost to the Government estimate of direct loan or loan guarantee authority provided for in all reported bills.

`(2) EXISTING RESPONSIBILITY- Paragraph (1) does not eliminate or modify any responsibility of the Congressional Budget Office to make cost estimates under the law in effect prior to the effective date of this title.'.

SEC. 12252. EFFECT ON CONGRESSIONAL BUDGET ACT AND CONFORMING AMENDMENTS.

(a) DEFINITIONS- (1) Section 3(2) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: `The term includes the cost to the Government for direct loan and loan guarantee programs, as those terms are defined by title XI'.

(2) Section 3 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

`(11) GOVERNMENT-SPONSORED ENTERPRISE- The term `government-sponsored enterprise' means a corporate entity created by a law of the United States that--

`(A)(i) is a Federally chartered organization as provided in statute;

`(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

`(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

`(iv) is a financial institution with power to--

`(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

`(II) raise funds by borrowing or to guarantee the debt of others in unlimited amounts; and

`(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax, to levy compulsory fees, regardless of whether such fees are to finance goods or services, or to regulate interstate commerce);

`(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

`(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.'.

(b) POINT OF ORDER- Section 402 of the Congressional Budget Act of 1974 is amended--

(1) by redesignating subsection (b) as (c);

(2) in subsection (a), by striking `(b)(1)' and inserting `(c)'; and

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

`(b) POINT OF ORDER- It shall not be in order in either the Senate or the House of Representatives to consider any appropriation bill or joint resolution providing continuing appropriations, or authorizing legislation creating or modifying credit programs that are not subject to appropriation of credit authority, or any amendment thereto, or any conference report thereon, or any motion in relation thereto, that provides new credit authority that does not also provide an appropriation for the cost to the Government of such new credit authority as required by title XI.'.

(c) POINT OF ORDER FOR FISCAL YEAR 1991- Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting after `new budget authority' the following: `or new credit authority'. The amendment made by this subsection shall take effect on January 1, 1991.

(d) SUNSET OF POINT OF ORDER IN FISCAL YEAR 1992- (1) Section 302 of the Congressional Budget Act is amended--

(A) in subsection (a)(1)--

(i) by striking `total entitlement authority, and total credit authority'

and inserting `and total entitlement authority';

(ii) by striking `such entitlement authority, or such credit authority' and inserting `or such entitlement authority'; and

(iii) by striking `entitlement authority, and credit authority' and inserting `and entitlement authority';

(B) in subsection (a)(2), by striking `total budget outlays, total new budget authority and new credit authority' and inserting `total budget outlays and total new budget authority';

(C) in subsection (b)(1)(A), by striking `budget outlays, new budget authority, and new credit authority' and inserting `budget outlays and new budget authority';

(D) in subsection (c)--

(i) in paragraph (1), by inserting `or' at the end thereof; and

(ii) by striking `or (3) new credit authority for a fiscal year;'; and

(E) in subsection (f)(1)--

(i) by striking `year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year,' and inserting `year or new entitlement authority effective during such fiscal year,'; and

(ii) by striking `authority, new entitlement authority, or new credit authority' and inserting `authority or new entitlement authority'.

(2) The amendments made by this subsection shall take effect for fiscal years beginning after September 30, 1991.

(e) BALANCED BUDGET ACT- Section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new paragraph:

`(3) The financing account or accounts (as defined by section 1102(8)) and the activities of those accounts shall be exempt from reduction under any order issued pursuant to this part, except to the extent that a reduction in subsidies or loan limitations would result in a reduction in the financing amount or amounts.'.

SEC. 12253. TABLE OF CONTENTS.

The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following:

`TITLE XI--CREDIT REFORM

`Sec. 1109. Treatment of deposit insurance agencies.

`Sec. 1110. Effect on other laws.

`Sec. 1111. Implementation for fiscal year 1992.'.

SEC. 12254. GOVERNMENT-SPONSORED ENTERPRISES.

(a) TREASURY REPORT-

(1) On or before April 30, 1991, the Secretary of the Treasury shall submit to the Senate and the House of Representatives a report--

(A) making an objective assessment of the financial safety and soundness of the Government-sponsored enterprises;

(B) assessing the adequacy of the existing regulatory structure for Government-sponsored enterprises; and

(C) assessing the risk of financial exposure to the Federal Government posed by Government sponsored enterprises.

(2)(A) Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(B) In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(C)(i) The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this section in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(ii) The Department of Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this section and determined by the Secretary to be confidential. This exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency.

(iii) Any officer of employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if--

(I) by virtue of this employment of official position, he has possession of or access to any book, record, or information made available under this section and determined by the Secretary to be confidential under clause (i); and

(II) he discloses the material in any manner other than--

(aa) to an officer or employee of the Department of Treasury; or

(bb) pursuant to the exception set forth in such section 1906.

(b) CONGRESSIONAL BUDGET OFFICE REPORT-

(1) On or before April 30, 1991, the Director of the Congressional Budget Office shall submit to the Senate and the House of Representatives a report--

(A) giving that Office's perspective on--

(i) the types of risk that each Government-sponsored enterprise assumes;

(ii) ways in which the Congress can improve its understanding of these risks; and

(iii) the risks to the budget posed by Government-sponsored enterprises;

(B) evaluating the adequacy of current Government-sponsored enterprise supervision and regulation with respect to risk management; and

(C) presenting alternative models of oversight, with particular emphasis on the costs and benefits of each alternative on the Federal Government and to Government-sponsored-enterprise-supported beneficiaries.

(2)(A) The Director of Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(B) The Congressional Budget Office shall be exempt from section 603 of title 2, United States Code, with respect to any book, record, or information made available under this subsection and determined by the Director to be confidential under subparagraph (A).

(c) STUDY AND LEGISLATION- It is the sense of Congress that the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives shall--

(1) study the administration's Government sponsored enterprise proposals, which include--

(A) requiring triple-A ratings for Government-sponsored enterprises;

(B) establishing the Department of the Treasury as a separate regulator of Government-sponsored enterprises for safety and soundness; and

(C) imposing regulatory sanctions on Government-sponsored enterprises that fail to achieve a triple-A rating within 5 years;

(2) consult with the administration, the Government-sponsored enterprises, and the Congressional Budget Office regarding the administration's proposals; and

(3) report by September 15, 1991, to the Senate or the House of Representatives, as the case may be, as appropriate, legislation to--

(A) ensure the financial soundness of Government-sponsored enterprises; and

(B) minimize the possibility that any Government-sponsored enterprise might require future Federal assistance.

(d) LEGISLATIVE CONSIDERATION- It is the sense of Congress that if the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives fail to report the legislation required by subsection (c) by September 15, 1991, then the Leadership of the Senate and the House of Representatives shall provide for consideration of and a vote on or in relation to legislation improving the financial safety and soundness of Government-sponsored enterprises before the end of the First Session of the 102nd Congress.

Subtitle F--Budget Timetable

SEC. 12301. BUDGET TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

`TIMETABLE

`SEC. 300. (a) IN GENERAL- Except as provided in subsection (b), the timetable for the Congressional budget process is as follows:

`On or before:	***Action to be completed:***
January 27	*Congressional Budget Office submits its baseline report to Budget Committees and issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.*
February 1	*President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.*
March 1	*Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.*
April 1	*Senate Budget Committee reports concurrent resolution on the budget.*
April 15	*Congress completes action on concurrent resolution on the budget.*
May 15	*Annual Appropriations bills may be considered in the House.*
September 30	*Congress completes action on appropriations legislation and completes action on reconciliation legislation in odd-numbered years.*
October 1	*Fiscal year begins and any initial order becomes effective.*
November 10	*Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.*
November 15	

Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).

November 30

President transmits to the Congress a detailed message regarding the final order.

December 15

Comptroller General issues compliance report.

`(b) IN YEARS A NEW PRESIDENT TAKES OFFICE- In years in which a new President (who had not been President on January 19) takes office on January 20, the timetable for the Congressional budget process is as follows:

`On or before:

Action to be completed:

January 27

Congressional Budget Office submits its baseline report to Budget Committees.

March 10

Congressional Budget Office issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.

March 15

President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.

April 15

Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.

May 1

Senate Budget Committee reports concurrent resolution on the budget.

May 15

Congress completes action on concurrent resolution on the budget.

June 1

Annual Appropriations bills may be considered in the House.

September 30

Congress completes action on appropriations legislation and completes action on reconciliation legislation.

October 1

Fiscal year begins and any initial order becomes effective.

November 10

Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.

November 15

Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).

November 30

President transmits to Congress a detailed message regarding the final order.

December 15

Comptroller General issues compliance report.'.

Subtitle G--Early Initial Gramm-Rudman-Hollings Reports

SEC. 12351. EARLY INITIAL GRAMM-RUDMAN-HOLLINGS REPORTS.

(a) GRAMM-RUDMAN-HOLLINGS- The Balanced Budget and Emergency Deficit Control Act of 1985 is amended--

(1) in section 251(a)(1)(A), by striking `as of August 15 of the calendar year in which such fiscal year begins';

(2) in section 251(a)(2)(A), by striking `August 20' and inserting `January 27';

(3) in section 251(a)(2)(B), by striking `August 25' and inserting `February 1';

(4) in section 251(a)(2)(C), by striking clauses (iii) and (iv);

(5) in section 251(a)(3)(A)(ii), by striking `paragraph' and inserting `part';

(6) in section 251(a)(3)(A)(ii)(II), by striking `in the case of an initial report submitted under subsection (a), August 15, and in the case of a final report submitted under subsection (c),';

(7) in section 251(c)(1)(A), by striking `August 15 of' and inserting `the snapshot date for the Director's report pursuant to subsection (a) for';

(8) in section 252(a)(1), by striking `August 25' and inserting `February 1';

(9) in section 252(a)(5), by striking `Not later than the 15th day beginning after the President issues an' and inserting `Along with any'; and

(10) in section 252(b)(2), by striking `August 15 of' and inserting `the snapshot date for the Director's report pursuant to section 251(a) for'.

(b) CONGRESSIONAL BUDGET ACT- The Congressional Budget Act of 1974 is amended--

(1) in section 202(f)(1), by striking `February 15' and inserting `January 27';

(2) in section 202(f)(1), by striking `and any changes in such levels based on proposals in the budget request submitted by the President for such fiscal year';

(3) in section 202(f), by adding at the end thereof the following new paragraph:

`(4) On or before March 1 of each year (or April 15 of a year to which section 300(b) applies), the Director shall submit to the Committees on the Budget of the Senate and the House of Representatives a report setting forth the Director's analysis of the proposals in the budget request submitted by the President for the fiscal year beginning October 1 of that year.'; and

(4) in section 301(d), by striking `February 25' and inserting `March 1'.

(c) TITLE 31 OF THE UNITED STATES CODE- Section 1105(a) of title 31, United States Code, is amended by striking `the first Monday after January 3' and inserting `February 1'.

SEC. 12352. PRESIDENTS' BUDGET REQUEST TO USE GRAMM-RUDMAN-HOLLINGS RULES.

Section 1105(f) of title 31, United States Code, is amended--

(1) in paragraph (1) by inserting before the period `(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act';

(2) in paragraph (2) by inserting before the comma `(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act'; and

(3) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

Subtitle H--Strengthening the Byrd Rule on Extraneous Matter in Reconciliation

SEC. 12401. STRENGTHENING THE BYRD RULE.

(a) STRENGTHENING THE BYRD RULE- Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended--

(1) in subsection (a)--

(A) by inserting after `(a)' the following: `IN GENERAL- ';

(B) by inserting after `1974' the following: `(whether that bill or resolution originated in the Senate or the House) or section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985';

(2) in subsection (d) by inserting after `(d)' the following: `EXTRANEOUS PROVISIONS- ';

(3) in subsection (d)(1)(A) by inserting before the semicolon `(but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph)';

(4) in subsection (d)(1)(D) by striking `and' after the semicolon;

(5) in subsection (d)(1)(E), by striking the period at the end thereof and inserting `; and';

(6) in subsection (d)(1) by adding at the end thereof the following new

subparagraph:

`(F) a provision shall be considered extraneous if it violates section 310(f).';

(7) in subsection (d)(2), by inserting after `A' the first place it appears the following: `Senate-originated'; and

(8) by adding at the end thereof the following new subsections:

`(e) EXTRANEOUS MATERIALS- Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

`(f) GENERAL POINT OF ORDER- Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

`(g) DETERMINATION OF LEVELS- For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.'.

(b) TRANSFER OF BYRD RULE- (1) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by subsection (a), is transferred to the end of part A of title III of the Congressional Budget Control Act of 1974, and designated as section 313 of that Act.

(2) Section 313 of the Congressional Budget Control Act of 1974 is amended by--

(A) adding at the beginning thereof the following center heading:

`EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION';

(B) striking subsection (b), subsection (c), and the last sentence of subsection (a); and

(C) redesignating subsections (d) (e), (f), and (g) as subsections (b), (c), (d) and (e), respectively.

(3) Subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 509 (99th Congress, 2d Session) is enacted as subsection (c) of section 313 of the Congressional Budget Act of 1974.

(4) Section 313 of the Congressional Budget Act of 1974 is amended--

(A) in subsections (a), (b)(1)(A), and (c), by striking `of the Congressional Budget Act of 1974';

(B) in subsection (a), by striking `(d)' and inserting `(b)';

(C) in subsection (b)(2)(C), by adding `or' at the end thereof;

(D) in subsection (c), by striking `when' and inserting `When';

(E) in subsection (c)(1), by striking `(d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985' and inserting `(b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)'; and

(F) in subsection (c)(2), by striking `this resolution' and inserting `this subsection'.

(5) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 (as added by section 12606(c)) the following new item:

`Sec. 313. Extraneous matter in reconciliation legislation.'.

Subtitle I--Budget Submissions in New Administrations

SEC. 12451. REQUIREMENT FOR NEW PRESIDENT'S BUDGETS.

Section 1105(a) of title 31, United States Code, is amended by striking `February 5 in 1986' and inserting `March 15 in any year in which a new President takes office on January 20, not having been President on January 19'.

SEC. 12452. DEADLINES IN YEARS WHEN A NEW PRESIDENT TAKES OFFICE.

(a) CONGRESSIONAL BUDGET ACT- The Congressional Budget Act of 1974 is amended--

(1) in section 301(a), by inserting after `April 15 of each year' the following: `(or May 15 in a year to which section 300(b) applies';

(2) in section 301(d), by striking `February 25 of each year' and inserting `March 1 of each year (or April 15 in a year to which section 300(b) applies'; and

(3) in section 303(b), by inserting after `May 15 of any calendar year' the following: `(or June 1 in a year to which section 300(b) applies'.

(b) BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985- The Balanced Budget and Emergency Deficit Control Act of 1985 is amended--

(1) in section 251(a)(2)(A), by striking `October 15, 1987, in the case of fiscal year 1988' and inserting `March 10 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies';

(2) in section 251(a)(2)(B), by striking `October 20, 1987, in the case of fiscal year 1988' and inserting `March 15 in years when section 300(b) of the Congressional Budget Act of 1974 is in effect'; and

(3) in section 252(a)(1), by striking `October 20, 1987, in the case of the fiscal year 1988' and inserting `March 15 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies'.

Subtitle J--Repeal of Superseded Deadlines

SEC. 12501. SUPERSEDED DEADLINES AND CONFORMING

CHANGES.

(a) IN GENERAL- The Congressional Budget Act of 1974 is amended--

(1) in section 305, by--

(A) striking subsection (d); and

(B) redesignating subsection (e) as subsection (d);

(2) by repealing section 307; and

(3) in section 310, by--

(A) striking subsection (f); and

(B) redesignating subsection (g) as subsection (f).

(b) AMENDMENT TO TABLE OF CONTENTS- The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the item for section 307 and inserting the following:

`Sec. 307. Repealed.'.

Subtitle K--Standardization of Points of Order

SEC. 12551. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.