OMNIBUS BUDGET RECONCILIATION
ACT OF 1990

Volumes 1 - 5
H.R. 5835

PUBLIC LAW 101-508
101ST CONGRESS

REPORTS, BILLS,
DEBATES, AND ACT

Volume 2

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration
Office of the Deputy Commissioner for Policy and External Affairs
Office of Legislation and Congressional Affairs
This 5 volume compilation contains historical documents pertaining to P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990. The book contains congressional debates, a chronological compilation of documents pertinent to the legislative history of the public law and listings of relevant reference materials.

Pertinent documents include:

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

The books are prepared by the Office of Legislation and Congressional Affairs and are designed to serve as helpful resource tools for those charged with interpreting laws administered by the Social Security Administration.
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101ST CONGRESS  
2d SESSION  

S. 3209

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 16 (legislative day, OCTOBER 2), 1990

Mr. SASSER, from the Committee on the Budget, reported without recommendation the following original bill; which was read twice and placed on the calendar

A BILL

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

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Omnibus Budget Reconc-
5iliation Act of 1990".

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Title X—Committee on Labor and Human Resources.
Title XI—Committee on Veterans' Affairs.
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.—

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Sec. 6062. Elimination of advanced crediting to the trust funds of Social Security payroll taxes and revenues from taxation of Social Security benefits.
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Sec. 6501. Child Care and Development Block Grant.

Subtitle A—Income Security
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 REHABILITA-
TION 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 indi-
vidual received a benefit under this title (including assistance
pursuant to section 1619(b)), received a federally adminis-
tered State supplementary payment, or was ineligible (for a
reason other than cessation of disability or blindness) to re-
ceive a benefit pursuant to section 1611, an agreement under
section 1616(a), section 1619, and an agreement under sec-
tion 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 Di-
RECTLY 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 sup-
port 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 RE-
SOURCE AVAILABLE TO THE RECIPIENT; TRUST
NOT INCOME IN MONTH IN WHICH IT IS ESTAB-
LISHED.

(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;
(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 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:

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“(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)"", re-
spectively;
(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 sec-
tion 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 sec-
tion 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
1 to in section 1616(a) (or payments of the type described in
2 section 212(a) of Public Law 93–66) which are paid by the
3 Secretary under an agreement referred to in section 1616(a)
4 (or in section 212(b) of Public Law 93–66), for the month for
5 which all requirements of paragraph (1) for entitlement to
6 benefits under this subsection (other than being under a dis-
7 ability) are met.”.

(2) WIDOWER’S INSURANCE BENEFITS.—Section
9 202(f) (42 U.S.C. 402(f)) is amended by adding at the
10 end the following new paragraph:
11 “(9) An individual shall be deemed to be under a disabili-
12 ty for purposes of paragraph (1)(B)(ii) if such individual is
13 eligible for supplemental security income benefits under title
14 XVI, or State supplementary payments of the type referred
15 to in section 1616(a) (or payments of the type described in
16 section 212(a) of Public Law 93–66) which are paid by the
17 Secretary under an agreement referred to in such section
18 1616(a) (or in section 212(b) of Public Law 93–66), for the
19 month for which all requirements of paragraph (1) for entitle-
20 ment to benefits under this subsection (other than being
21 under a disability) are met.”.

(e) EFFECTIVE DATE.—
22 (1) IN GENERAL.—The amendments made by this
23 section (other than paragraphs (1) and (2)(C) of subsec-
24 tion (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) IN GENERAL.—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 an—
other” 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 sub-paragraph (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 pro-
cedures 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 lan-
guage that is easily understandable to the reader, shall identi-
fy the person to be designated as such individual’s represent-
ative payee, and shall explain to the reader the right under
clause (i) of such individual or such individual’s legal guardi-
an or legal representative—
"(I) to appeal a determination that a representa-
tive payee is necessary for such individual,
"(II) to appeal the designation of a particular
person to serve as the representative payee of such in-
dividual, 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 individ-
ual 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)(ii)(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 sele-
ction 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 fea-
sibility of establishing and maintaining a current
list, which would be readily available to local offi-
ces 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 Representa-
tives 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 opposi-
tion 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 adminis-
trative 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 recovered from such benefit by an attorney pursuant to section 206(a)(4).".

(c) LIMITATION OF TRAVEL EXPENSES FOR REPRESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) 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 enti-
tlement 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 demonstration 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 proce-
dures consisting of the following:

(A) In any case in which a person commun-
icates 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 appropri-
ate for purposes of this subparagraph, the Secre-
tary must thereafter promptly provide such person
a written receipt which sets forth—

(i) the name of any individual represent-
ing the Social Security Administration with
whom such person has spoken in such com-
munication,

(ii) the date of the communication;

(iii) a description of the nature of the
communication,

(iv) any action that an individual repre-
senting 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 other-
wise 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 insert-
ing "(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 notwith-
standing 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 subpara-
graph (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 Amend-
ments 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 Amend-
ments of 1950, and

“(iii) the provisions of section 215(d) as in effect
prior to the enactment of the Social Security Amend-
ments of 1977.

“(E) For purposes of this paragraph, the table for deter-
mining primary insurance amounts and maximum family ben-
efits contained in this section in December 1978 shall be re-
vised 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 sub-
section (a) shall apply with respect to benefits for months
after the date of the enactment of this Act.
Subtitle B—Medicare
13 PART 3—PROVISIONS RELATING TO PARTS A AND B
SEC. 6152. MEDICARE AS SECONDARY PAYER.

(a) Extension of Transfer of Data.—


(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,
“(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 pre-
liminary report under this subsection not later than
January 1, 1993, and a final report not later than Jan-
uary 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 Securi-
ty Act, as amended by subsection (c), and section
1862(b)(1)(C)(iii) of such Act, as added by such subsec-
tion, shall apply to periods beginning on or after Feb-
uary 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.
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.
Subtitle C—Medicaid
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
1 deemed to be a separate regular session of the State legisla-
2 ture.

3 PART III—LOW-INCOME ELDERLY

4 SEC. 6221. 1-YEAR ACCELERATION OF AND INCREASE IN
5 OPTION AMOUNT FOR BUY-IN OF PREMIUMS
6 AND COST SHARING FOR INDIGENT MEDICARE
7 BENEFICIARIES.
8
9 (a) OPTION UP TO 133 PERCENT OF POVERTY LINE.—
10 Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended
11 by striking “100” and inserting “133”.
12
13 (b) REQUIRED 1-YEAR ACCELERATION TO 100 PER-
14 CENT OF POVERTY LINE.—Section 1905(p)(2) (42 U.S.C.
15 1396d(p)(2)) is further amended—
16
17 (1) in subparagraph (B)—
18
19 (A) by adding “and” at the end of clause (ii);
20 (B) in clause (iii), by striking “95 percent,
21 and” and inserting “100 percent.”; and
22 (C) by striking clause (iv); and
23
24 (2) in subparagraph (C)—
25
26 (A) in clause (iii), by striking “90” and in-
27 serting “95”;
28 (B) by adding “and” at the end of clause
29 (iii);
30 (C) in clause (iv), by striking “95 percent,
31 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.
8. PART VII—MISCELLANEOUS AND TECHNICAL PROVISIONS
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 de-
terminating 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.
TITLE VII—COMMITTEE ON
FINANCE 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
1 to be made to a section or other provision of the Internal Revenue Code of 1986.

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Sec. 7414. Treatment of salvage recoverable.

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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.
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) $39,000 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 de-
terminated 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
(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 contri-
bution 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 IN-
surance 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 sec-
tion 3121(x)(2) for any calendar year shall be substitut-
ed for 'contribution and benefit base (as determined
under section 230 of the Social Security Act)' each
place it appears.”

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

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

SEC. 7452. EXTENDING MEDICARE COVERAGE OF, AND APPLI-
CATION 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

(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 Jan-
uary 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 insur-
(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 treat-
ed 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 sub-

paragraph:

“(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. 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

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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.
TITLE VIII—COMMITTEE ON GOVERNMENTAL AFFAIRS-CIVIL SERVICE AND POSTAL SERVICE PROGRAMS
(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 ac-
tually 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 enact-
ment 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 sec-
tion 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 de-
terminates 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).
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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.
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(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. 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.”.
A BILL

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

OCTOBER 16 (legislative day, October 2), 1990
Reported without recommendation; read twice and placed on the calendar
OMNIBUS BUDGET RECONCILIATION ACT OF 1990

The PRESIDING OFFICER (Mr. Kennedy). Under the previous order, the Senate will now proceed to the consideration of S. 3209, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3209) to provide for reconciliation pursuant to section 4 of concurrent resolution on the budget for the fiscal year 1991.

The Senate proceeded to consider the bill.

Mr. SASSER. Mr. President, I rise this morning to introduce the budget reconciliation bill for fiscal year 1991. I do so with both confidence and hope, I say to my distinguished friend, Senator Domenici; confidence that the committees of this body have jointly crafted a budget plan that is balanced, one that is fair, and one that does the critical work of reducing this Nation's deficit. I offer this package with the hope that what has been a long wait of uncertainty and strife for this body for the American people and a period critical work of reducing this Nation's deficit. I offer this package with the hope that what has been a long wait of uncertainty and strife for this body will finally be nearing an end.

In my judgment, Mr. President, the job before us could not be more plain. Deficit reduction simply must be accomplished, but we must also do it in a fair and equitable way. We must move decisively now to accomplish deficit reduction.

I think it is only fair to note in that context that the closed-door budget summit, in which I participated, took some 6 months to reach conclusion on the issues that we address today. And I must say, Mr. President, I sincerely hope that is the last budget summit negotiation in which I shall ever have to participate. It was hard, bone-crushing work, long, long hours.

The product had much to recommend it in the final conclusion but also the product had some severe flaws to which I think we will all agree. But the task that we undertook for 6 months in the budget summit has been picked up and completed by the congressional committees in both the House of Representatives and the Senate in the space of only 10 days.

The foundation and the framework that was done in the budget summit has been put to good use by the committees in both Houses, and I think the committees in both Houses of Congress are to be congratulated for the expeditious manner in which they have addressed themselves to the task of honest and meaningful deficit reduction.

This package, which was produced through established procedures of Congress, has a far better chance of passage than the agreement that was passed behind closed doors by the small and somewhat isolated group that called itself the summit conference. Virtually every Member of the Senate has had a hand in the creation of this package, and every Member of the Senate has a stake in seeing that this package becomes law.

If we act swiftly, if we act now and complete our work, we will send the clearest possible answer to those citizens who may be troubled that Congress cannot do its job and cannot do it on time. I think we will have drawn and completed in the space of 2 weeks the largest deficit reduction package in the history of this Nation—over $40 billion in honest deficit reduction in fiscal year 1991, 500 billion dollars' worth of honest deficit reduction over 5 years, the largest deficit reduction package in the history of this Republic.

Mr. President, 10 committees have now reported legislation that would produce more than $24 billion in budget savings for 1991 and $246 billion in savings over the 5-year period.

Mr. President—has moved very forcefully to get these savings.

This work has not been easy. On the contrary, it has been very difficult. Some of the choices they have had to make have been very painful, and some of the cuts that they have had to make have been very painful for them, and they will be painful for the American people. Some of the Senators have reported to me that this is the most difficult work they have ever had to do. One indicated that cutting some of these programs was almost like shooting his children as far as he was concerned. Farm price supports, for example, have been scaled back. And for those of us who come from agricultural States, that is, indeed, a bitter pill to swallow.

Bank insurance fees have been increased so that the banks themselves would pay a larger portion of any contingent liability that they might be exposed to rather than the taxpayer.

Coast Guard user fees have been adopted—less subsidies for the Coast Guard in doing work that rightfully ought to be paid for. The Student Loan Program has been tightened up to cut out some of the waste and per-
has some of the abuse that has taken place. And Federal retiree benefits such as the lump sum option have been eliminated. We have attempted to address some of the problems of the gone to date, and assumed that $1 billion have been proposed also, all in the name of deficit reduction.

There has not been a single committee that has not measured up to its responsibilities. Not a single committee, Mr. President, has not assumed its share of the task and assumed it willingly. The fact is that the savings from each committee of the Senate either meet or exceed the instructions which we sent them.

According to the Congressional Budget Office, this bill actually surpasses and exceeds our deficit reduction goals or the reconciliation instructions by $4 billion in 1991 and $6 billion over 5 years, and I say to my friend, the distinguished ranking minority member from Massachusetts, I think that is virtually unprecedented.

In terms of deficit reduction, the package contains more out-year savings than any reconciliation bill that has ever been enacted. Together, we have assembled a package that seeks to make up for the fiscal excesses and deficiencies, I would submit, of an entire decade.

I realize, Mr. President, that although committee members have all spoken today, it does not mean that we must forever fold our tent and say, there is likely to be a very spirited debate on the floor of this Chamber today, and I think that is healthy, a very spirited debate about tax equity and, quite frankly, I believe that is as it should be.

I do not believe we should ask middle-income Americans, those who have been stretched and squeezed by the policies of the 1980's, to work over twice as hard as the gristmill of deficit reduction. I think that would be unfair. Middle-income Americans have done their fair share, and it is only fair that the 700,000 upper-income households that benefited most from the policies of the 1980's, who saw their tax rates cut in half and then income in many cases double, should contribute proportionately to help solve this Nation's deficit crisis.

I extend my congratulations to the distinguished chairman of the Senate Finance Committee, Senator Brock, of Texas, who, along with the Joint Leadership team of Senator Packwood, the very able ranking member, Senator Mitchell, the distinguished majority leader, and Senator Dole, the distinguished minority leader, has been relentless and in a bipartisan way designed a resolution that is acceptable and adequate and one that I submit is sound.

Moreover, they have created a package that was built to pass this body. They have created a package that will rally the votes to be accepted. I submit, They have created a package that will be acceptable and one that I submit is sound.

The burden of sacrifice is spread much more evenly than that of the budget summit proposal. The summit plan, for example, would have increased the tax rate by 7.6 percent on the neediest Americans.

The proposal that we will have before us today rightly cuts the rates on the poorest citizens by 2.3 percent. What about the other end of the income distribution? Are all Americans? The summit proposal that we brought back to this body would have increased the contribution of the wealthiest Americans by only 1.7 percent. Under the plan that we are considering today these wealthiest Americans would see a 3.7 percent rise in their tax rates. Finally, this proposal will not suffocate middle-income Americans. It seeks only a 2-percent tax rate increase for middle Americans.

In sum, Mr. President, this entire piece of legislation I think represents a genuine step forward, one that asks moderate sacrifice from all Americans in our drive to reduce this deficit and safeguard our economy. It exempts no one, no cut from one element of deficit reduction. On its merits I submit it is sound, sensible, and supportable.

I think, perhaps equally as important, the proposal that we present to our colleagues today accomplishes real genuine deficit reduction without fakery, without deception, and without shrinking from the stark reality of the fiscal problem that faces this country.

We all have an interest in demonstrating to the American people that we can do our job. I suggest that our interest is even more pressing than that. The forces that at the very moment are undermining the foundation of our economy leave us no choice but to act and to act now.

The perils of our indebtedness have been widely recognized. Confidence has been shaken in the soundness of the financial system of this country. Confidence has been shaken in the Government's ability to stand up to its responsibilities. Foreign investors, those from whom we borrowed enormous sums of money over the past few years, are now relying on and moving to reduce interest rates.

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now time for us to get down and do our job.

This deficit reduction package is the product of virtually every committee of the U.S. Senate. Virtually every Member of this Senate has participated in producing this product. I do not think any one of us left the process. Everyone is an author and every citizen of every State can know that their elected representatives had a hand in producing this final result. I must say the result is a commendable agreement that I think deserves the support of all of us, and I do believe it reflects credit on this institution.

If ever there was a time for action, I submit, Mr. President, it is now. For the better part of a decade we have had rhetoric about the crisis to come, and we have had rhetoric about the perilous problems we are creating for our children. We have talked about the certain future we are bequeathing to our country. Mr. President, this Senator has been on the floor a number of times in the past few years raising those problems.

But now the crisis is here that many of us have been predicting. The problems are ours and the future is the here and now. We have much to prove. Mr. President, to our fellow citizens in this country, many of whom have watched in dismay as our Government has been in rebellion to our country. I say to my colleagues that with the adoption of this budget reconciliation bill today, this budget reconciliation bill that will reduce the indebtedness of our children and our children's children by $500 billion over the next 5 years, we will have demonstrated not only to our countrymen, but to those who watch us with great interest from abroad, that we here in this Chamber, and in the Government know how and can govern.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I yield myself as much time as I might require.

Mr. President, might I inquire of the distinguished chairman of the Budget Committee, the Senator from Tennessee, so that our fellow Senators might understand what our intentions are totally consistent, I hope, with the rules.

Mr. President, is it not the case that, for those fellow Senators from either side of the aisle who might want to make opening statements, the chairman of the budget committee might be going to see to it that, in yielding time, we yield only for that purpose until sometime after 12 o'clock?

Mr. SASSER. Mr. President, that is correct.

Mr. DOMENICI. That means, if I understand it, that any Senator who intends to offer any action on the floor by way of an amendment, to make a point of order, motions, that it is the intention of the chairman and the ranking member certainly not to preclude anyone. There will be plenty of time. They should know there are 20 hours. That goes into tomorrow. But we intend not to be in the process for that purpose until sometime after lunch.

Mr. SASSER. That is correct. We have been approached by a number of Members in prior days wishing to make opening statements, and we will consume the time up before noon in doing so. I might add, to the distinguished ranking member that I hope we can make significant and speedy progress today, and perhaps it might not be necessary to use the full 20 hours of debate.

To those of our colleagues who might be listening to us in their offices, once we get past the opening statements, I hope we can move fast on any amendments that might be offered. I hope we can keep any amendments to an absolute minimum.

Mr. DOMENICI. Mr. President, let me say, so there will be no misunderstanding, this rule that we just established, this modus operandi, is not the creation of the chairman and the ranking member. We have been asked by and consulted with the leadership, who have asked us to do this.

I hope our fellow Senators will understand that we do not want to get on with this. But there are a few problems we are trying to work out with reference to this measure that need our time. Some of us have to go off the floor and work on those items.

A number of Senators have asked me when amendment time is. We will follow the rules and be fair but, obviously, we control the time, and we would like opening statements until noon or thereabouts, without prejudice to either the chairman and the ranking member. We have been asked by and consulted with the leadership, who have asked us to do this.

I hope our fellow Senators will understand that we do not want to get on with this. But there are a few problems we are trying to work out with reference to this measure that need our time. Some of us have to go off the flow and work on those items.

Mr. President, let me say at this point, while this document before us is historic, and there is no question about that, it is with a great deal of sadness that the Senator from New Mexico comes to the floor with it, because, frankly, a number of us have worked very hard over a long period of time, and it was not intended that the process, started 4 or 5 months ago at the request of and behest of the President of the United States, would end up in the manner that it is now evolving. Clearly, we did not intend that it become a political, and as has occurred in the U.S. House.

This is not criticism on my part; it is just a truism. Since we went to the summit, bipartisan, bicameral, with the President, it is my hope and prayer that we would set aside the policy differences and try to deal honestly with what is happening here on the floor of the Senate, because everyone should know that we do not know how many Republicans are going to vote for this package. Clearly, the Democrats do not know who is going to vote for it on their side.

Mr. President, do we attempt to force the floor by way of a package for deficit reduction activities, reducing expenditures in a permanent and real way, and raising revenues? It does not come here as a Democratic or Republican initiative.

Maybe some of the specific initiatives within it might be somewhat партийные in nature, but the package was produced by the joint bipartisan Democrat-Republican leadership, and the principal committees of activity, such as Finance, produced the bipartisan package that is before us.

Frankly, I believe the deficit of the United States is so serious that it is not a Democrat issue, a Republican issue, or the President's issue. The people of the United States want us to do something. As a matter of fact, they are almost to the point, in my opinion, where they are giving up on ability to govern. I hate to say it, but I think some of them think it is a joke.

Frankly, the way we have conducted ourselves over the past few months, maybe that is right; maybe their conclusion is right. Let me say to them, however, that we have a few very fine fellow Americans and fellow New Mexicans—maybe 2, maybe 5—to redeem ourselves, because indeed, this particular deficit reduction package, if it goes through here, has Democrat and Republican support, and probably would get the President's support, and we would have an historic event occur.

Let me suggest that during the day, I say to my fellow Senators who are chairmen and ranking members, in particular, of the Finance Committee, that wrote the principal package—Chairman Bentsen and Ranking Member Packwood and other chairmen and ranking members—we already know there are going to be a number of amendments and proposals and I hope that we can put together, I hope they know that.

We do not want to do that; we want them to do it. We will do it if they are not here, or are busy or occupied. We will try to get notice to them. That is point No. 1.

Point No. 2, this package contains some provisions which should not be in a budget reconciliation package. We are going to try our very best to notify the ranking members and chairmen, so they can come down and defend and argue their point, if Senators intend to change the content we have put together. I hope they know that.

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We do not want to do that; we want them to do it. We will do it if they are not here, or are busy or occupied. We will try to get notice to them. That is point No. 1.

My third point is that a number of Senators have asked us where is the reform and enforcement part, the reform of the processes and the enforcement provisions. They are not in
this, Mr. President, because there was no committee that could be instructed to do that.

So later in the day, hopefully, we will have completed with the leadership, the chairman and ranking member of the Budget Committee, and others who were interested in the summit reform activities, and we will hopefully have a major amendment to offer on the floor of the Senate. Certainly, we are hopeful that the distinguished chairman of the Appropriations Committee, Senator Byrd, is on board, and we are trying to see that the package is what he understands it to be.

So those who are worried about voting for this package, without some reform and assurance that the deficit will be reduced than what we do not just spend the money, you will have an opportunity to vote on that reform before you have to vote on this package.

Obviously, I want to say here and now, if a whole new enforcement process building credibility into our activities is not adopted, count me out. There are a number of things in this package I would like to take out that are extraneous, but I support the substance of this package. It is bipartisan and it is fair.

I will try in my own simple way to dispose of the notion that we are not taxing the wealthy enough in this package for deficit reduction, because we are. In fact, as a general statement, the wealthy in the United States will pay more in new taxes under this proposal. Let me repeat it. The wealthy in the United States will pay more in new taxes under this proposal.

But I just remind everyone, unless someone can convince 51 Senators that what they want to do is what we ought to do, then it is nothing more than someone’s idea, someone’s wish. Clearly we want collective decisions; that is why we have a Senate. If we wanted one-man decisions, we would not have a Congress.

So it is very difficult to come into consensus, and I hope we are close to that, and I hope after a day’s debate, maybe long into the night tonight, we will do something right and historic and get on to conference with the House and perhaps end this agony, not only for us, but for our people. We ought to get it done.

Now, Mr. President, let me confer for one moment and I will yield.
Mr. SYMMS. Mr. President, what this points out is that the trends of the 1986 Tax Reform Act are that the wealthy people in this country are paying more taxes than they have ever paid before. These are IRS figures just recently released on 1987-88 tax returns, that show in a summary now that the distribution of total income tax burden for those with incomes over $100,000, those people are paying, 36.4 percent of all taxes. During the 1980's period of growth, these people's share grew 76 percent of where they used to be pre-Ronald Reagan: Those over $50,000 are now paying 62.9 percent of all the taxes. Under $50,000 pays 37 percent.

The point is, Mr. President, that our tax system does already tax—it is like the old question when they asked Willie Sutton why he robbed the bank. He said that is where the money is. The same thing is true with the tax collector. This package has all kinds of excise taxes that are going to hit across-the-board, rich and poor alike and, in my view, is unnecessary at this point in time.

In summarizing my remarks, I say, again, to the American people, now is the time to grab your wallet, run for cover, get the ballot box out and start comparing how the people in Congress vote and how these bills come out on your tax increases and start watching because, in my opinion, we are playing Russian roulette with the American economy to be doing anything other than controlling spending. In fact, this budget's saving will not be savings at all. Why? Because the President's man, Jim Brady Just asked this week for an additional $50 billion to bail out saving and loans. This $50 billion will more than wipe out the $40 billion in 1991 savings put forward by this budget package before us.

No, Mr. President, this budget will not lead to a balanced budget as it proposes to do. Moreover, every economist in the country, every business leader in the country will tell you the problem is spending, spending, spending. Somehow it turns out it is easier to divert the argument from spending to whom are we going to tax. Then the strategy becomes, tax someone and try to make it look like, "Oh, I didn't want to do that but I have to vote for this bill because we just cannot get by without it."

Cannot get by without what? Cannot get by without $1,150 trillion? We have $1,150 trillion in the Treasury now, or close to that. The revenue flow to the Treasury has been growing every year. We have so far $1,100 billion in revenue and people are saying that is not buying us enough government.

Look out America, Congress is getting up a head of steam to raise taxes, and neither facts nor reality seem able
to slow it down. What will certainly slow down further if the Congress continues down this path is our economy.

The Finance Committee has contributed to this recession by raising taxes, $11.3 billion in additional taxes disguised as spending cuts, and $5.3 billion in additional, new spending. Combined with the other elements in the budget, less than one-quarter of the budget represents real savings or improved efficiencies in Government programs.

In addition, under the original budget summit agreement the various committees of Congress were directed to raise about $116.3 billion in various user fees. These additional tax increases are cleverly hidden because they are scored as spending reductions.

When combined with the user fee increases, the Finance Committee's explicit and disguised tax increases bring the total tax increase to $269.6 billion, one of the largest tax increases in our Nation's history. And it comes at a time when our economy is already struggling. Battered by a credit crunch and the recent runup in oil prices as a result of the Iraqi invasion of Kuwait, the economy is slipping into a recession. The recession may be over in a year, or it may last much longer. The recession may be a gentle slowdown in growth, or a precipitous collapse like the recession in the early 1980's. But a recession is clearly at hand.

There is no defendable economic basis on which the Finance Committee's policy in a recession is to raise taxes. Not from the left, not from the right, not from the past, nor from the present. Not one.

The monetarist, supply side, and neoclassical schools all tell us the correct response to a recession is to cut spending to free up resources for more productive uses and to cut taxes to reduce the straitjacket Government imposes on investment, work, and growth.

Even the now discredited Keynesian school tells us to increase spending and to cut taxes, exactly the opposite of what the Finance Committee is reporting out.

The one prescription each of these schools agree on is that the correct policy in a recession is to cut taxes, not raise them.

So, what ghost of a theory is propelling these Halloween tax increases through the Finance Committee and the rest of Congress? The evidence points to the Depression economics of Herbert Hoover. In 1933, following the collapse of the stock market and in the clear signs of recession, Herbert Hoover decided the best policy was to get the Federal fiscal house in order by raising taxes. His Hoover tax policy, a fine man, was tragically mistaken, as events quickly proved.

The expectation at the time was that the tax increase would relax the strain on the credit markets created by the policies of the Federal Reserve and thereby reduce interest rates. Congress, while spending months wrangling over the details of the tax increase, did not question the need for such an increase. While many factors contributed to the recession, there was no question that the Hoover tax increase made a bad situation worse. Yet here we are—getting ready to repeat the tragic mistake of 1932.

Today's argument—and that may be the strongest case for increasing taxes traces its intellectual heritage directly to the Hoover tax increase. The full statement of this argument runs as follows: Raising taxes in a recession is necessary to cut the budget deficit and thereby lower interest rates.

There are two fatal flaws with this theory. First, a tax increase is not needed to reduce the budget deficit. If we simply hold this year's spending at last year's level, the deficit would fall by about $76 billion. But, even without a tax increase we could cut the deficit by nearly twice the amount proposed in the budget summit agreement, and we could do so without a single cut in direct spending.

The second flaw is the idea that cutting the budget deficit by $40 billion will lower interest rates. The effect on interest rates of reducing the deficit by a few trillions of dollars in the context of a $5 trillion economy, and a global economy many times that size, is like a pebble's waves on the ocean surface.

Proponents of the interest rate argument are not even consistent. Even with a deficit reduction package of $40 billion, the budget deficit is expected to increase by about $130 billion from fiscal year 1990 to fiscal year 1991. This means that if interest rates are affected at all, they would be driven upward by the budget agreement targets, not downward. If proponents of the interest rate theory really considered their argument in detail, in the face of a recession, it would be clear that the proposal is a paltry $40 billion deficit reduction package.

We find ourselves in this predicament because the Congress convinced the White House that the only way to deal with the budget was to convene a summit. The sole purpose of the summit was to hide the budget deliberations from the public eye and to allow the President, the Finance Committee, and the Congress to accomplish their aim of them to accept a paltry $40 billion deficit reduction package.

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While the package, the Finance Committee is reporting out isn’t as extreme as other proposals floating around the Capitol, it clearly achieves the tax-the-rich goal. For example, the package is close enough to that reduces the 5 percent of their adjusted gross income the itemized deductions that may be taken by individuals with incomes over $100,000.

The effect of this provision, much like the effect of the so-called bubble, which results from phasing out personal exemptions and the 15-percent tax-rate for upper income individuals, is to increase the effective top tax rate by 1 percent on gross wages to fund Medicare. The effective top income tax rate, therefore, has been raised from 33 percent to almost 35 percent. Ironically, after all the opposition from the White House over the bubble and preserving the current tax structure, the Finance Committee has managed to slip in a higher tax rate.

The charities are strongly opposed to this proposal, and for good reason. For, although the 5-percent limit is low enough so as not to affect most individuals’ decisions as to whether and how much to give, it is not hard to read the writing on the wall. Over time, the 5-percent rate will be raised, first to 6 percent, then to 10 percent, then to 50 percent, and so forth. And while the rate increases, the threshold will fall to $90,000, then to $75,000, and so on. And with each change, more and more Americans will become discouraged by the tax treatment of charitable giving.

The rich are also the primary target of the tax on luxury items. There is no policy reason to support this new tax. It is intended to tax, not reward, the highest income individuals for another $2.1 billion. These are not so much luxury taxes as envy taxes; it is the codification of covetousness.

The Finance Committee has given upper middle income taxpayers a higher tax rate as well. Currently, both employers and employees pay a 1.45-percent hospital insurance (HI) tax on gross wages to fund Medicare. Under the proposal, the Finance Committee has decided to increase an additional $42.6 billion by more than doubling the gas tax.

The gas tax was originally levied under a compact with the American people that the funds raised would be held in a trust fund to be spent on transportation infrastructure such as highways, bridges, tunnels, and mass transit. The Hooverites on the Finance Committee have broken this compact because only half the money raised by the gas tax increase goes into the trust fund, the other half goes to deficit reduction.

Having broken faith with taxpayers, the committee may be criticized as well for counting the taxes that are deposited into the trust fund as deficit reduction. Clearly, taxes raised to be spent will eventually be spent, and so it is disgraceful to count the increased inflow into the trust fund as deficit reduction.

The biggest tax increase on business falls on the life insurance industry. Whatever the technical merits of the proposal, the effect of this $8 billion revenue grab is nearly to double the industry’s taxes overnight.

According to the Finance Committee, the rich would seem to be anyone who works for a living, drives a car, has a small business, drinks wine or smokes cigarettes, buys life insurance or works for a life insurance company, or has a telephone.

Some Senators intone gravely that we may be playing Russian roulette with the economy if we don’t get our budget deficit under control by raising the tax. The reality, however, is that this package is the economic version of the Dark Ages medical practice of bleeding the patient to effect a cure. Applying the tax leeches to the American economy may well worsen the biggest burdens we are facing today. And next year we could be facing a budget dilemma that makes this year’s deliberations look like a cakewalk.

EXHIBIT 1
STOMPING THE RICH
(By Warren Brookes)

In the last few months, Americans have been treated to a barrage of rich-bashing since Vladimir Lenin led the revolutionaries into the barricades in 1917. Brookes’ column now reveals most Americans think the rich in this country pay very little taxes, and are paying less every year, at the expense of the poor and middle class.

This incredibly false notion is being fed with gusto by the Democrats in Congress and their friends like Kevin Phillips who has been bashing away with gusto since 1986.

The real story is that $1 million in income, who represents 1 percent of all the tax payments of the top 13 percent of the taxpayers, and nearly 63 percent of all income taxes paid.

The Hooverites are right that the richest Americans pay a smaller share in taxes than they did during the strong, pre-Bush economy. Yet in that 1988 year, the taxes paid by the income groups under $50,000 (representing 67.3 percent of the taxpayers) rose by only $1.9 billion, or only 4 percent of the total increase.

Furthermore, that 67.3 percent of all taxpayers paid only 27.1 percent of the total income taxes collected, and in real terms their tax payments have actually been going down every year. And 1988 was no exception for real tax payments. For example, for the bottom 87 percent of all taxpayers, which was some $9 billion, there was a real 17 percent increase in real terms over the last nine years, even as the taxes paid by the wealthy have in fact soared at their fastest growth in at least three decades. From 1981-88, the taxes paid by the top 5 percent rose in real terms by more than 70 percent, while the GDP grew by only less than 24 percent.

Indeed, in 1988 the 2.3 percent of all taxpayers over the income level of $100,000, or only 9/100 of 1 percent (0.09 percent) of all the taxpayers, not only paid 10.5 percent of all the taxes paid ($4 billion) but paid 27 percent of the total revenue increase in 1988!

This means that the Democrats and their allies like Kevin Phillips are engaging in a simply deceptive and destructive, not to mention irresponsible, level of distortion on this issue, and the result could be catastrophic for economic recovery.

That is because simply slapping huge new 5 percent to 15 percent tax surcharges on everyone with an income of more than $100,000 will not only be massively unfair in terms of who has actually been paying the rising tax
Sr.

$1,000,000 iid _

156,000 to $100,000...._

$15,000$50,000...

his people—right down the economic toilet.tics of envy and remember where Lenin led eation and economic growth.

We were rebuffed in those overtures and told that it was not time to take the measures that needed to be taken—perhaps at a later date but not yet.

Some of us retorted that if we continue to wait we are going to see this business cycle, which is already very mature, begin to curve downward; we will see the deficits get up even further; that will not be the opportune time to come with a significant deficit reduction package.

Again we were rebuffed, and the effect at substantial deficit reduction was put off once again, even though those above us realized that something was going to have to be done about the deficit.

How did we get into the present posture?

The proximate cause of the explosion in indebtedness that we have seen over the past decade is the result of two things: One, the supply side tax cut of 1981. According to the statistics of the Office of Management and Budget—and bear in mind, Mr. President, at the time, this was President Ronald Reagan's Office of Management and Budget—as a result of that tax cut of 1981, the so-called supply side tax cut, the Federal Government lost $1.414 trillion during the decade of the 1980's, an unprecedented hemorrhage of Federal revenue.

In essence, the revenue base of the U.S. Government was reduced by 20 percent over the period of the 1980's. The proximate cause of the largest military buildup in the peace-time history of this country; indeed, a military buildup that even surpassed the buildup during the course of the Vietnam war.

As we were reducing taxes and depriving the Government of a revenue base to the tune of $1.414 trillion during the decade of the 1980's, we were increasing military spending in nominal dollars at about 50 percent.

Mr. President, that is what confronts this Congress, and that is the reason we are in the posture now of having to move in the direction of significant deficit reduction. That is the reason lending officials of the Bush administration knew when they took office that something was going to have to be done about this deficit, because we were literally mortgaging the future of this country to satisfy the need to meet the Federal debt payments.

We found over the past few months that there has been a virtual explosion in the deficit. It comes about as a result of two things: First, the economy is now starting to curve downward, just as some cautioned the administration to take action when they determine that the airplanes are not running on time, or in some places running hardly at all.

There might be second thoughts when we go back to the days before meat inspections were in the factories and in the packing plants. There were days written about the muckrakers at the turn of the century, when people were eating meat from disabled cattle; spoiled meat. If we did not have the Government funds to keep the meat

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burden in this country, but economically suicidal.

The vast preponderance of U.S. new job formation is the result of investment by those with incomes of more than $100,000, and whacking those incomes is attacking job creation and economic growth. It is time to stop disgusting and ugly politics of envy and remember where Lenin led.

We are in a catch-22 situation. Why? Because we are financing a substantial portion of this deficit with funds that are borrowed from abroad, principally Japanese funds. We find now that as the American dollar continues to decline, as our economy continues to decline, as troubles start to appear in the banking structure and in the underlying insurance structure of our economy, foreign investors are looking elsewhere to invest their funds. They find that interest rates in Japan and interest rates in Germany and even the financial security offered by those two countries might be at least on par, if not even preferable to that of the United States. So we see the option of financing our excesses from abroad starting to dry up on us. We are left with no alternative but to fall back on our own resources to try and deal with the deficit.

The distinguished Senator from Idaho said why do anything; let us just go on with the sequester. He cited polls in which the American people said we want to see Government shrunken.

He said the American people would not care if we had a sequester. I submit that the American people want the best job possible when they determine that the airplanes are not running on time, or in some places running hardly at all.

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1987-88 INCOME TAX TRENDS

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<th>Income class</th>
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<th>Percent at total growth</th>
<th>Percent of taxpayers</th>
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Source: IRS statistics of income, spring 1990.

Mr. SASSER. Mr. President, I have listened with interest to the remarks made here this morning by the distinguished Senator from Idaho, a valuable member of the Senate Budget Committee. I must say that I cannot agree entirely with a number of the assertions which have been made this morning by my distinguished friend.

Mr. President, Senator from Idaho raised the point—and I think &x;&x;&x;&x;something was going to have to be done about this deficit, because we were literally mortgaging the future of this country to satisfy the need to meet the Federal debt payments.

Mr. President, this is not good for an economy which is courting downward, but I would submit that because of the failure of the administration to do what we simply have no alternative but to do so.

Why do we have no alternative? Because we now find that the Federal deficit which the President told the American people in his State of the Union message in January was $101 billion and would be reduced to $64 billion by fiscal year 1991, and then it would go away, by the President's own statement of a few days ago in his White House address to the American people. Why would the deficit have mushroomed to over $300 billion. So we have no alternative but to try to deal with it now.

We are in a catch-22 situation. Why? Because we are financing a substantial portion of this deficit with funds that are borrowed from abroad, principally Japanese funds. We find now that as the American dollar continues to decline, as our economy continues to decline, as troubles start to appear in the banking structure and in the underlying insurance structure of our economy, foreign investors are looking elsewhere to invest their funds. They find that interest rates in Japan and interest rates in Germany and even the financial security offered by those two countries might be at least on par, if not even preferable to that of the United States. So we see the option of financing our excesses from abroad starting to dry up on us. We are left with no alternative but to fall back on our own resources to try and deal with the deficit.

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The real disposable income of the poorest 10 percent of this population dropped by 8.4 percent during the 1980's, while the richest 5 percent experienced a 45-percent growth in real disposable income.

What we are saying in this package, what we are saying in a bipartisan way—and I want to say to the credit of the distinguished minority leader, Senator Dole, who has been a leader in a perfect sense, a leader who has stood for what he believes, for American people that the problems facing this Government can simply be solved by doing away with the waste, fraud, and abuse, I have served in this body for 14 years, and I have not seen one line item in any budget dedicated to waste, fraud, and abuse, and I have looked hard for it. I cannot find anybody that is allocating funds to waste, fraud, and abuse in this budget or in any other. Sure, there are excesses. There are excesses in any large human endeavor. And that is precisely what government is—perhaps the largest of all human endeavors. There are some places we can cut; there are some places we can save, and we have to continue to look for them. But to say that, by cutting here and saving a tiny bit there and cutting out a little duplication here, we would solve a problem that now amounts to over $3 trillion, simply, I think, no President, to put it kindly, begs a question.

So although I think the Senator from Idaho has done the Senate a service in bringing some of these matters to our attention here this morning, I say that, that I should have to agree with him on the substance to a substantial degree. What we have before us, I think, is a budget reconciliation bill that every Senator can proudly support.

I ask unanimous consent that I be allowed to yield 10 minutes to the Senator from Delaware, from the time under the control of Senator Dole, for the sole purpose of an opening statement, and that I be recognized immediately at
the close of that statement, without any intervening action.
Mr. HOLLINGS. Mr. President, let me thank the managers of the bill and thank my distinguished colleague from Arkansas. We can see the be-devilment that besets us when we operate in this particular 11th-hour fashion.

With regard to the Senator from Arkansas' remarks, I would note that you have to offer them productivity. You have to pay your bills. And back in the 1950's, we led the way. We raised taxes in South Carolina. And it was not easy. I had to sell the idea.

That is why I fought the President of the United States, because we have seen this problem of not paying the bills. If we have a mountain top and see the other side. You have to work, and work against friends, and work against politics because nobody likes taxes.

All these polls say the people are against taxes. Who is surprised. Realists above, polls do not ask, "Do you want the Federal Government to pay its bills?" I think 95 percent would say "yes" to that, but polls do not ask that question. They just ask: "Are you for taxes?"

So you have to straighten yourself out, in the first instance, raise taxes and pay the bills. Therein, incidentally, was the idea behind Gramm-Rudman-Hollings. It was, immodestly, my initiative growing out of my experience in South Carolina. Wall Street said, "Governor, we have heard that, but before, that you have a balanced budget. But how can we count on it?"

I said I have an iron-clad device to control it. Our law requires the auditor to periodically certify to the Governor, that the expenditures were within the reference. And if not, zoom, right across, sequestration and it works. Governor Reilly did that; Governor Campbell has done it. The sequester is usually 2 percent. It is a minimal kind of cut, but everybody knows that the discipline is there.

And, incidentally, we did not contemplate under Gramm-Rudman-Hollings cutting $110 billion in a single year. Indeed, 1991, this year, was supposed to give us a balanced budget when we adopted Gramm-Rudman-Hollings back in 1985.

And we did not anticipate robbing the Social Security Trust Fund. There was no need. We planned a balanced budget by 1991. So there is nothing wrong with the budget law.

The failure of Gramm-Rudman-Hollings is simply that we have not told the truth. Of course, it would be blasphemous to try to compare Gramm-Rudman-Hollings with the Ten Commandments. Nonetheless, we do not obey the Ten Commandments, but nobody says abolish them. We do not obey Gramm-Rudman-Hollings, but everybody says let us get rid of it. But they do not want to have to vote explicitly to kill it.

The Senator from Delaware says we need growth. Of course we do. We need growth. We need a freeze. We need taxes. We need spending cuts. We need taxes. We need all of the above. Our situation is desperate.

I have outlined the nature of the crisis throughout the summer. When we came back after Labor Day, I wrote a Washington Post article, and more
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I have listened to everyone, and I still listen, but how do you keep those health-care costs from going up 11.5 percent each and every year? I want the best health care. I want the CAT scan when I get sick. I want all of the tests. Then, of course, they are suing the doctors, so the doctors require every conceivable test. They keep it run up and up and away. So health costs are $200 billion, plus $300 billion for defense; that is $500 billion.

Then, of course, you have $233 billion for Social Security, and no one ever cuts that. There is no way we cannot do it. We would have to stop them from robbing it, much less cutting it. So they are not going to cut it. In addition, $285 billion in interest costs are projected. So now, adding it all up, we have spending of some $1.50 trillion, and that is the deficit of some $1 trillion. We need to start talking sense. The American people have no idea about the magnitude of the task of getting this Government back in the black. I made one suggestion—I got eight votes for it in the Budget Committee—6-percent VAT tax, elimination of all subsidies to the rest of the Government—the President, the Congress, the courts, the FBI, the drug program, Commerce, Interior, Agriculture. Just eliminate the rest of Government, and you still have a deficit of some $500 billion. Start talking sense. The American people have no idea about the magnitude of the task of getting this Government back in the black.

We also have the Nunn figure for defense. You have $300 billion budget defense. You have $286 billion in Interest costs. You have $162 billion deficit for this year, right now, 1991. Add Bill Seidman’s S&L bailout which they are off the floor trying to maneuver to get off budget. It could total $100 billion. The Wall Street Journal is still hoping you can get a sweet that under you. Can get wall-to-wall carpeting, but it is not going to hide the S&L bailout.

I know the President does not want to lose the Illinois, New York, Florida, California, and the rest of the Senate. I do not want to hear about the S&L Senators anymore. But there it is, another $100 billion in 1991.

Mr. POWLER. Planes.

Mr. HOLLINGS. Yes, they took care of the private airplanes. They got all the little loopholes for oil exploration, and they fed the Japanese lobbyists by exempting electronics. And then they had the gall to come on the floor and cry: Pain; hard, tough choices; tough choices.

And by the way, they say, let us have a conference report here with no amendments, and 10 hours of debate. Like right now, you cannot offer an amendment; same act, same scene, same let us sweep it under the rug.

Well, we will watch that. We will watch that. But in any event what about waste, fraud, and abuse? If you have spending of $400 billion, how are you going to cut that? Nobody in his right mind wants to cut spending by $400 billion in a $1.2 trillion budget. Even the Grace Commission report did not have that in mind.

Incidentally, in the last Grace report we got, in 1989, the President said that we have adopted 69 percent of the Grace Commission initiatives, and by now it is over 70 percent of the Grace Commission initiatives. And obviously, if the Grace Commission initiatives are a matter of sound public policy.

Included in that astronomical amount, Grace was going to save out of defense, for example, were commissaries and post exchanges, the things that we put in there to attract people into the volunteer army. And otherwise, CHAMPUS, health care, according to the Grace Commission, is waste, fraud, and abuse.

So they can parrot that polister nonsense of “I am against waste, fraud, and abuse,” and “I am against taxes,” and “Reelect me,” but look honestly at the spending that you cannot and will not cut. We are not going to cut defense spending. According to the summit and every other plan, $292 billion is the Nunn figure for defense. We will not go below $292 billion for defense, one way or another. Meanwhile, and then you have at least $300 billion or more.

I do not want to cut it, and the President does not want to cut it, and they will not be cutting it. So you have $300 billion budget defense. You have $200 billion for health costs. We would all like to control that. I could get elected President if I knew how to control it.
With this $1 trillion problem, that is why the Senator from South Carolina keeps counseling freezes and a VAT tax. Heaven above, I am not advocating this, but saying that I am against Government. I am for Government, and I would like to see it work, and I have seen it work. I have seen this disaster build up over the past decade.

With a problem of this magnitude, the President needs to get out into the hinterlands and educate, sell, cajole, persuade, and come again and again and again and tell the American people exactly where we stand. Instead, he finally agrees, in the Rose Garden, to a budget agreement and sells it on TV for a mere 10 minutes. He claimed there is no smoke and there is no mirrors. He claimed we do not have set-aside with Social Security. In truth, there are all kinds of smoke, all kinds of mirrors; and we rob $169 billion from the Social Security Trust Fund.

And he says, if the Soviets and the United States can get together, Republicans and Democrats can get together, as if we only have a political problem here. We have a national economic crisis, for rich, for poor, for everyone. All of America is going to have to pitch in on this one national sacrifice.

I well remember Jack Kennedy's first inaugural, when he said, "The new frontier of which I speak is not a set of promises—it is a set of challenges. It is not a series of promises, it is a set of challenges. It is not a set of promises, it is a set of challenges that I intend to ask of the American people, but what I intend to ask of them."

Compare Kennedy's Inaugural Address with George Bush's. Recall Kennedy's call to "challenges" and "new horizons". How ironic. In 1960, the United States stands as the remaining superpower. We are the wealthiest Nation on the face of the Earth, endowed with unparalleled natural resources and a world's most productive workers. The U.S. economy is four times larger than it was at the end of World War II. Our per capita GNP is 2.3 times larger. And yet, today, our poor-mouthing President protests that we have "more will than wallet." He should be ashamed of himself.

In the 1930's America truly had more will than wallet, but our President, from his wheelchair, put the U.S. economy back on its feet. In 1948 America had more will than wallet, but Harry Truman ignored the polls and pushed ahead with the Marshall plan for Europe and the Truman doctrine in Greece and Turkey.

In 1961 America had more will than wallet, but Kennedy summoned us to a New Frontier and a race to the Moon. Throughout our history, we Americans have always had more will than wallet. But we moved forward and accomplished great things because of leaders with ambitious, progressive agendas for the Nation.

But today's President says we have more will than wallet. And, by the way, let us get a 25-percent writeoff if we can, and let us have tax breaks for oil. We need incentives. The price of oil is up to $40 a barrel. We are ready to go to war for oil.

The distinguished Senator from Nevada put in CAPE standards, and it was vetoed. That is why we did not get an energy plan, so let us have a policy. The President put troops in the sand of Saudi Arabia but killed a CAPE standards bill that would have saved the equivalent of the production of Iraq and Kuwait.

He says we have more will than wallet, so let us just keep spending, and don't pay the bills.

Mr. President, look at this reconciliation bill. Like the summit agreement before it, it is half a haircut. You have to pay 100 years' worth, and you throw him a 50-yard lifetime rug. We are talking about how you are trying to save the man. Nonsense.

Nowhere in the media have I seen reported perhaps the most profound element of this latest incarnation of Gramm-Rudman-Hollings. It guts Gramm-Rudman-Hollings. Heretofore, Gramm-Rudman-Hollings has been premised on specific deficit targets aimed at achieving a balanced budget. That is now gone. In its place, this bill talks only about targets for proposed savings. In other words, in 1991 we only have to reach the proposed savings of $40 billion, and no one is supposed to notice or care that the deficit skyrocketed to $253 billion. By 1995, the act pretends that even the beginning of an energy policy. The President put troops in the sand of Saudi Arabia but killed a CAPE standards bill that would have saved the equivalent of the production of Iraq and Kuwait.

We are ready to go to war for oil.

Meanwhile, a large portion of the Social Security, Medicare, highway, and airport trust funds will all be on budget for purposes of calculating the Gramm-Rudman-Hollings deficit. The surpluses in those funds will be used
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in their entirety to fund the operating expenses of the Government. Neatly tucked away in this bill is the fact that all expenditures for the S&L bailout will be off budget for purposes of calculating the Gramm-Rudman-Hollings deficit. The statutory debt limit is left open-ended and is extended for a full 5 years. When you put these two provisions together, what you have is congressional authorization of carte blanche for bailout of the RTC. RTC can spend whatever it needs to cover up its incompetent handling of the S&L liquidations. Those tens of billions won’t count against the deficit, and they won’t bring about a crisis in terms of exceeding the statutory debt limit. The purpose, of course, is to solve Congress’ and the administration’s problems. Those tens of billions won’t exceed the statutory debt limit. At the same time, the bailout will be off budget for purposes of calculating the government’s expenses of the Government.

In their entirety to fund the operating expenses of the Government.

I can tell you that the extremely low spending ceilings for domestic discretionary spending are not adequate to fund even current program obligations. Beyond that, the bill assumes zero new initiatives by the self-styled education President, environment President, child care President, and his like-minded colleagues in Congress.

Mr. President, this reconciliation bill presents us with a formula for a gridlock Congress and a do-nothing Government for the next 5 years. It also grants three-way veto authority to a willful minority in Congress: the President, the Speaker of the House, the Senate majority leader. The Sununu White House can exercise the traditional constitutional veto requiring 67 votes for override. The distinguished chairman does not like the subject. They have opposed the line item veto and now they do not have to worry about a line or an item because the executive branch now has three vetoes establishing minority control over this body. You do not have to worry about November 6. You can live in the White House, you control government, and if you do not win the White House, then you have nothing.

Meanwhile, CBO can forget about giving us budget figures. This bill does not give CBO anything but the back of their hand. They say to CBO we do not want to hear from you. Just look at the so-called leadership amendment. It says OMB, the authority and whatever OMB says, we will live by.

So, they effectively abolish the Congressional Budget Office. They effectively abolish the Budget Committee. All we are left with is, as they said yesterday, ministerial duties. I never heard of that particular role.

There was no reason, in my opinion, for not fully discussing this matter in committee. Conscientiously I would want the chairman and ranking member to discuss all of this with my Budget Committee members, because section 306 of the Budget Act envisioned just that, that none of these things would come out that were not considered within the Budget Committee.

Now they are going to fall back on a technicality and say that the bill came out of the Budget Committee. But when the bill was in committee they could not discuss it because we could not instruct the authorizers. They instructed me on Coast Guard, and instructed me on several other things as chairman of the Committee on Commerce, Science, and Transportation. We could not run the budget process reform to the Budget Committee! You could not discuss it and now they do not want you to amend it because they just want opening statements until they get it all greased. As a result we have done away with the Budget Committee save for ministerial duties, as they call it. We will raise a point of order and then of course finally we have done away with, I guess, the Congress itself.

You effectively eliminate CBO, OMB, and the Budget Committee, and you include provisions which say that “such and such shall be held harmless for Gramm-Rudman-Hollings.” That is a rhetorical way of abolishing Gramm-Rudman-Hollings. I know my distinguished chairman does not like Gramm-Rudman-Hollings. He does not like me saying that Gramm-Rudman-Hollings got them to the summit, which it did when I raised the point of order on putting the S&L bailout off budget. The premise of Gramm-Rudman-Hollings was truth in budgeting. Everybody was supposed to see everything on top of the table, and then we could all make sound judgments. We could not Instruct the authorizers.

But instead they went to the summit and in secret all pledged not to discuss the deal in public, and that’s why, of course, the majority of Democrats and majority of Republicans turned the summit deal down.

Mr. President, I will vote against the Senate reconciliation bill. I take no pride in this negative vote. Quite frankly, I have been chomping at the bit to find a budget package that I can vote for, a budget package that addresses the magnitude of the problem that affects every family. We should consider something like actu- ally balancing the budget over a 5-year period. This bill fails on all counts.

Indeed, this bill is next-of-kin to the original, discredited summit package, which displays all the same warts and deformities of the earlier version. It continues to ransom the Social Security trust fund. It puts spending for the S&L bailout off budget out of sight and out of mind. We learn nothing spending virtually untouched and sac- rosanct, while hog-tying domestic discretionary spending in a 3-year-strait-jacket, meaning that we cannot forecast about any new initiatives to improve education, to rebuild competitiveness. This package is
all pain and no gain. It raises the debt limit by $1.3 billion, which gives us a good idea of the magnitude of additional deficit spending which is expected over the next 5 years. And it will still leave us with a whopping deficit in 1995. So what is the purpose of this exercise?

Mr. President, Senators are well aware of my efforts in recent weeks to advance my own budget freeze plan designed to accomplish the consensus objective of saving $50 billion in 1991 and $500 billion over 5 years. More importantly, for years now I have urged freeze plans and a value-added tax which would go well beyond that limited objective by actually balancing the budget over the same timeframe. So I refuse to capitulate on my fundamental insistence that we produce a deficit-reduction package that is real, and that will get the job done. At this point, I believe I can best serve the Senate by sticking to my guns. The inadequacy of this package will be abundantly manifest within a matter of months. Deficit forecasts will skyrocket. Our foreign creditors, looking inward in the case of the Japanese and looking eastward in the case of the Europeans, will refuse to continue financing our run-away deficits. At that point, Congress and the President will at long last be ready for a budget freeze and a value-added tax which, together, will move this country toward a balanced budget in short order. I am prepared to lead that effort, to pay whatever political cost is involved in selling and administering that bitter medicine. But I cannot support the present, entirely inadequate measure. I yield the floor.
Mr. BENTSEN. Mr. President, I will not ask to waive the point of order, because I understand the legitimacy of a procedural point. But I shall advise the Senate I will rise again on that particular issue, insofar as the formula is restructured next year, and will strongly support the idea that the donor States get a better deal.

Mr. President, what we are doing here today is dealing with a decade of indulgence by this country of ours; a decade of writing $150 billion worth of hot checks; regrettably the American people do not understand nor have they been advised of the depth of the problem. It has taken us months to come to this point. One of the reasons it has taken us so long is that we are living under the illusion that we can spend on and on and on, without ever having to pay for it.

That is no longer the case. It is important that the Congress and this administration help the American people to understand the economic problems we face and what these deficits mean for the future of this country. Within the last 3 years, we went from the greatest creditor Nation in the world to the biggest debtor Nation in the world.

The spending cuts and revenue package we have brought out of the Finance Committee is a bipartisan measure.

It is not the proposal the Senator from Texas would have written or the proposal the minority leader from Kansas would have written or the proposal the majority leader from Maine would have written, or my distinguished friend, the ranking minority member from Oregon would have written. It is a compromise. As my colleagues may recall, I walked out on the rose garden ceremony last year because I said the budget proposal crafted by the White House and the Congress was smoke and mirrors—too much creative accounting. And I was proven right. That is one of the reasons we are here, because we did not address the problem earlier. This package before us today has some very politically unpopular things in it. It calls for sacrifice. It is a credible cut in the deficit. The deficit will be reduced by $40 billion in the first year and $500 billion over the next 5 years. The question is, will we in the Congress
continue posturing and arguing, fighting for partisan advantage, or bring this deficit reduction effort to a conclusion? The American people are rightly fed up with the arguing. They want the President to be part of this process and they want him to show the leadership that has to be shown in this situation, they do not want to see him walk away from it saying, "You in the Congress settle this." Our Government is composed of three branches. One cannot not imagine a Governor not participating in the budget decision in his own State. So it is with the President. We ask for his participation.

We brought a package out of the summit. The Finance Committee revenue and spending cuts proposals before you today are a much better, progressive set of proposals. If you look at the table of distribution, where in the summit there was a 7-percent tax increase for the poorest, in today's proposal they have been held harmless. The people who pay the most are those who make the highest incomes. This package came out of the committee by a vote of 15 to 5, a majority of Democrats and Republicans supporting this legislation. That is what I mean by compromise.

But let me say there is one thing I will not compromise on, and that is trying to see that the burden of cutting the deficit is equitably shared across all economic levels, and I am talking particularly about that six-tenths of 1 percent of the people at the top. They must bear their fair share. The interesting thing is that I think the vast majority of them expect and want to bear an equitable share of responsibility for reducing the deficit.

One of the things we have to think about as we are completing this budget is that we must not lose sight of the bottom line: What could happen to this country and its economy and its credit ratings if we fail to enact a serious deficit reduction plan. West Germany does not have to buy our securities. You let this dollar continue falling as it has over the last 6 months and it will add to inflation concerns in this country and increase interest rates. We must show to the rest of the world that we are in charge of our economic destiny.

We cannot afford to see another Government shutdown, further re- corrosions, further loss in our capacity to govern. If we fail to act and have a continuity of problems in the operation of the Federal Government, then we can expect further selloffs in the stock market and further escalation of interest rates.

Mr. President, the budget summit negotiations were marked by partisan differences about how the American people should share the burden of deficit reduction, and I expect that some of those differences are going to be referred in amendments on this floor from Members on both sides of the aisle. In the final analysis, when we vote on this bill, we can and we should put aside those partisan differences and so what is right for the country and put the country first, ahead of partisan differences. It is critically important for the Senate to lead. I believe the Senate will live up to that responsibility, move this legislation forward, and pass a reconciliation bill to be signed and that will be signed by the President.

In the Finance Committee title of the reconciliation bill, the contribution from the highest income taxpayers in the country is substantially greater than was contemplated in the budget summit agreement. We have doubled the share of the tax burden on those making over $200,000 a year and we reduced the burden on the majority—average Americans, middle-income Americans—as we should have. Over the last decade middle America increased its earnings only 3 percent after taxes, yet the rich increased theirs by some 87 percent. They can afford to help share in cutting this deficit.

We were able to make some changes in the summit package by increasing the share of the deficit reduction borne by those with the highest incomes. We were able to reduce the hit on elderly and disabled Medicare beneficiaries by $10 million. Where the summit agreement had them paying a 30-percent premium on part B of Medicare, this package cuts it back and sustains the current policy under which they pay 25 percent.

I am especially pleased to note that the Finance Committee package includes some very important—albeit modest—spending initiatives to protect low-income elderly and disabled beneficiaries from the additional costs associated with high premiums, deductibles, and as payments for Medicare services.

In addition, we expanded Medicaid coverage for low-income children—a national priority when infant mortality rate is alarmingly high and 12 million American children lack health insurance coverage.

Originally, I had proposed a $20 billion reduction in the Medicare savings, but we had to compromise, and $10 billion was the best we could do. We eliminated the 5-cent tax per gallon on refined petroleum products, including the tax on home heating oil that was so controversial in the Northeast. We cut the size of the gasoline tax by over 20 percent. We deleted a provision that would have delayed for 2 more weeks the unemployment checks for the unemployed. And, finally, the Finance Committee deleted the Ill-conceived, so-called small business incentives from the summit agreement. I heard Republicans and Democrats alike criticizing that one. The Finance Committee replaced these with some important initiatives that Members are familiar with and that have broad bipartisan support. These include the extenders—the mortgage revenue bond program, the 25-percent deduction for health insurance premiums by the self-employed, and the targeted jobs tax credit, as well as the low-income housing credit and the research and experimentation credit. All these are included in this package.

These are some significant improvements, Mr. President. This is a package that I think both Democratic and Republican Senators can support. The package has the support of 15 members of the Finance Committee, Democrats and Republicans. I strongly urge my colleagues to support this piece of legislation so it receives the same kind of strong bipartisan support from the Senate that it received in the Finance Committee.

Mr. President, I yield back the remainder of my time.
AMENDMENT NO. 3013
(Purpose: To provide alternative revenue provisions)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. Conrad], for himself and Mr. Baucus, proposed an amendment to the amendment offered by Mr. Bayh.

Strike all after the section designated as the language to be stricken and insert the following:

ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS. (a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(i) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

(ii) every surviving spouse (as defined in section 7703) who makes a single return under section 6013, and

(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $3,250</td>
<td>15% of taxable income</td>
</tr>
<tr>
<td>Over $3,250</td>
<td>$4,877.50 plus 28% of the excess over $78,600</td>
</tr>
<tr>
<td>Over $78,600</td>
<td>$14,150.00 plus 33% of the excess over $14,150.00</td>
</tr>
</tbody>
</table>

(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLD) — There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(b)) a tax determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $6,687.50</td>
<td>15% of taxable income</td>
</tr>
<tr>
<td>Over $6,687.50</td>
<td>$10,645.50 plus 28% of the excess over $6,687.50</td>
</tr>
<tr>
<td>Over $10,645.50</td>
<td>$19,450 plus 33% of the excess over $10,645.50</td>
</tr>
</tbody>
</table>

(3) MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND SPARING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, and

(4) TAXABLE INCOME.—The tax is:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>The tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $10,645.50</td>
<td>$0.86675 plus 33% of the excess over $10,645.50</td>
</tr>
<tr>
<td>Over $10,645.50</td>
<td>$16,225.00 plus 33% of the excess over $10,645.50</td>
</tr>
</tbody>
</table>

(5) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

"taxable under this subsection a tax determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $4,450.00</td>
<td>16% of taxable income</td>
</tr>
<tr>
<td>Over $4,450.00 but not over $8,171.50</td>
<td>$817.50 plus 28% of the excess over $4,450.00</td>
</tr>
<tr>
<td>Over $8,171.50</td>
<td>$13,525.00 plus 32% of the excess over $8,171.50</td>
</tr>
</tbody>
</table>

(6) The tax is:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>The tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $8,171.50</td>
<td>$0.86675 plus 33% of the excess over $8,171.50</td>
</tr>
<tr>
<td>Over $8,171.50</td>
<td>$16,225.00 plus 33% of the excess over $8,171.50</td>
</tr>
</tbody>
</table>

(7) REPEAL OF PHASEOUT.—

"(1) In general.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15 percent rate and personal exemptions).

"(2) Conforming amendment.—Subparagraph (A) of section 1(h)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(5)(B)".

"(3) Maximum capital gains rates.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(1) Maximum Capital Gains Rate.—

"(1) In general.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) Coordination with section 1202 provisions. — For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year.

"(3) Technical amendments.—

"(A) Subsection (b) of section 1 is amended—

"(i) by striking "1988" in paragraph (1) and inserting "1989", and

"(ii) by striking "1987" in paragraph (3)(B) and inserting "1989";

"(B) Subparagraph (B) of section 32(b)(1) is amended by striking "1987" and inserting "1989";

"(C) Paragraph (C) of section 41(c)(5)(B) is amended—

"(i) by inserting "1987" in clause (i) and "1989" in clause (ii) of section 41(c)(5)(B) before the period at the end of clause (i),

"(ii) by striking "1989" in clause (ii) and inserting "1987" before the period at the end of clause (ii), and

"(iii) by striking "1989" and inserting "1987" before the period at the end of clause (iii);

"(D) Subparagraph (B) of section 63(a)(4) is amended by striking "1989" and inserting "1987" before the period at the end of clause (B);

"(E) Paragraph (a)(1) of section 14(b)(1)(A) is amended by striking "1989" and inserting "1987" before the period at the end of clause (B);

"(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989";

"(G) Clause (i) of section 138(h)(2)(C) is amended by inserting "1989" before the period at the end of clause (i) thereof, and

"(H) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

"(J) Subsection (j) of section 59 is amended—

"(A) by striking "section 1(1)" each place it appears and inserting "section 1(1)" and "section 1(1)";

"(J) Clause (d) of section 904(b)(1)(D) is amended by striking "subsection (j)" and inserting "subsection (j)";

"(K) Subparagraph (A) of section 767(b)(6)(A) is amended by striking "1(1)" and inserting "1(1)";

"(L) Subparagraph (A) of section 67(b)(6) of the Internal Revenue Act of 1986 is amended by striking "subsection (j)" and inserting "subsection (j)";

"(M) Effective date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7464A. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) General rule.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "31" percent and inserting "25" percent.

(b) Effective date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 7464B. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) General rule.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART X—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59A. Surtax on incomes over $1,000,000.

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"Sec. 59E. Surtax on section 1 tax.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(A) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(B) the total amount of such individual's taxable income for such taxable year.

"SEC. 59F. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tentative minimum tax determined under section 55 for such taxable year as—

"(A) the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000, bears to

"(B) the total amount of such individual's alternative minimum taxable income for such taxable year.
SEC. 7461C. 5-CENT INCREASE IN MOTOR FUEL TAXES.

Notwithstanding any provision of, or amendment made by, section 7405 of this Act (relating to increase and extension of highway-related taxes and trust fund) or any provision of the Internal Revenue Code of 1986, the following tax rates shall be effective for any period beginning on or after January 1, 1991:

1. Tax on gasoline—The Highway Trust Fund financing rate and the deficit reduction rate under section 4081(a)(2)(B) shall be 11.5 cents a gallon and 2.5 cents a gallon (3 cents a gallon in the case of gasohol containing ethanol), respectively.

2. Tax on diesel fuel—The Highway Trust Fund financing rate and the diesel fuel deficit reduction rate under section 4091(b) shall be 17.5 cents a gallon and 2.5 cents a gallon (3 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol), respectively.

3. Tax on fuel used in trains—The rate of tax on fuel used in trains under sections 4041(a)(3) and 4063(c) shall be 2.5 cents per gallon.

SEC. 1461D. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l), as amended by section 6162, is further amended by striking “for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996” and inserting “for calendar years before 1991 and $100 for 1991 and subsequent years”.

SEC. 1461E. AGRICULTURAL SUPPORT PROGRAMS.

Notwithstanding any provision of, or amendment made by, this Act—

1. the base reduction percentage for the 1991 crops of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 5 percent; and the base reduction percentage for the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 7.5 percent.

2. in calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice under section 1102(a) of this Act, the payment rate for a crop shall be the amount by which the established price for the crop exceeds the higher of—

(A) the national weighted average market price received by producers during the first 6 months of the marketing year for the crop, as determined by the Secretary of Agriculture; or

(B) the loan level determined for the crop;

and

3. the amount of the dairy assessment provided for in section 1105(b) of this Act shall be $0.05 per hundredweight during the period beginning January 1, 1991, and ending August 31, 1995.

Notwithstanding any other provision of this Act the provision of section 7461 as reported will be effective.
Mr. BAUCUS. Mr. President, I am pleased to join my colleague from North Dakota in supporting this very important amendment. I think it essentially goes to the heart of most of the objections that various Senators— I think various Members of the House—have had as they have been watching the reconciliation, particularly the deficit reduction parts of reconciliation, move through the Congress.

Simply put, the goal of this amendment is to equally distribute the burden of deficit reduction.

The amendment increases taxes on the wealthiest Americans and uses the additional revenue to lessen the cuts applied to the farm program and Medicare. The amendment also lowers the gasoline tax reported by the Finance Committee by 45 percent.

Make no mistake about it. This amendment shares the pain. The farm program would still be cut by approximately $6.8 billion.

Medicare would still be cut by $47.5 billion; $13.75 billion of those cuts would be made up by beneficiaries. And Americans would still be forced to pay $24.5 billion in gasoline taxes. There is still a burden to be borne.

But this amendment would improve the deficit reduction legislation before us in four important ways. First, the draconian cuts in the farm program would be decreased. Second, Medicare cuts that will place a tremendous burden on America's elderly are decreased. Third, the highly regressive gasoline tax is cut. And, finally, the amendment distributes the tax burden far more progressively than the bill before us.

Let me explain these points in greater detail.

FARM PROGRAM CUTS

There is an unfortunate myth that farm program benefits go exclusively to millionaire farmers. Nothing could be further from the truth. The average farmer in America makes about $16,000 per year. Far from being a millionaire, he is struggling to support his family on an income only a few thousand dollars above the poverty level.

Net farm income in the decade of the 1980's has been lower than farm income in any decade since we began keeping records, and that includes the 1930's. A portion of those farmers' income is derived from Federal farm program benefits, that is true. But these benefits have been slashed from more than $24 billion a few years ago to $10.8 billion this year—a 55-percent cut. The farm program has been the fastest shrinking item in the Federal budget in recent years.

The Congressional Budget Office—the same agency that completed all of the estimates on which the legislation before us is based—recently estimated that farm program spending is merely frozen for the next 5 years, 500,000 farmers will be driven off the land. That is the bipartisan CBO estimate.

In other words, one in every four farmers will go out of business simply if farm program spending is frozen over the next 5 years.

But the legislation now before the Senate goes beyond even a freeze. It cuts $13.6 billion from the farm program over 5 years. CBO has not been able to redo their estimates in light of these cuts. But the CBO models indicate that the cuts in this bill could easily force one out of three or even one out of every two farmers out of business, off the land. Belly up.

Such an exodus would be unprecedented and would create dozens of new ghost towns in Montana, North Dakota, South Dakota, Nebraska, and farm States.

But this amendment does not even seek to replace all of the farm pro-
gram cuts. It merely decreases those cuts by about 50 percent.

Farmers will still bear more than their fair share of cuts. But perhaps we are able to keep a few more farmers on the land, if this amendment is agreed to.

MEDICARE CUTS

Senior citizens would also be hit hard by this package.

The proposal we are debating today, which I opposed in the Finance Committee, doubles the Medicare Part B deductible.

Under that proposal, the deductible increases from $75 to $150. That means that seniors who go to the doctor would have to pay twice as much, before Medicare begins to cover those doctor bills.

I cannot support asking our Nation's seniors to pay out-of-pocket increases of that magnitude in the name of deficit reduction.

There is no question that Medicare is one of the fastest-growing items in the Federal budget and I am as concerned about that as any Member of this body.

We are not solving that problem by asking seniors to pay an additional expense.

It is true that many seniors have Medigap insurance which will protect them from feeling the full effect of the deductible increase.

But many seniors—especially low-income seniors—do not have Medigap policies and they will be hurt by the increase.

And those who do have Medigap will have to pay yet another rate increase, reflecting the higher amount that Medicare will not pay.

Mr. President, the amendment that Senator Cochran and I are offering today reduces the deductible increase to $100. It does not completely eliminate the deductible increase, but it cuts the increase in half.

The cost of lowering the deductible increase on Medigap from $75 to $150 is about $4 billion over 5 years. That is $4 billion that would remain in the pockets of our Nation's seniors.

Again, our amendment will not hold seniors harmless. But it will protect them from devastating out-of-pocket increases.

THE GASOLINE TAX

The amendment also lowers the gasoline tax reported by the Finance Committee.

A higher gasoline tax increase than that proposed in this amendment would be unfair to lower income taxpayers and rural States.

A gasoline tax is highly regressive; it falls more heavily on lower income families than on higher income families.

U.S. Department of Labor statistics show that families living on $10,000 a year spend twice as large of their income on gasoline as families living on $50,000 or more a year.

An increase in the gasoline tax also treats different areas of the country differently.

A study by Auburn University shows that a gasoline tax increase would hit rural States especially hard.

That is not surprising because many rural residents have little or no access to mass transportation.

For example, a household in Montana on average consumes 19 more gallons of gasoline a year and drives about 1,000 more miles than the national average.

Rural America is certainly willing to pay for its share of deficit reduction.

But the farm program cuts, the Medicare cuts, and the gasoline tax would be a devastating triple blow to rural States like mine.

TAX THE RICH

Certainly, reducing the Federal deficit is an important national goal that would benefit all Americans.

But the current debate about distributing the deficit reduction burden comes after a decade in which an oft-quoted saying has come true: the rich have gotten richer and the poor poorer, and tax policy was part of the reason.

This amendment seeks to pay for the cuts I have described by raising taxes on the rich.

Specifically, the amendment provides for increasing the top marginal tax rate on upper income Americans to 33 percent and imposing a new 10 percent surtax on those with incomes over $1 million.

These changes will eliminate some of the inequity in the current Tax Code.

According to the Congressional Budget Office the top 5 percent of American families will have 48 percent more in pretax income in 1990 than they did in 1980 after accounting for inflation.

But the overall percentage of that income they pay in Federal taxes will have fallen from 29.5 percent to 26.7 percent, a drop of almost 10 percent.

That is, their incomes are up, but their taxes are down. That is the top most wealthy Americans.

Precisely the opposite trend occurred on the bottom of the income ladder.

The budget office estimates that the poorest 10 percent of American households will earn 9 percent less in 1990 than they did in 1980.

But rather than paying 6.7 percent of their income in taxes as they did in 1980, they will pay 8.5 percent, an increase of almost 28 percent.

Correspondingly, during the 1980's, upper-income households had their income tax rates cut, from 7 percent in 1980 to 25 percent today.

Meanwhile the poorest households saw their payroll taxes for Social Security and Medicare rise from 6.13 percent in 1980 to 7.65 percent in 1990.

Keep in mind, the payroll tax burden is an important factor in determining the fairness of our tax system.

The $51,300 cap on wages and salaries subject to the payroll tax covers all of a median family's income—but less than one-fourth of the total income of a typical family in the top five percent who earn in excess of $300,000.

As a result, for a two-parent family earning the national median income, the full burden of social security taxes exceeds that of the income tax.

These statistics paint a disturbing picture.

The Nation's tax bill is being paid disproportionately by the poor and middle class. The rich are paying a steadily smaller portion of the bill.

If we are going to raise taxes to address the deficit, the rich should pay their share.

The basic principle of deficit reduction should be: those that can pay more should pay more.

CONCLUSION

In sum, this amendment shifts the deficit reduction burden from farmers, rural Americans, and the elderly to upper income Americans who can afford to pay a little more than they have in the past decade.

The budget reconciliation legislation now before the Senate attempts to balance the budget largely on the back of farmers, rural Americans, and senior citizens.

That approach will not work.

All Americans must pay their fair share if we are to produce a package all sides can support.

Under this amendment, all Americans will bear their fair share.

Farm program benefits will be cut.

Medicare benefits will be cut.

The gasoline tax will be raised.

But taxes are also increased on the most wealthy.

This amendment would make the budget package much fairer to rural States, much fairer to farmers, and much fairer to senior citizens.

Mr. President, this amendment is much fairer to all Americans.

Mr. President, I yield the floor.
CONGRESSIONAL RECORD — SENATE  October 17, 1990

see, it is not clear to me how I am going to vote on this amendment, but I want to talk about tax fairness. We on this side are not going to see to it that this amendment is voted down so we can just be the subject of more political abuse.

I am not sure yet how I am going to vote, but I want to talk about tax fairness. Mr. President, I want to talk about whether or not it has become worse or whether or not it has become better, whether or not the rich are paying, or whether or not they are escaping taxation because I think that those who say the rich are escaping income taxation are doing a disservice to our whole income tax system and destroying the faith of the American people in the income tax system. I do not think that that is a very honest thing to do, and I do not think it is a very accurate thing to do, as well.

Frankly, some of those I now hear speaking about the fact that it is not fair voted for it. Those of us on our side who hear this recognize that, as a practical matter, the tax system would not have been changed unless votes came from both sides of the aisle. Quite obviously, the tax program of the United States could not have been changed unless there were more Democratic votes for it over in the House because they controlled over there for about 40 years in an uninterrupted manner.

But let me talk, if I may, about taxes and who is paying them. First, income taxes in the United States constitute about 45 percent of all taxes that the Federal Government collects. About 45 cents of every dollar that the Government collects is collected from the income tax. About 35 percent is collected from Social Security insurance including both HI and Social Security and the balance of it is corporate tax, about 10 percent, and then other taxes about 8 percent. It should add up to about 100 percent.

But nevertheless, in taxes, 45 cents of every dollar that the Federal Government receives comes from income taxes. There are about 110 million income tax returns filed every year. The top 5 percent of those, the people with the highest income, pay 46 percent of all the income taxes paid. So is it fair or unfair that the top 5 percent of the income taxpayers pay, to be quite exact, Mr. President, 45.9 percent of all income taxes paid. These are 1988 figures, the last time we have complete figures.

It is interesting to note that in 1979 the top 5 percent paid only 37.6 percent of all income taxes. So that income tax system was more progressive in the 1980’s. The people with the highest incomes are paying a larger proportion of the income taxes paid in the United States.

How about the top 10 percent? The top 10 percent of all taxpayers—and the top 10 percent by income—pay 57 percent of all income taxes paid, and that too has gone up in this decade and has gone up materially.

What about the lowest 50 percent, the 55 million tax returns that show the lowest income. They pay less than 5 percent of all the income taxes that are paid in the United States, even though they have considerably more than 5 percent—15 percent or so—of the total income.

The tax system of the United States is fair, and it has been made fairer in recent years. Yes, we lowered the tax rates but we took away all the loopholes. When is the last time you saw an article in the paper that said somebody with a high income escaped taxation altogether? You have not. There has not been such an article since the 1986 tax bill because we got them all.

Now, if somebody invested entirely in municipal bonds, perhaps they still can avoid Federal income taxes, but that would be a very unusual investor. The truth is that the income tax system of the United States is fair, and we have made it fairer.

Mr. President, I went into business in 1963. The top rate of income tax then was 91 percent, and I was not in the top bracket by any means so it did not matter so much to me, but the top bracket was confiscatory. And on top of the 91 percent came the State taxes. So that really was not much left. Then President Kennedy introduced legislation that brought tax rates from 91 percent on earned income down to 50 percent and on unearned income it was at 70 percent. Then President Reagan brought it down still further to 28 percent as the top rate of tax.

Some people say that it should be higher. I can only tell you, Mr. President, that after all the so-called loopholes were taken away, after all the incentives or whatever else they were called that led to a good deal of tax avoidance were all taken away, the rich are, indeed, paying more taxes than they ever paid before. And that is the way it is supposed to be. They are paying a larger percentage of the total tax pie than they have ever paid before because the rates are lower and you cannot fool around with all these tax avoidance schemes. There is not much use going down to the lawyer’s office and spending a bundle trying to figure out how to avoid the income tax because you are not going to be very successful. Indeed, people are now paying more taxes than they have in the other years.

So those who say that the income tax system in this country is unfair are wrong. Those who say that they now have to enter a new element of greater fairness into it I think are just making political speeches—some, indeed, involving considerable demagoguery. The tax system of the United States is by and large fair. The income tax system of the United States is fair. People who have higher income are paying a larger and larger percentage of the tax, and that is the way it should be.

So, Mr. President, I will probably put some of this material into the Record at some future date, but I wanted to speak out because many people apparently are noticing in the few weeks ahead there is something called an election and they certainly are making speeches that would have a bearing on that. So my speech is that the income tax system of the United States is fair and it has gotten fairer.

I yield the floor.
Mr. EXON. Mr. President, I yield myself what time is necessary from the amendment.

Mr. President, I have been listening with great interest to my friend and colleague from my neighboring State of Colorado. We have worked, labored on the Budget Committee for many, many years together. I want to generally associate myself with the remarks that he just made. I do not agree in total concept with everything the Senator from Colorado has said. I am not going to start fixing blame for the critical mess we are in right now.

I am going to be very brief in my remarks, Mr. President, and try to set some kind of pattern here. Let us stop talking and start voting, because we are in a totally critical, crisis situation with the Government scheduled to close down the day after tomorrow and we do not yet even have a bill with which to go into a conference with the House of Representatives. I think wasting a lot of time on debate that is not going to change any votes is not too fruitful a way to move ahead and at least try to get something worked out.

One of the things my friend from Colorado said I want to correct him on, and I think he would agree with me. He just sent an article to the desk that said the budget deficit was $300 billion. That is an error. That is what we keep hearing.

The GAO just gave a report, requested by the Senator from Idaho, who I see on gave floor, and myself, which said the real deficit today is $370 billion. The difference of course is the amount of money that is continually used to offset the true deficit because we have been borrowing from the Social Security Trust Fund. That is an error. That is what we keep hearing.

One of the things my friend from Colorado said I want to correct him on, and I think he would agree with me. He just sent an article to the desk that said the budget summit agreement the President endorsed come over here and had it passed with all that pain and suffering and increased taxes, that would have once and for all told the American public that we have done something and we have solved the budget deficit. Hogwash. It would not do that, for the many reasons my articulate friend and colleague from Colorado just enunciated.

Possibly out of all this might come sense. I do not know what is going to happen but I suspect sooner or later. Sometime this week, we are going to come to some kind of a budget agreement that in all probability will be vetoed by the President of the United States. Then we will be back in the soup once again.

The only good news I can see about that, Mr. President, is that at that time maybe a proposal that the Senator from Colorado had referenced—and that is a freeze that this Senator and a few others have been advocating for 7 of the last 8 years on the floor of the U.S. Senate—maybe we can come back with something like that.

I caution against continuing to fool the American people every 5 years that we fashion a new 5-year program to balance the budget at the end of the 5 years and in almost every instance those of us who have some rudimentary understanding of the budget know there is no possible way that that could prevail. So, regardless of what we work out here it should be clearly understood across America that while whatever action we take might be a step in the right direction, it does not solve the problem, as the Senator from Colorado said so very, very well.

One of the things we might have to come back to is reality. The reality of the situation is that there is no way we can balance the Federal budget of the United States and stop the skyrocketing increase in the national debt in 5 years.

Mr. President, it cannot be done. It took us a lot longer than 5 years to get into this mess. It is going to take us more than 5 years to get out of it, and only if we are wise enough to plan ahead. In some way to not break the country and throw this country into a recession by unwise and inappropriate action.

I suggest maybe when we come back to that train wreck that is likely to happen this weekend, maybe at that time a little reason will prevail, we will come up with a plan that will freeze spending; come up with a plan that will force, over a series of years beyond the 5 years, total elimination of the deficit. The only way we could do that, Mr. President, is with a motion I offered in the Budget Committee, which was strongly supported by the Senator from Colorado, and that is we should change the enforcement mechanism, rather to have it be in the form of projected savings, to make the day that we have to borrow money, the day we have to raise the national debt ceiling of the United States, the day we should have as the
enforcement date of whatever we in advance agree to.

Why is that? Because that is a finite number. It is easily understood and we cannot use smoke and mirrors to cover it up. If you are broke and you have to go to the bank and borrow money, as the Federal Government has had to do time and time again, then that is the time to call a halt and make the hard choice that has to be made.

I do think in the end maybe we will be able to work out some kind of a freeze agreement if everything else falls, with some kind of an enforcement mechanism over a longer period of years, to force the Congress and the President to make honest decisions and force them to live up to that by using the day we have to borrow more money as the only enforcement mechanism that I think will work.

I yield the floor.
Mr. BYRD. Mr. President, shortly after President Reagan first took office, he addressed a joint session of the Congress on February 18, 1981. Here is an extract from his speech. He said: "Our national debt is approaching $1 trillion."

I remember seeing the President on television that evening. He had a chart to his right and he pointed to that chart and he said: "Our national debt is approaching $1 trillion. A few weeks ago, I called such a figure—$1 trillion—incomprehensible, and I have been trying ever since to illustrate how big a trillion really is. The best I could come up with is that if you had a stack of thousand dollar bills in your hand only 4 inches high, you'd be a millionaire. A trillion dollars would be a stack of thousand dollar bills 67 miles high."

I seem to recall that the figure later was reduced to something like 62 miles. On this chart, this bar represents what Mr. Reagan was pointing out to the American people on February 18, 1981: that a stack of thousand dollar bills would stretch 62 miles into the stratosphere, representing the national debt at that point in time.

I said many times during the Reagan Presidency, you will never see President Reagan on television again doing that. Why? Because the stack was growing higher and higher. On January 1, 1989, 19 days before Mr. Reagan left office, that stack of thousand dollar bills, if it represented the national debt, would have been 179 miles into the stratosphere.

What a difference! Remember that this stack to which Mr. Reagan alluded in February 1981 represented 39 administrations, over a period of 192 years: 38 different Presidents; one President, Cleveland, had been elected twice with an intervening term by Benjamin Harrison.

The stack of thousand dollar bills, to which Mr. Reagan pointed, was the accumulation of the debt beginning with George Washington, John Adams, Thomas Jefferson, James Madison, Monroe, John Quincy Adams, Andrew Jackson, Martin Van Buren, William Henry Harrison, John Tyler, Polk, Taylor, Fillmore, Pierce, Buchanan, Lincoln, Andrew Johnson, Grant, Hayes, Garfield, Arthur, Cleveland, Benjamin Harrison, Cleveland again, McKinley, Teddy Roosevelt, Taft, Wilson, Harding, Coolidge, Hoover, Franklin D. Roosevelt, Truman, Eisenhower, Kennedy, Lyndon B. Johnson, Nixon, Ford, and Carter. That is what this bar represented: the accumulated debt throughout all of those 38 administrations, preceding President Reagan, $931 billion. The stack of thousand dollar bills went, during one President's administration—that of Ronald Reagan—to 179 miles—representing an increase during his years in the White House, of $1.738 trillion.

Nineteen days later, Mr. Bush Inherited that bar on the chart, Since that time, the stack of bills has increased, as I have already indicated, to where it would be 214 miles in the air on October 1, 1990, just 2 weeks ago.

I had a friend recently who said to me, "Senator, I just had an idea. If every working man in the United States contributed a dollar toward our national debt, we could pay it off."
I said, "No, that would not begin to pay the interest on it."

The per capita debt—the amount that each American man, woman, boy, and girl would have to contribute to pay off that national debt, as it stood on October 1 of 1990—would be $15,511.

I have now shown how much the Federal debt has grown in the past 10 years. Let us take a look at Government spending over the same period and see which items the growth in the Federal debt has caused those deficits to grow. Let us see what has caused that debt to grow. Let us see what the chief offenders are.

I have heard a great deal of talk, and we all have, about Government spending. Let us now take a look at Government spending. A good many people in talking about Government spending forget that spending for defense is Government spending; that spending on entitlements is Government spending; and that spending—domestic discretionary spending, which I want to get around to shortly.

This line on the chart is baseline. Baseline means last year's appropriation plus inflation. The chart indicates what happened between the years 1981 and 1990. So beginning in 1981, let us take a look at the entitlement bar, which will be pointed out to the viewers. In 1981, the baseline for entitlements was $320 billion.

What I am saying to our viewers is this. Each year we take the appropriation for last year and add inflation. The next year we take the appropriation for last year and add inflation. The next year we take the appropriation for last year and add inflation. Now, that is what we call baseline.

What happened on entitlements, which started out with a $320 billion baseline in 1981? Entitlements over a 10-year period grew $599 billion above baseline—in other words, above inflation. What happened on defense? In 1981, defense spending and domestic discretionary spending were on a level. Defense spending was $158 billion. Domestic discretionary spending was $157 billion—a $1 billion difference between defense and domestic discretionary in 1981. What happened?

Defense increased above baseline $569 billion in 10 years. It grew that much above inflation. And what happened to domestic discretionary spending, remembering that it started out almost on a par with defense in 1981? Defense, $158 billion; domestic discretionary, $157 billion. What happened to domestic discretionary? Domestic discretionary spending was cut $326 billion below inflation. Foreign operations almost bled its own. It dropped just $10 billion below baseline over a period of 10 years.

Here is a chart that shows the share of domestic discretionary funding as related to the total budget in 1981, and the share of domestic discretionary funding out of the total budget for the upcoming fiscal year, 1991. In 1981, domestic discretionary, as I pointed out a moment ago, was to the tune of $157 billion and was out of a total budget of $578 billion.

In other words, domestic discretionary—what we spend for education, job training, law enforcement, bridges, mass transit, railways, et cetera—constituated 53 percent of the total budget in fiscal year 1981—almost a fourth of the total budget—$157 billion out of $578 billion.

Ten years later, what had happened? The whole budget had grown to $1,434 trillion. Inflation had grown to 84 percent. In other words, while domestic discretionary grew from $157 billion to $171 billion. So while the entire budget by fiscal year 1991 grew $576 billion over what it was in 1981, domestic discretionary grew only $14 billion over what it was 10 years ago. Where domestic discretionary was 23 percent in fiscal year 1981. It is 11.9 percent of the total budget for fiscal year 1991.

This chart again shows the pitiful plight of domestic discretionary. That is the little runt puppy. Ten years ago, it constituted 23 percent of the total budget. Today it constitutes 11.9 percent. It reminds me of the little puppy that cannot get enough to eat and it wiggles its way and tries to push aside the big dogs, it looks like it has the scratches, and it is all skin and bones. There it is right here on the graph: domestic discretionary funding.

Let us now take a look at the rest of the chart for fiscal year 1991: The interest on the national debt is 13.2 percent; Medicare, 6.1 percent; Social Security, 23.7 percent; "other," this one right here—that is civil service retirement, unemployment compensation, et cetera—is 8.2 percent; and the next one, moving clockwise, ORH mandatory—that is Medicaid, child nutrition, food stamps, veterans' compensation—items that are not to be cut, or not very much, at least, in the event of a sequester—is 13.5 percent. Then, moving clockwise, defense domestic discretionary spending: highways, bridges, mass transit, waste water treatment, water quality, rivers and harbors, et cetera, et cetera, decreased under baseline by a total of $326 billion—a $1 billion difference between the baseline for fiscal year 1990 and the baseline for fiscal year 1991.

So we can see how little we are investing in our own country. I am talking about investing in human infrastructure—people—and in the physical infrastructure—the roads and the bridges, airports, waterways, our need for clean water, cancer research, scientific achievement, and the like.

On this chart, viewers will see the situation that this country is going to be in by the year 1997 if things continue as they are going now. Right now there are 21 airports in this country in which there will be, by 1997, 200,000 hours of delay annually; 20,000 hours of delay at each of 21 airports in this country.

I know that every Member of this body understands what it is, and the people who are viewing from that electronic eye up there know what it is to have to fly around in the "soup" in fog, clouds, over crowded cities for a half-hour, for 45 minutes, for an hour, looking out the window, not being able to see the ground—planes wasting fuel, producing pollution, wasting the passengers' time, increasing the danger to all persons on the planes. Only one airport has been built since 1974, that being in Colorado. In 1997, there are going to be 33 airports which will experience both the 20,000 hours of annual delays. Here is the chart. And the red dots show where those airports are located which will be experiencing such delays by 1997 if we do not do something about it. That is discretionary discretionary spending.

What about the Nation's bridges? The estimated cost of the Federal highway bridge repair and replacement program right today would be $50.7 billion. There are 577,717 bridges in this country, and some of these are interstate, some are urban, some are off-system, some are primary, and some are on secondary or lesser roads. But these are the bridges in which there is some degree or some percentage of Federal participation. Going to the Department of Transportation, some bridges are structurally deficient. Some are functionally obsolete. Those that are functionally obsolete are no longer functionally viable in a way that meets the needs of today as against the days when they were built. But those that are structurally deficient are dangerous bridges. They ought to be replaced. They are like the bridge at Point Pleasant, WV, that collapsed just a few years back and carried many people to their deaths. To repair and replace these bridges today would cost $7 billion.

The Federal highway system makes up 22 percent of the Nation's highways, yet it carries 81 percent of the vehicles, more than 1.6 trillion miles a year, enough to make a trip to the moon and back, and another 93 million miles away. More than 40 percent of the pavement on the system is in need of repair. It is in poor condition or fair condition.

To meet the existing capital needs of the Federal highway system, the Department of Transportation estimates that a $40 billion annual investment is required. Of this annual amount, the
Spending was only $14.6 billion. In billion out of the $40 billion would be 55% of its gross domestic product annually in its Infrastructure, the United States was investing only three-tenths of 1 percent of its gross domestic product. While the United States was investing only three-tenths of 1 percent, Canada invested 1.5 percent and experienced a productivity growth of 1.3; the United Kingdom invested 1.8 percent and had only six-tenths of 1 percent growth in productivity. So we can see there how nondefense public investment translates into increased productivity; and increased productivity means increased economic growth; and increased economic growth means increased national security. It also means an enhanced competitive position for a nation. It means a higher standard of living. And increased public investment also encourages increased private investment.

What not? Mr. President, if you had a company, let us say, and you would like to buy a brand spanking new fleet of trucks, all outfitted in bright red paint and chrome, how would you like to put that fleet of trucks out on roads that are filled with potholes and on bridges that are closed? How would you like to detour 18 miles around a bridge which was closed because it was unsafe? How much would that cost? How much would that lower your productivity? How much would that cut into your profits?

Public investment encourages private investment and is conducive to the profit-making of the private sector.

Over a 12-year period, 1973 to 1985, we see, in looking at the chart, the blue bars, which represent nondefense public investment as a percentage of the gross domestic product—goods and services produced in this country and utilized in this country, a little different from gross national product. Looking at the blue bars, the United States invested three-tenths of 1 percent of its gross domestic product, on the average, annually during those 12 years. 1973 to 1985, Canada, meanwhile, invested 1.5 percent; the United Kingdom invested 1.8 percent; France invested 2 percent; and what was the Federal Republic of Germany at that time? 5.5 percent. Italy invested 2.5 percent; Japan invested 5.1 percent. Look at it again. Japan invested 5.1 percent of its gross domestic product into infrastructure annually during that period, while the United States was investing only three-tenths of 1 percent.

How did that correspond with the productivity? While the United States was investing only three-tenths of 1 percent of its gross domestic product annually in its infrastructure, its productivity grew only six-tenths of 1 percent. Less than 1 percent.

Canada invested 1.5 percent and experienced a productivity growth of 1.3: the United Kingdom invested 1.8 percent and had a 1.8 percent productivity growth; France invested 2 percent and grew 2.5 percent; the then Federal Republic of Germany, 5.5 percent and enjoyed a 2.4 percent productivity growth annually; Italy invested 2.7 percent for a productivity growth of 1.8 percent the same as the United Kingdom; and in Japan, productivity growth of 3 percent—all while the United States invested only three-tenths of 1 percent and had only six-tenths of 1 percent growth in productivity.

Let us see how that cOrrespond with the productivity growth of nationz around the world. How did that cOrrespond with the productivity growth; France invested 2 percent and had an increased productivity growth of 1.3 percent. Less than 1 percent.

We can see how that reflects on the achievement in science. On the left of the chart is the rank in order for 10-year-olds, grades 4 through 5. This is a list of 15 nations. The United States is No. 3 in a listing of those 15 nations.

By the time they reach the age of 14 and are in grades 8 and 9, see how they have gone down. In a list of 17 nations, the United States is in a tie with two other nations for 13th place. Singapore, Thailand, and the United States are all tied for 13th place, ahead of Hong Kong and the Philippines at the bottom. And the other countries listed above the United States are: Italy, England, Australia, Norway, Poland, Korea, Sweden, Finland, Canada, The Netherlands, Japan, and Germany does not show up on the chart because, it is my understanding, there were no figures for Germany; they were not available at that point.

Isn't this a drab, dreary picture of what we are doing to our kids? When it comes to spending Federal funding for the education of our kids in grades K through 12, look what it is ultimately considering doing to meet the country's need for scientists.

This is a chart that projects the supply and demand for science and engineering Ph.D.'s per year in the United States. The green indicates the number of science and engineering Ph.D.'s that are coming out of the reservoir of U.S. citizens and permanent residents annually.

Observers will note that the line is fairly level beginning in 1988 and going to the year 2006, fairly level, at about 10,000 to 12,000 Ph.D.'s per year that are being turned out in the United States from the reservoir of U.S. citizens and permanent residents and the yellow coloring represents foreign students who come to the United States to get their science and engineering Ph.D.'s, but half of them return to their native countries so, considering that there may be half who remain here, it means that we an-
nally produce in this country something like from 11,000 to 13,000 or 14,000 Ph.D.'s from this reservoir of U.S. citizens and permanent residents are enrolled in graduate studies. The red coloring represents the projected demand for science and engineering Ph.D.'s showing that the year 2008 the demand in the United States will be for about 23,500 or 24,000 Ph.D.'s per year. And, of course as I have indicated, we will need more than half of that need by the year 2004.

Mr. President, I have taken the time of the Senate to address three deficits—the trade deficit, the Federal deficit, and the investment deficit. Unless we do something to address the horrors that these charts portray, we are a Nation that is headed from a fall. The reconciliation bill before the Senate makes a start toward addressing these problems that I have been talking about.

And there are efforts in this Senate today, by way of amendments that are being offered, to tear the package apart.

I attended the summit. I never want to attend another one, even though I may live to be as old as Methuselah, and he lived to be 969 years old. I do not want to attend any more summits.

As the summit here is what we did. Everybody put on their green eye shades, at least at first, so we could see the formulas. I took the position there, and I take the position here, that while we not only have to deal with the Federal deficit, and the meeting of targets, and shaving a little here, shaving a little, and shaving a little somewhere else, what we are really talking about actually is a 5-year plan for the Nation. So we ought to take off our green eye shades, and, in addition to discussion the figures, the targets, we ought to ask the important things regarding Gramm-Rudman-Hollings, we also want to think about this country and where we are going for the next 5 years.

I tried to bring the summit away from the green eye shades, away from a total concentration on figures and targets—important though they are—using pencils and erasers, and cutting the red tape with a little there, meeting this Gramm-Rudman Target, and all that, but also to stop and take a look at the forest and not just at the trees and to consider the fact that we are actually considering a 5-year plan for this country. Where are we headed in this country? And where are we going to be at the end of the 5-year period?

I happen to believe that this country still has the spirit to which de Tocqueville referred over 150 years ago when he came to this country when he said, "The incredible American," think of it! "The incredible American believes that this has not yet been accomplished, it is because he has not yet attempted it." That was the spirit of the incredible American of that day.

Samson took the jawbone bone of an ass and killed 1,000 Philistines. The early American took an ax, a Bible, a rifle, and a bag of seeds, and he hewed the forests, blazed the trails, and crossed the mountains to the prairies, from sea to shining sea, and he built a nation.

Moses struck the rock at Horeb with his rod, and the water gushed forth. The incredible American struck the rock of our natural resources and we have exceeded all other countries in the production of steel, coal, chemicals, and glass.

Eljah, when he came to the Jordan with his son, Elisha, tossed his mantle on the waters of the Jordan, and the waters parted, and the two crossed over Jordan. The incredible American built shining, massive, bridges that glimmer in the Sun, that span the Mississippi, the Missouri, the many great rivers of this country.

It took Moses 40 years to lead the Israelites up to the land of Canaan. The incredible American invented the airplane in 1903. And when Lindberg took off in 1927 in the Spirit of St. Louis he crossed over New York City at the incredible speed of 100 miles an hour. And with that indomitable spirit, the American spirit, he braved the Atlantic alone, and set foot on the European shores, having crossed the mighty waters. The Incredible American!

In high school, I read a book by Jules Verne, Around the World in 80 Days. John Glenn and other American astronauts, as they have orbited the Earth, traveled at the speed of 18,000 miles an hour. The world not in 80 days but in 80 minutes! Man had gazed upon the moon for centuries with longing eyes, wanting to see the other side. The incredible American, man, took to the moon and brought him back to Earth safely again.

This was the spirit that made our country great! Jesus touched a dead Lazarus and he sprang from his bed.

Franklin D. Roosevelt led us in a time of Great Depression, when the country was prostrate—and I lived in that Depression; I know what it was. Men and women walking the country roads in soup kitchens, standing in bread lines in the urban communities, looking for a job. But the indomitable spirit of a crippled man and his vision brought the country back to its feet.

So he stretched forth his hand and the dead corpse of the Depression went away, and the country lived again and soared to greater heights.

What a proud heritage!

I think most of us are unlike Lot's wife. She looked back. We fail to look back.

Cornelius Tacitus said, "when you go into battle, remember your ancestors and your predecessors. We fail to remember our ancestors. We fail to remember and to recall and to relive again the vision that was America, that made this country great; when men hewed the forests and built the bridges and the roads and traveled with their pioneer wagons into a great nation. We believed they could do it, and they did it. And now, today, we face a challenge.

Are we going to make it possible for America to again? Are we going to make it possible for our young people to jump, to run, to develop their talents and to become the best of whatever is in them?

America is in trouble.

Pericles, one of the greatest of Athenians, said to his countrymen, "Set your eyes upon the greatness of your country and remember that her greatness was won by men with courage, with a knowledge of their duty, and with a sense of honor in action."

In this time of trouble, America needs men, America needs politicians—statesmen who have courage and a knowledge of their duty.

Our country is in trouble. We have an S&L crisis. We have a deficit crisis. Some of our banks are on thin ice. Investors are nervous. The stock markets are shaky. We have a war threatening in the Middle East and a recession looming just over the horizon. It is time to stop posturing and pretenting. It is time to stop all of the gibbering. It is time to do our duty.

America is in the Middle East. Those men and women are in the desert with 120 degree heat. They probably don't think it is such a great idea, being over there in that heat and in the sands of the desert. But they are not complaining. They are there to do their duty.

Now why can we not do our duty? Why can't Senators on both sides of the aisle do their duty? Why cannot House Members on both sides of the aisle do their duty? Why can't Senators on both sides of the aisle do their duty? Why cannot the President? Why cannot all of us work together to do our duty?

Some of those servicemen, may I say to the distinguished Senator from Arkansas, [Mr. pro-], if a war breaks out over there, some of them will come home in flag-draped coffins. Some of them will never have seen their children who were born after they left these shores to do their duty in a land thousands of miles way.

And what about our children? In listening to all of the debate over the past several days, seldom have I heard a Senator or a House Member refer to the children of this country. Let some of those special interests say "go," and we run. Let them say "jump," and we jump. I tried eight times to close off a filibuster here when the majority leader in the effort to enact campaign financing reform. The American
people, if they really wanted a bargain, they would finance the campaigns of Members of the House and Senate. It would be a bargain for the American people. Because once again, the American people themselves would be paying the fiddlers—you have to pay the tune and the American people are going to continue to get the shaft.

We are told in the Scriptures that who amongst you, if your son asks for bread, would give him a stone; or if he should ask for a fish, would give him a serpent? If he shall ask for an egg, would give him a scorpion?

These voices cry out and they are not being heard. I say let us think of our posterity. Let us think of our children. As I put out of my mind one plan, I put my mind's eye the special interest groups. Just for once. Perhaps the American people, then, would have a renewed faith in politicians. They would appreciate a little bit of candor, a little bit of courage on the part of their elected representatives.

Senior citizens of this country are patriots. They have worked in the fields, in the mines, in the harbors; they fought for this country. They are patriots. Others who are being asked to make a contribution in this reconciliation bill to this national problem are patriots. I believe if they were fully made aware of the trouble this country is in, the American people, then, would have is going to give us men's pride, is going to give us men's spirit, is going to give us men's strength.

Let us not be fooled by the glittering gawgaws of some of the amendments that are called up. Let us stand with the leadership in opposing these waiver of points of order, and let us stand with the leadership in opposing amendments to the reconciliation bill, because that is the only way that we will resolve this problem. We are not going to wipe out the national debt or the deficit with this package alone. This is a start. It is a start in paying the bill and the tip for the feast on which the Nation has gorged itself during the past 10 years.

Benjamin Hill was a great Senator from the State of Georgia, and I am told that on his statue in Atlanta are these words:

Who saves his country saves himself, saves all things, and all things saved do bless him. Who lets his country die lets all things die, dies himself ignobly, and all things dying curse him.

Let us not crucify the Nation on a cross of political expediency and political cowardice. Let us work to save our country!

I urge my colleagues to stand with the leadership in opposing waivers to points of order and in opposing amendments. Support the reconciliation and the leadership, because only in that way will we be able to make a start on the problem that confronts us, and only then will we merit the confidence and the faith of the people who send us here. As Webster said at the laying of the cornerstone of the Bunker Hill Monument in 1825, "Let our object be our country, our whole country, and nothing but our country."

Mr. PRYOR addressed the Chair.
United States of America

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OMNIBUS BUDGET RECONCILIATION ACT OF 1990
(Continued)
Mr. MITCHELL. Mr. President, this is an ironic moment for me. Four-and-a-half years ago when the Senate was considering the Tax Reform Act of 1986, I stood on this Senate floor for an entire day and offered an amendment to provide for a three-rate tax schedule. The maximum marginal tax rate had been 70 percent until 1981, when it was reduced to 50 percent. And in 1986 we debated on how much further to reduce it.

President Reagan proposed and advocated a three-rate structure with a maximum rate of 35 percent. I agreed with President Reagan, and when the committee went to a two-rate structure of 15 and 28 percent, I attempted to persuade the Senate that we should have a three-rate structure at 14, the lowest bracket, then 28 and 33 percent. I presented on the Senate floor a number of charts which are similar to those which the Senator from North Dakota has presented here tonight, and following the defeat of my amendment and the passage of the Tax Reform Act with a two-rate structure, I requested a series of studies by the Congressional Budget Office which produced the data which are on the charts the Senator from North Dakota has and are based on a series of subsequent studies building on that information. I still believe there should be a three-rate structure, 15, 28, and 33 percent, for many of the reasons suggested by the Senator from North Dakota and others, and for still further reasons not mentioned here this evening.

I believe that would be the most simple, logical, straightforward, and most important, fair method of dealing with the problem of fairness in the tax structure and raising the necessary revenue to address the problem we are here seeking to address.

But the reality is, Mr. President, that President Bush has stated clearly and unequivocally his intention to veto any legislation which includes a 33-percent tax rate on higher-income taxpayers. My proposal has consistently been that the third rate of 33 percent should apply to those taxpayers at the upper end of the bubble. Notwithstanding what I believe to be the logic and fairness of that argument, the President has been consistent and emphatic in his statements that he will veto any such legislation.

Therefore, we are now faced, again, with a problem which we confront regularly here in the Senate. It is whether we wish to make a statement or make a law. Adoption of this amendment will make a very strong statement. It will result in no law. Rejection of the amendment will permit us to go forward to make a law which, while not completely consistent with what the Senator from North Dakota has proposed, will still produce a fair and progressive tax package that deals with the deficit problem.

How can that be accomplished? Well, of course, as we all know, raising the top rate is not the only mechanism by which taxes can be increased on those at the very top of the income scale. There are a variety of other means by which to accomplish that objective.

The tax package that is included in this reconciliation bill, the basic bill now before us, does that in three ways. The first is a relatively modest and imprecise method of accomplishing the objective, and that is an excise tax on the purchase of certain luxury items. The second and third, however, are substantial and very precise mechanisms for accomplishing that purpose.

They are, first, an increase in the wage cap for the health insurance portion of the FICA or better known as the Social Security tax. Under current law, income in excess of $52,300 is not subject to that tax. This bill increases that amount to $89,000. By definition, that applies only to those persons whose incomes exceed $52,300 a year. It does not and, of course, cannot apply to those whose incomes are below that level because they are already paying a tax on the full amount of their earned income.

The third and largest, most substantial, and most precise mechanism for raising taxes from those at the very top of the income scale is the limitation on deductions now set at 5 percent in this legislation which, again, by definition applies only to taxpayers...
whose adjusted gross income exceed
$100,000 a year. So any taxpayer
whose adjusted gross income is less
than $100,000 a year is unaffected by
this provision.

The combination of those three pro-
visions raises in excess of $50 billion or
nearly half of the total amount of
taxes, the net of $130 billion being the
target under this legislation, and it
raises it for higher income groups, pri-
marily from those whose incomes
exceed $100,000 a year.

So, Mr. President, I want to say to
the Senator and to my colleagues
and especially to those who will be dis-
posed to support this amendment, if
this amendment prevails and we get
no bill, we will not only fail to address
the problem of the deficit, which is,
after all, our principal target here, our
main objective which we ought always
to keep in mind, but second, we will
leave in place a tax structure that is
less progressive than it would be if this
bill were adopted, not as progressive as
if the Senator’s amendment were
adopted, but we know that is not going
to become law because the President
has said repeatedly and unequivocally
that he will veto it.

I do not happen to agree with the
President on that. I think he is wrong.
There is no Member of this Senate
who has spoken more often and con-
sistently for a need for a third rate to
apply to those with very high incomes
than myself. But in the circumstances
in which we now find ourselves, if we
adopt this amendment, we assure no
deficit reduction package and the re-
sulting chaos which will flow from
that decision and we assure that the
tax system now in place remains in
effect with neither the 33-percent rate
nor the other provisions which raise
taxes on the very wealthy that are in-
cluded in the bill.

So the reality is if one believes that
the tax structure should be made more
progressive, as I believe many of our
colleagues do, understand then that
adoption of this amendment retains
the current tax structure which is less
progressive than it would be if we
adopted the committee bill.

I wish it were otherwise. I wish we
could get not just the votes to pass the
33-percent rate, but the 67 votes neces-
sary to override the veto. The reality
is that we cannot. So, as is so often the
case in life generally and certain in the
political process, we must play with the
cards that are dealt to us. We must deal with the situation as it exists and the situation as it exists is as I have described it.

So while I commend my colleague
for the presentation he has made—and
I reiterate my agreement with the
importance of piercing the bubble and
having a third rate and have a more
progressive tax structure—I must say and
repeat to all of my colleagues that
adoption of this amendment will pre-
vent the adoption of a more progres-
sive tax structure which would result
from the committee bill now before us
and from the results of the confer-
ence.

And, remember, we are going to con-
ference with the House bill that is
much more progressive than either this
bill or the current tax structure.

So with the greatest of reluctance,
and with respect for my colleague, I
must ask and encourage all Members
of the Senate to join in refusing to
waive the Budget Act for this amend-
ment so that we can proceed to get the
job done, so that we can get a bill
passed and get in a conference and get
a conference report and have written
into law the most meaningful deficit
reduction legislation in our Nation’s
history. That is what we started out to
do. That is what we should finish
doing, and I hope we can do it before
the Friday midnight deadline.

Mr. President, I yield the floor.
Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:
The Senator from Kansas [Mr. Dole] proposes amendment numbered 3015 to amendment No. 3014.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's Record under "Amendments Submitted."

The PRESIDING OFFICER. Under the rule, the Republican leader controls 30 minutes. The majority manager or his designee controls the balance of the time. The Republican leader is recognized.

Mr. DOLE. Mr. President, this amendment retains the 9-cent gas tax. It does shift the mix. Instead of 50-50, 60 percent goes into the trust fund and 40 percent is deficit reduction. That in essence is what it does and it does avoid a vote on the gas tax amendment offered by the distinguished Senator from Idaho.

I have heard a lot of complaints about not having a vote up or down. I think I have been here long enough to know we all know we are within the rules. Nobody is violating the rules. We are using the rules. We are offering amendments.

I think the majority, at least I trust the majority understands we are working on a package here of about $500 billion. This would take out $33.6 billion and put nothing back. That would not only unravel the package, that would probably finish the package. If not, someone can offer a motion to strike the next tax and then offer to strike the Medicare savings and then offer to strike defense savings. And then, of course, the interest savings would fall on their own. Maybe the leaders can offer that motion.

Those who want to kill this bill certainly ought to use every opportunity, but we should not have to cooperate with them. If somebody is going to hang me, they are going to furnish the rope. I am not going to furnish the rope. You get your own rope.

I am trying to do the best I can for President Bush. The last time I checked, he was a Republican. It is my job as a leader in the Senate to try to move the President's agenda. I regret that some of my colleagues on this side disagree. That is their right. We all have our rights. I might find myself in disagreement sometime.

If we put a COLA freeze in here, we would have people all over us about the COLA freeze. If we taxed Social Security benefits, they would be all over us about taxing Social Security benefits. We left those out.

I defy anyone to put together a $500 billion package to pass—I can put one together—but put one together that will pass. We will be glad to remove this one and bring another one up by unanimous consent. But that is not what we have before us. We have some people who want to kill the package, but they want to do it an inch at a time. This is more than an inch. It is about 10 percent of the package, so we will just have 90 percent left. Then somebody says, let us take out another 10 percent. This Senator would like to finish this bill and leave Washington. But certainly every Member has a right to offer every amendment, and we have every right to try to frustrate every amendment. That is the way it works, and this Senator does not know the rules that well. I agree with the Parliamentarian. If he did not vote, I would not try to interpret him. So we have an understanding. I do the voting and he would do the interpretation.

What we are doing is legislating. We are playing by the rules in an effort to preserve this package. And to those who do not want the package, they can do everything they can to try to frustrate it, defeat it, chop it up. But, in my view, if we think there is a chance that they might prevail and kill the package, then we will look a little foolish out here. Oh, I do not want anybody to be denied their vote.
It is only a $500 billion package, so what. We can dream up another one in a couple of years.

We may lose in any event, but I want the Racoon to show at least we tried to protect the package and not give everybody a free shot like it is a turkey shoot around here, to shoot until you win. If somebody wins, the country loses, in this Senator's view.

So I regret we cannot have an up-or-down vote. I regret we cannot support any of the amendments that are pending, unless they are agreed upon by the managers. Some may be and there may be good questions raised by the Senator from Oklahoma and others, and they ought to be addressed, and they are. But this takes 10 percent of the package and it is gone and does not substitute one dime; not one dime.

I understand that this will add about $20 to the average motorist per year. Not quite a tank of gas. This tax, not quite a tank of gas. We turn on the evening news and we see the boys over in Saudi Arabia. We say, "oh, well, boys, we feel sorry for them, but we do not want to do anything to inconvenience us. We keep on driving, you keep on protecting that oil over there so we can keep on driving. We do not want to conserve anything, so you just stay over there 2 or 3 years." You tell that to somebody's son or tell that to the parents.

This is about the best policy in this whole bill, trying to conserve energy. As I said earlier, I respect the Senator from Idaho because he is one to stand up here and vote to cut spending, whatever it is. He does not care what it is. If it is necessary, he will vote to reduce spending and so will the Senator from Wyoming and so will the Senator from Colorado and the Senator from Oklahoma, and others who have spoken. But that is not a majority.

And I will do the same. I do not know what the answer is. We try to please everybody and let everybody have an up-or-down vote on every amendment and let the package unravel. This amendment can still be offered later. All you have to do is say notwithstanding anything in this bill, and you put your amendment in. But then it is subject to a point of order, and it takes 60 votes. That is the difference. We are talking about 10 votes.

So I just suggest we vote on this amendment. The distinguished Senator from Idaho is going to move to table the amendment. He may prevail. I would say to those who want to kill the package, vote with the Senator from Idaho. We can get home by 11:15. That may be the best argument we have.
Mr. SYMMS. I repeat again, Mr. President, and I admire the expertise with which the majority leader is such a wonderful wordsmith, but if he has listened closely, he had never heard the Senator from Idaho stand in here and talk about deficit reduction. I talked about spending reduction. There is a big difference.

What seems to be the big craze in this town is that we have to reduce the deficit. Nobody ever talks about reducing spending. It is the percentage of the work and labor—sweat, blood, and tears—that we jerk out of those people that we spend in Government that matters. That is the issue. And this tax is regressive. It hits those that are the least able to afford it. It hurts the low-income, the retired senior citizen on Social Security that has to drive somewhere, worse than any other group. If we would just reduce spending, we would not have to worry about the so-called deficit. It is the percentage of the gross national product the Government spends that is so detrimental to our economy and our people. There is a big difference between spending control and deficit reduction.
Congressional Record — Senate

October 17, 1990

U.S. Senate


HON. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

Dear Lloyd: We are writing regarding the Finance Committee’s upcoming consideration of the FY 1991 budget reconciliation legislation.

Last year, the Administration proposed in its FY 1990 budget a regulatory change regarding the medically needy income levels for one-member families under state Medicaid programs. This regulation would have had the effect of rendering thousands of single aged, blind, and disabled adults ineligible for Medicaid in at least 17 states.

With your assistance, language was included in the Omnibus Budget Reconciliation Act of 1990 which placed a 1-year moratorium on the implementation of the proposed regulation. In February of 1990, 41 Senators joined in writing a letter to Secretary Sullivan requesting that he review and reconsider his proposed change in the regulations with respect to the medically needy income. Secretary Sullivan acknowledged our correspondence, but we are unaware of any effort within the Administration to date to give this matter serious reconsideration. Because this ban is due to expire on December 31, 1990, we are seeking your assistance in resolving this issue permanently.

As you may recall, current regulations—which have been in effect for more than 20 years—state that in determining the medically needy income levels for a single person, states may utilize a methodology that is 133 1/3 percent of the amount “reasonably related to the highest money payment which may be made under the state’s AFDC plan to a family of two without income and resources.” Thus, even if a state utilizes an AFDC payment level for a family of one child, since that level is not related to the reasonable maintenance needs of a medically needy adult, a state may set different levels to take into account the greater needs of an adult. This practice is wholly consistent with current law.

The Administration’s proposed regulations would forbid states from implementing the “reasonable relatedness” requirement when such states have an AFDC payment standard for one person. Since all states have such AFDC payment standards, no state would be permitted to continue its current practice.

Lloyd, we would very much appreciate your including a provision in this year’s reconciliation legislation that would protect the single person medically needy adult in those states which, as of June 1, 1989, had relied on the current regulations. We have included draft language for your review.

Since this provision is codifying current practice and regulations, we do not believe that its inclusion will result in increased costs. This provision is very similar to one adopted in section 4106 of Public Law 100-363, which protected California’s adult couple medically needy income levels. CBO found no increased costs associated with that provision, which also sought to codify existing practice. We are currently in the process of modifying the language of our proposal from CBO and will share the results with your office as soon as it’s available.

Thank you for your assistance on this crucial matter.

Sincerely,

PATRICK LEAHY

Chairman

The Medicaid Medically Needy Program

Mr. LEAHY. Mr. President, I want to join my colleagues in thanking Chairman Bentsen for including in his Finance Committee reconciliation package our provision clarifying how States set income tests for single individuals in the Medicaid medically needy program. This good news for the 3,000 low-income and disabled Vermonter whose Medicaid benefits have been threatened since the administration requested a change in the income tests last year.

In this year’s 1990 budget, the administration proposed a regulatory change that would remove an option States have had for the last 20 years allowing them to set more generous income levels for single adults in the medically needy program. The medically needy program covers individuals who are not eligible for cash assistance under the Medicaid program but who need help with medical expenses and meet a financial standard established by the State. The medically needy income standard is based on 133 1/3 percent of the State’s AFDC payment standard for a household of similar size. But for 20 years there has been an exception. States have had the option of calculating the income standard for medically needy single adults based on the AFDC payment for a household of two instead of one.

This option reflects the fact that a medically needy household of one ordinarily is an elderly, blind or disabled adult with greater needs than an AFDC household of one, ordinarily a dependent child.

Vermont and other States have taken advantage of this flexibility in order to make Medicaid available to more single individuals. For thousands of elderly and disabled Vermonters, receipt of Medicaid means the difference between life and death. The medically needy program has meant a chance to live independently and avoid nursing home care.

During last year’s reconciliation debate, Senator Cranston and I worked with Senator Bentsen to place a 1-year ban on the administration’s proposed rule with the understanding that we would work together to permanently medically needy income tests. In February of this year, twenty Senators joined us in writing to Secretary Sullivan requesting that he review and reconsider his proposal to revise the provisions for establishing income tests in the medically needy program. To our knowledge, the administration has made no effort toward this end.

Mr. President, I have never understood the wisdom of the administration’s proposal. In my view, it is simply an attempt to save a few dollars at the expense of the most vulnerable members of our society: low-income elderly and disabled individuals. Loss of Medicaid benefits would mean that many frail individuals would be forced to choose between food, heat and rent or vital medical care. Many would lose their independence and be forced into nursing homes in order to gain access to medical care. In the long run, that would mean a much greater commitment of Federal and State Medicaid dollars.

I am grateful to Senator Cranston and his Committee for including the language Senator Cranston and I drafted. It will protect the single person medically needy income level in States which, as of June 1, 1989, relied on the current regulations. It is my understanding that the House reconciliation package includes a similar provision.

I especially want to thank Senator Cranston for his leadership and hard work in seeing his provision through the Finance Committee. This is a good provision that will help many elderly and disabled Americans with their urgent medical needs. I urge all Senators to support this effort.

I also would like to thank Chairman Bentsen on another matter regarding access to health care. His reconciliation bill includes a provision assuring that Medicaid beneficiaries continue to receive urgent medical care while they appeal a decision of “not disabled” made by the Social Security Administration (SSA).

In another example of the ongoing effort by this administration to deny access to Medicaid benefits, the Health Care Financing Administration adopted a rule in January 1990, that limits the States’ flexibility in providing care to thousands in need. In this rule, HCFA denied States the right to provide Medicaid benefits to persons determined “not disabled” by the completely separate Supplemental Security Income Program.

Chairman Bentsen included legislation I drafted that would allow States to continue providing Medicaid benefits to persons needing urgent medical care, until a final decision is handed down by SS. This is absolutely essential to light of the serious problems with the Social Security Administration’s handling of disability cases. A report issued by the General Accounting Office (GAO) last year determined that over half of those applicants who are denied disability benefits by the SSA should have been granted those benefits. The reconciliation provision assures that beneficiaries who appeal a year delay in Medicaid benefits if they do not get fair treatment from the Social Security Administration.
I had hoped that the Finance Committee would accept my proposal to allow States to make Medicaid disability determinations independent of Social Security decisions. For years Vermont has provided an effective appeals process through which the State could overturn SSA determinations of “not-disabled.” Other States have made the initial determination of disability independent of SSA. Through these processes, States provided Medicaid for persons it considered disabled and in need. Eligibility was not restricted by the very narrow interpretations of disability characteristic of Social Security Administration decisions. In addition, States like Vermont made determinations in a timely and accurate manner, as mandated in the Social Security Act.

However, the chairman has shown foresight by asking the General Accounting Office to study the feasibility of establishing a definition of “disabled” for the Medicaid program that differs from the standard definition used for the Supplemental Security Income Program. These two programs address vastly different needs. The GAO study will determine if a more flexible definition of disability is needed for determining Medicaid eligibility.

I look forward to working with Chairman Bentsen and the General Accounting Office in developing this study.
Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I wish to comment on the provisions in title XI of S. 3209, the fiscal year 1991 budget reconciliation measure.

Mr. President, the reconciliation instructions contained in section 4(c)(10) of House Concurrent Resolution 310, the concurrent resolution on the budget for fiscal year 1991, require the Committee on Veterans’ Affairs to report changes in laws within the budget for fiscal year 1991, requiring the instructions contained in section 4(c)(10) of the House Concurrent Resolution 310, the concurrent resolution on the budget for fiscal year 1991.

Pursuant to section 4(a) of House Concurrent Resolution 310 and action of the committee at an October 12, 1990, meeting, the Committee on Veterans’ Affairs submitted to the Budget Committee legislation recommending budget savings. Estimated savings resulting from enactment of the legislation we submitted would exceed the 5-year total of $3.35 billion in required reconciliation savings by $2.71 billion. According to CBO estimates, the committee legislation would achieve net savings of $6.95 billion in outlays over fiscal years 1991 through 1995.

Mr. President, title XI of the bill contains provisions that would make changes in the areas of compensation and pension, VA health care, educational and vocational assistance, home loan guaranties, burial benefits and gravemarkers, and in other miscellaneous areas. In summary, these provisions would:

**Compensation and Pension**

First, in section 11001, suspend payment of service-connected disability compensation to an incompetent veteran without dependents whose estate exceeds a value of $25,000 and resume compensation payments when the value of the estate reaches $10,000.

Second, in section 11002, eliminate the presumption of permanent and total disability for veterans over age 65 for purposes of pension eligibility. VA regulations currently provide that nonworking veterans aged 55-59 are considered permanently and totally disabled if they have disabilities rated 50 percent or more or are 60 to 64 years old and rated at least 50 percent disabled. It is expected that VA would extend this system of presumptions for veterans age 65 and older.

Third, in section 11003, limit monthly pension payments to $90 for Medicaid-eligible recipients of VA pension who are in nursing homes, other than State veterans homes, participating in Medicaid.

Fourth, in section 11004, eliminate dependency and indemnity compensation and pension benefits for surviving spouses who have remarried and again become single.

Fifth, in section 11005, round down to the nearest whole dollar the fiscal year 1991 cost-of-living adjustment for disability compensation and DIC and reduce by $1 the COLA for veterans rated 20 percent disabled or less.

**Health Care**

Sixth, in section 11011, authorize VA to bill third-party insurers for the cost of health care provided for non-service-connected conditions of veterans who have service-connected disabilities; establish the medical care cost recovery fund (MCCRF) to receive collections from billing third-party insurers for certain health-care services and from copayments by veterans for VA-furnished care and to pay the administrative costs of these collection activities, including the costs of 300 full-time equivalent employees (FTE) in addition to the $7.6 million currently expended in billing and collection efforts; and provide that collections in excess of the administrative costs would be paid from the MCCRF into the Treasury.

Seventh, in section 11012, require payment of $2 for each 30-day supply of medication dispensed by VA for the care of non-service-connected conditions of veterans who do not have service-connected disabilities rated 50 percent or more disabled.

Eighth, in section 11013, modify health-care categories and copayment requirements by: Eliminating the distinction between the current B and C categories; and requiring all veterans other than category A veterans to make copayments of $10 a day for inpatient care—in addition to a copayment equal to the Medicare annual deductible for the first 90 days of care in a year, plus half that amount for each subsequent 90 days of care in the year—$5 a day for nursing home care—in addition to a copayment for each 90 days of care equal to the Medicare deductible—and $16 per visit for outpatient care—with no cap.

**Educational and Vocational Assistance**

Ninth, in section 11021, reduce education benefits payable for certain intervals between school terms or quarters to 33 percent of the full amount.

**Home Loan Guaranties**

Eleventh, in section 11031, allow lenders to file guaranty claims for manufactured home loans upon the lender’s receipt of the VA estimate of the resale price of the manufactured home.

Twelfth, in section 11032, increase all fees for VA-guaranteed home loans by 0.75 percent.

**Burial Benefits and Grave Markers**

Thirteenth, in section 11041, limit the VA plot allowance—$150 paid on behalf of deceased veterans who are not buried in a national cemetery—to those who are eligible for a burial allowance, generally veterans who, at the time of their death, were receiving VA pension or disability compensation. The plot allowance would continue to be paid for veterans buried in State veterans cemeteries.

Fourteenth, in section 11042, eliminate the headstone allowance, which is a payment in lieu of a VA-furnished headstone or gravemarker based on VA’s average wholesale cost for headstones and markers—currently $87—for deceased veterans who are not buried in a national cemetery.

**Miscellaneous**

Fifteenth, in section 11051, allow use of certain Internal Revenue Service and Social Security Administration
data to verify veterans' income for purposes of eligibility for VA needs-based benefits.

Sixteenth, in section 11052, eliminate compensation for the secondary effects of willful misconduct or of the abuse of alcohol or drugs.

Seventeenth, in section 11053, require disclosure of Social Security numbers for applicants for VA needs-based benefits and require VA to conduct direct matches of Social Security numbers against death records in order to identify erroneously payments being made to or for veterans and other beneficiaries who have died.

SECONDARY EFFECTS OF WILLFUL MISCONDUCT

Mr. President, there was one matter in this legislation—relating to elimination of compensation for the secondary effects of willful misconduct—to which I was seeking further information at the time we submitted our request.

Because of concerns about how VA would implement the committee provision, I wrote to Secretary Derwinski on October 9, 1990, requesting specific information as to VA's plans in that regard. Secretary Derwinski responded in an October 15, 1990 letter.

Mr. President, so that my colleagues and the public may have the benefit of this correspondence, I ask unanimous consent to print a copy of Secretary Derwinski's reply be printed in the Record at this point.

There being no objection the letter was ordered to be printed in the Record, as follows:

U.S. SENATE
COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C., SEPTEMBER 9, 1990

HON. EDWARD J. DERWINSKI,
Secretary of Veterans' Affairs,
Washington, D.C.

DEAR Mr. CHAIRMAN: Per your request, I enclose a letter from Mr. Derwinski providing a briefing paper (copy enclosed) describing VA’s proposal to eliminate disability compensation for secondary effects of willful misconduct.

The briefing paper raises a number of questions. I submit this request clarification as to how VA would implement this proposed legislation.

First, the white paper stated that “organic diseases and disabilities which are a secondary result of the chronic use of alcohol as a beverage . . . would be considered of willful misconduct origin.” This raises the question of whether you will adopt a principle that long-term behavior patterns that result in cumulative harm to one's medical condition constitute “willful misconduct” and how far that principle might be extended. For example, would that principle apply to adverse health effects of the use of tobacco? On the other hand, if no such new principle is proposed or if it would be very limited in application, how would the distinction be drawn between organic diseases resulting from the chronic use of alcohol and diseases resulting from other unhealthy behaviors?

With respect to AIDS, the briefing paper also stated, “The amendment would only cover willful misconduct secondary to drug abuse.” Does that statement accurately reflect the Department’s policy regarding the interpretation of the proposed change in the proposed amendment? Also, I would like to know how you anticipate it being established in the adjudication process that a particular veteran contracted AIDS as a result of drug abuse and whether the same principles would apply to hepatitis and other diseases transmissible through intravenous-drug abuse?

Ed, I would appreciate receiving your reply to these questions no later than Thursday, October 11, in light of the time that you will be presenting your briefing to the Committee.

I greatly appreciate the cooperation you and other Department officials are extending, in providing information and technical committee assistance in considering this and other deficit-reduction proposals.

Sincerely yours,

ALAN CRANSTON,
Chairman.

Enclosure.
SECRETARY OF VETERANS AFFAIRS
WASHINGTON, D.C., OCTOBER 15, 1990

HON. ALAN CRANSTON,
Chairman, Committee on Veterans’ Affairs,
U.S. Senate, Washington, D.C.

DEAR Mr. CHAIRMAN: Thank you for your letter requesting clarification of VA’s proposal to eliminate disability compensation for conditions that constitute secondary effects of willful misconduct.

The enclosed fact sheet has been developed to address the concerns you raised. Sincerely yours,

EDWARD J. DERWINISKI.

DEPARTMENT OF VETERANS AFFAIRS VETERANS BENEFITS ADMINISTRATION COMPENSATION AND PENSION SERVICE

I. Issue: To respond to letter of 10-9-90 regarding proposal to eliminate disability compensation benefits for conditions that constitute secondary effects of willful misconduct.

II. Background: The law prohibits payment of compensation if the disability was the result of the veteran's own willful misconduct. Veneral disease is stated to be presumed not to be due to willful misconduct. (38 USC 105a) A 1931 Administrator’s decision held that excessive drinking of alcohol, which provided a primary result of drinking (for example, automobile accidents) and the remote, organic, secondary effects (for example, liver disease), were part of willful misconduct if it results in disability. A 1964 Administrator’s decision made a distinction that the effects of alcohol were the primary result of drinking (for example, automobile accidents) and the remote, organic, secondary effects (for example, liver disease). In the 1964 decision, regulations were promulgated which permitted the grant of benefits based on the secondary effects of alcohol, without regard to the question of willful misconduct on the part of the veteran, to the effects of drug abuse. Attention to specific causes and effects were clearly responsive to societal concerns of the times in question.

III. Current Status: It has been proposed to amend the section of the law dealing with willful misconduct to specify that disability secondary to willful misconduct may not be the basis for a grant of service connection. This proposed change would make inapplicable the 1964 Administrator’s decision.

Response. At some future date the issue of the known secondary effects of the use of tobacco, or other unhealthy behavior, through social activity cannot be diminished with alcohol and drug use at earlier dates. In such an atmosphere VA would have to consider the application of the statutory language regarding willful misconduct to these conditions.

It is not possible to determine at this time what the eventual outcome might be. Certain principles are similar to those already in place between the condition(s) under discussion and alcohol and drug use.

Response. If changes are made in the statutory language so that willful misconduct secondary to drug abuse, the changes would apply to the effects of alcohol and drug use. The consideration of secondary effects of these activities has been a part of VA regulations and procedures since 1964 but we would need to make amendments to conform to the new law. We see nothing in the proposed language which would mandate an expansion to other behaviors.

Question. Is it accurate to state that the amendment would only bar benefits based on AIDS secondary to drug abuse?

Response. We believe that 38 USC 105a, as currently written, prohibits denial of benefits based on venereal disease as a willful misconduct activity. Therefore, it is our position that benefits based on AIDS contracted due to drug use or other unhealthy behaviors, without regard to the question of secondary effects, AIDS contracted due to drug use, or in other ways, is subject to the usual provisions regarding willful misconduct, including the current regulations regarding secondary effects. If the law and regulations regarding secondary effects were amended, they would likewise apply to nonsexually contracted AIDS.

Question. How do you anticipate it being established in the adjudication process that a particular veteran contracted AIDS as a result of drug abuse?

Response. Determinations as to the applicability of current willful misconduct provisions to AIDS (that is, whether it was contracted due to willful misconduct) are made in the same manner as all other willful misconduct determinations. If there is evidence that any condition was contracted due to a willful misconduct activity, the applicable regulations must be applied. In the absence of evidence of misconduct on the date of onset, no determination can be made. Determinations in each case must be based on the available evidence of record.

In an AIDS case, if the law prohibited benefits based on secondary effects of mis-
conduct disabilities, we would have to determine what evidence was regarding the incurrence. With information tending to show sexual origin, or in the absence of evidence regarding origin, misconduct would not be an issue. If there were evidence of origination in drug use and the law had been changed, benefits would not be payable.

Question. Would the same principles apply to hepatitis and other diseases transmittable through intravenous-drug abuse?

Response. This same principle would apply to any type of disease caused by drug abuse.

SUNSET DATES

Mr. CRANSTON. Mr. President, the legislation that I proposed at the committee's October 12, 1990, meeting included termination dates for certain provisions. That part of my proposal was superceded by an amendment deleting the sunset provisions. I am concerned that the Committee legislation—which exacts an extra $2.7 billion from veterans programs over the next 5 years—is an unfortunate distortion of the intent of our reconciliation instructions and takes unfair advantage of the breadth of the cuts we had to make in order to meet our first-year savings requirements. I have expressed my strongly held beliefs on this matter in the additional views that I transmitted with the committee's submission to the Budget Committee. My views appear elsewhere in the RECORD for today in the materials submitted by the Budget Committee.

CONCLUSION

Mr. President, there are very few provisions in this package that I would recommend in the absence of reconciliation requirements and the great need to reduce the Federal deficit this year and in coming years. However, in light of the savings levels required and aside from the sunset issue, I believe that these recommendations would make savings in the most appropriate areas.
Mr. MITCHELL. I withhold my suggestion of the absence of a quorum.

Mr. GORE. Will the leader yield?

Mr. MITCHELL. Certainly.

Mr. GORE. Mr. President, I wonder if it might be possible to suggest some structure for the first part of the consideration tomorrow. I know the Senator from Florida has been waiting patiently, and the Senator from Maryland, Senator Mikulski, and I have been waiting as well. Might it be possible to get some kind of an agreement that when we come back onto the bill that the order of business would be to take up the amendment of the Senator from Florida, and then to go to the amendment of the Senator from Tennessee and the Senator from Maryland? We are willing to do a time agreement of an hour equally divided.

Mr. MITCHELL. Mr. President, I would refer the Senator from Tennessee and others who have amendments, and there are a large number of Senators, to the managers who I believe will be here early tomorrow and be prepared to proceed and to set up the best and most expeditious way of dealing with the bill. I believe the appropriate course would be to discuss the matter with the managers first thing in the morning.

Mr. GORE. I am prepared to, of course, accept the judgment of the leader and the manager of the bill, my good friend and colleague, but may I get some kind of assurance that there will not be an effort on the part of the leaders to use up all of the remaining time so that those of us who have been patiently waiting to offer amendments will have to do so under procedures that do not afford any debate at all?

Mr. MITCHELL. Mr. President, of course, we will do our best to accommodate as many Senators as possible in that regard. I emphasized earlier this evening that I and the Republican leader tried to shorten the time for debate on some of the matters that were before us so that there could be the opportunity for others to offer amendments. Understandably, those who offer the amendments wish to discuss them. As frequently happens in the Senate, the debate went on longer than one would have anticipated at its beginning. I assure the Senator, and I assure the managers, who can speak for themselves, that every effort will be made to accommodate every Senator as possible.

Mr. GORE. We will be here at 9 o'clock sharp.

Mr. MEITZENBAUM. Will the leader of the Senate yield for a question?

Mr. MITCHELL. Certainly.

Mr. MEITZENBAUM. Mr. President, I wonder if it would be possible in the interest of fairness to get unanimous consent that with respect to any amendment there would be a time agreement that not more than a half hour will be allocated, 15 minutes on a side, so that as many amendments as
possible could be heard? I think that would be fair to the Senator from Tennessee and many other Senators. I think that is a reasonable proposal. I wonder if anybody would object to it?

Mr. MITCHELL. Mr. President, I think that is one of many responsible suggestions for proceeding that has been and will be made. I think the best course for all interested to come in in the morning and meet with the managers and attempt to work out a procedure that provides the most fair and responsible and expeditious way of proceeding. I am certain the managers are committed to that and will be happy to consider the suggestion from the Senator from Ohio, the suggestion of the Senator from Tennessee, the suggestion of the Senator from Florida, and others in that regard.

Mr. DOMENICI. Will the majority leader yield?

Mr. MITCHELL. Certainly.

Mr. DOMENICI. I understand the time is running now on this bill. Might the leader make arrangements so that we can move to something else? So we can get off it and not waste the time off the bill.

Mr. GRAMM. Why not let them debate it tonight?

Mr. MITCHELL. Mr. President, may I suggest that all Senators who wish to offer amendments should be here in the morning and meet with the managers to discuss the best way to proceed in the most fair and expeditious manner in an effort to accommodate as many Senators as possible. I know both the distinguished chairman of the Budget Committee and the ranking member will do their very best to accommodate the interest of as many Senators as possible.

Mr. SASSER. If the majority leader will yield for one moment, as we got underway this morning, the distinguished Senator from Florida, Senator GRAHAM, was here wishing to present his amendment. A list was compiled, I think, by the distinguished majority and minority leader listing four amendments that would be in order to be taken up immediately. One of those amendments was the amendment of the distinguished Senator from Florida. The other three amendments have been dealt with today in one way or another.

So I hope that tomorrow morning we could proceed with the amendment of the distinguished Senator from Florida and make every effort to curtail debate so that as many amendments as possible can be taken up and debated. I might say to my colleagues that suddenly about 6 o'clock this evening, amendments started descending like a snowfall. The list of six amendments suddenly grew in the space of about 10 minutes to 22 amendments. So that gives us some problem.

I understand that some of these amendments perhaps will not be offered. Some of our colleagues I think have looked at what has happened to the amendments that have been offered so far. They have not been faring very well.

Additionally, some of the items that will be in other amendments have been discussed in the Conrad amendment to some extent and in the Symms amendment to some extent also. So there has been debate on facets or other amendments that will be introduced. So perhaps we can compress the time tomorrow morning and enter into an agreement so that all Senators may have an opportunity to speak for some limited time on their amendments.

The PRESIDING OFFICER (Mr. SHELBY). The majority leader.

Mr. MITCHELL. I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, earlier this evening I had requested of the distinguished majority leader that we go to the Executive Calendar because there are a number of State Department nominees that have been held for some time and that I felt we should move forward. I have been advised by the Senator who has the hold that he has been unable to reach someone by telephone and I think as a courtesy to him—I do not think he will object tomorrow if we can work out the problem. I would ask the majority leader if we could not take those up immediately after we dispose of the reconciliation bill tomorrow afternoon.

Mr. MITCHELL. Mr. President, I will be pleased to do that in accordance with the wishes of the distinguished Republican leader.

Mr. DOLE. I thank the majority leader.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.
OMNIBUS BUDGET RECONCILIATION ACT OF 1990

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 3209) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991.

The Senate resumed consideration of the bill.

Mr. SASSER. Mr. President, as Senators know this reconciliation bill has been prepared under a very short deadline. In order to avoid delay, we brought the bill to the floor without printing a formal report. So in an effort to complete the legislative record I send to the desk at this time the report language that the various committees submitted to the Budget Committee and ask unanimous consent that this language be printed in the Record at the beginning of debate on the reconciliation bill today so as not to interrupt any debate on the bill itself.

There being no objection, the material was ordered to be printed in the Record, as follows:

• This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
U.S. Senate. 
Committee on Finance. 

On Jim Sasser, 
Chairman, Committee on the Budget, U.S. Senate, Washington, DC. 

Dear Mr. Chairman: I hereby submit the statutory language implementing the recommendations of the Committee on Finance for purposes of the reconciliation bill provided for in H. Con. Res. 310, the concurrent resolution on the budget for fiscal year 1991. Also enclosed are materials which explain these provisions along with a recommendation of the Committee concerning the budgetary treatment of the social security program. 

These statutory provisions will reduce outlays for programs within the jurisdiction of the Committee on Finance by $4.2 billion in fiscal year 1991 and by $52.3 billion over fiscal years 1991-1995. The revenue provisions will increase Federal receipts by $17.3 billion in fiscal year 1991 and by $142.1 billion over the five year period. As directed by the budget resolution, the Committee on Finance is also submitting statutory language which will provide additional borrowing authority under the statutory debt limit in an amount not to exceed $1.900 billion. 

Sincerely, 

Lloyd Bentsen, 
Chairman.
EXPLANATORY MATERIAL CONCERNING COMMITTEE ON FINANCE 1990 RECONCILIATION SUBMISSION PURSUANT TO HOUSE CONCURRENT RESOLUTION 310

I. Non Revenue Title (title VI of the bill) (Income security and services, Medicare, Medicaid, Trade, Pension Benefit Guaranty Corporation, and child care).

II. Revenue Title (title VII of the bill).

III. Revenue table prepared by the Joint Committee on Taxation.

IV. Cost estimate of the Congressional Budget Office.

V. Vote of Committee in approving the submission.

VI. Additional views.

I—NON REVENUE TITLE (TITLE VI OF THE BILL)

(b) Table of contents—

Sec. 6000. Amendment of the Social Security Act; table of contents.

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Sec. 6001. IRS intercept for non-AFDC families.

Sec. 6002. Commission on interstate child support.

PART II—SUPPLEMENTAL SECURITY INCOME

Sec. 6010. Continuation of medicaid eligibility under section 1818(b) past age 65.

Sec. 6011. Exclusion from income of impairment-related work expenses.

Sec. 6012. Treatment of royalties and annuities as earned income.

Sec. 6013. Evaluation by pediatrician in child disability determinations.

Sec. 6014. Concurrent SSI and food stamp applications by institutionalized individuals.

Sec. 6015. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of supplemental security income benefits.

Sec. 6016. Certain non-cash contributions received by recipients of SSI benefits excluded from income.

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.

Sec. 6018. Notification of certain individuals eligible to receive retroactive benefits.

PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 6020. Optional monthly reporting and retrospective budgeting.

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.

Sec. 6022. Elimination of term legal guardianship.

Sec. 6023. Reporting of child abuse and neglect.

Sec. 6024. Disclosure of information about AFDC applicants and recipients authorized for purposes directly connected to state foster care and adoption assistance programs.

Sec. 6025. Repatriation.

Sec. 6026. Good cause exception to required cooperation for transitional child care benefits.

Sec. 6027. Technical correction regarding penalty for failure to participate in JOBS program.

Sec. 6028. Technical correction regarding AFDC-UP eligibility requirements.

Sec. 6029. Technical amendments to national commission on children.

Sec. 6030. Family support act demonstration projects.

Sec. 6031. Study of JOBS programs operated by Indian tribes and Alaska Native organizations.

Sec. 6032. Proposed emergency assistance and AFDC special needs regulations.

PART IV—CHILD WELFARE AND FOSTER CARE

Sec. 6040. Clarification of terminology relating to administrative costs.

Sec. 6041. Section 427 triennial reviews.

Sec. 6042. Independent living initiatives.

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Sec. 6051. Repeal of special disability standard for widows and widowers.

Sec. 6052. Dependency requirements applicable to a child adopted by a surviving spouse.

Sec. 6053. Representative payee reforms.

Sec. 6054. Fees for representation of claimants in administrative proceedings.

Sec. 6055. Applicability of administrative judgment related notice requirements.

Sec. 6056. Demonstration projects relating to accounting for telephone service center communications.

Sec. 6057. Telephone access to the Social Security Administration.

Sec. 6058. Amendments relating to social security account statements.

Sec. 6059. Trial work period during rolling five-year period for all disabled beneficiaries.

Sec. 6060. Continuation of benefits on account of participation in a non-State vocational rehabilitation program.

Sec. 6061. Limitation on new entitlement to special age-72 payments.

Sec. 6062. Elimination of advanced crediting to the trust funds of Social Security payroll taxes and revenues from taxation of Social Security benefits.

Sec. 6063. Elimination of eligibility for retroactive benefits for certain individuals eligible for reduced benefits.

Sec. 6064. Consolidation of old methods of computing primary insurance amounts.

Sec. 6065. Suspension of dependent's benefits when the worker is in an extended period of eligibility.

Subtitle B—Medicare

PART I—PROVISIONS RELATING ONLY TO PART A

Sec. 6101. Reductions in payments of capital-related costs of inpatient hospital services.

Sec. 6102. Prospective payment hospitals.

Sec. 6103. Reduction in indirect medical education payments.

Sec. 6104. PPS exempt hospitals.

Sec. 6105. Expansion of hospice benefit.

Sec. 6106. Miscellaneous and technical amendments relating to part A.

PART II—PROVISIONS RELATING ONLY TO PART B

SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES

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Sec. 6112. Radiology services.

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Sec. 6114. Pathology services.

Sec. 6115. Update for physicians' services.

Sec. 6116. New physicians.

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Sec. 6121. Technical corrections relating to physicians' payment.
Sec. 6122. Billing for services of substitute physician.
Sec. 6123. Study of prepayment medical review screens.
Sec. 6124. Utilization screens for physicians visits in rehabilitation hospitals.
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PART VI—Nursing Home Reform
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PART VII—MISCELLANEOUS AND TECHNICAL PROVISIONS
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Sec. 6241. Mental health facility certification demonstration project.
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Sec. 6261. Medicare-demonstration project.
Sec. 6271. Medicare coverage of alcoholism and drug dependence treatment services.
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Sec. 6291. Medicare provisions relating to health maintenance organizations.
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Sec. 6321. Extension of medicaid coverage for infants.
Sec. 6331. Customs user fees.

SUBTITLE D—Trade Provisions

Part I—Customs User Fees
Sec. 6301. Customs user fees.

Part II—Technical Corrections
Sec. 6311. Technical amendments to certain customs laws.

Title VI—Non-Revenue Provisions of the Committee on Finance

Subtitle A—Income Security

Part I—Child Support Enforcement
1. Extension of IRS Intercept for Non-APDC Families (Section 6001)

Present law
States may collect child support arrearages of at least $500 owed to non-APDC families through the Federal income tax refund offset mechanism. This provision expires at the end of 1999. A similar mechanism is authorized permanently for APDC families, but the limit on arrearages is set at $150 by regulations. The arrearages must be owed to a "minor child." Spousal support is excluded from the definition of support that can be collected through this offset.

Proposed change
The provision permanently extends the present law provision that allows States to ask the IRS to collect child support arrearages of at least $500 owed to non-APDC families through the Federal income tax refund offset mechanism. This provision expires at the end of 1999. A similar mechanism is authorized permanently for APDC families, but the limit on arrearages is set at $150 by regulations. The arrearages must be owed to a "minor child." Spousal support is excluded from the definition of support that can be collected through this offset.


2. Extension of Interstate Child Support Commission (Section 6002)

Present law

Proposed change
The provision would extend the life of the Commission to July 1, 1992 and would require it to submit its report no later than May 1, 1992. Also, the provision would authorize the Commission to hire its own staff.

The provision would take effect on the date of enactment.

Budget Impact (In millions): 1991, $0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

Part II—Supplemental Security Income

1. Work Incentives
(a) Eliminate the Age Limit on Section 1619 Eligibility (Section 6010)

Present law
To be eligible for the medicaid-only benefit under the section 1619 work incentive provisions an individual must be under 65 years old.

Proposed change
The provision would eliminate this age limit and would be in effect on the eighteenth month after the date of enactment.

Budget Impact (In millions): 1991, $1; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

(b) Treatment of Impairment-Related Work Expenses (Section 6011)

Present law
Impairment-related work expenses (IRWE) are excluded from a disabled individual's earnings for determinations of: (1) whether earnings constitute "substantial gainful activity"; (2) the benefit amount of an eligible disabled individual; and (3) continuing eligibility on the basis of income.

Proposed change
The proposal would exclude impairment-related work expenses from income in determining initial eligibility and reeligibility for SSI benefits, and in determining state supplementary payments.

TITLE III—Social Security

1. Extension of IRS Intercept for Non-APDC Families (Section 6001)

Present law
Under present law, royalties received are counted as earned income under the SSI program unless they are from self-employment in a royalty-related trade or business. Honorary are also considered earned income. Under this result, in a dollar-for-dollar loss of SSI benefits.
Proposed change

Any royalty which is earned in connection with the publication of an individual's work, or any honorarium which is received for services, shall be treated as earned income for purposes of SSI eligibility and benefit determination. This would mean that income from these sources would be disregarded to the same extent that income from other types of earnings is disregarded (i.e., the first $65 of monthly earnings plus 50 percent of additional earnings).

The effective date for the provision would be the eighteenth month beginning after the date of enactment.


2. Evaluation of Child's Disability By Pediatricians (Section 6013)

Present law

Present law does not require that a pediatrician or other qualified specialist be involved in the evaluation of a child's disability case.

Proposed change

The provision would require the Secretary of Health and Human Services to make reasonable efforts to ensure that a qualified pediatrician or other specialist in a field of medicine in which the disability exists evaluate the child's disability for purposes of determining eligibility for SSI.

The provision would take effect in the month beginning 8 months after the date of enactment.


3. Concurrent Applications for SSI and Food Stamps Programs (Section 6014)

Present law

Public Law 99-570, the Anti-Drug Abuse Act of 1986, amended the Social Security Act to require the Secretaries of HHS and Agriculture to develop a procedure to allow institutionalized individuals who are about to be released to make a single application for both SSI and food stamp benefits.

Proposed change

The provision would permit the Secretary of HHS to: (1) use a single application form for the food stamp and SSI programs; or (2) take simultaneous actions for the SSI and food stamp programs.

The provision would take effect on the date of enactment.


4. Reimbursement for Vocational Rehabilitation Services (Section 6015)

Present law

The Secretary of HHS is required to refer blind and disabled individuals who are receiving SSI benefits to State vocational rehabilitation agencies and is authorized to reimburse the agencies for the reasonable and necessary costs of the vocational rehabilitation services that are provided to recipients under certain specified Federal programs. Reimbursement is not allowable with respect to services provided to individuals who are not receiving cash benefits but who are eligible for the programs for which they are in "special status" under 181(k), are in suspended benefit status, or are receiving Federal SSI benefits but who are in "special status" under section 181(k), are in suspended benefit status, or are receiving Federally-administered State supplementary payments.

The provision would apply to claims for reimbursement pending on or after the date of enactment.

The provision would take effect on the date of enactment.


5. Disregard of Trust Contributions (Sections 6016-6018)

Present law

Proposed change

The term "trust" is not defined in either SSI law or regulations. SSI policy, as expressed in the program's operating manual, is to treat a trust as a resource when an individual owns the assets in the trust and is acting on his own behalf or through an agent (such as a representative payee for SSI benefits), has the legal right to use them for his own food, clothing, or shelter. If, however, the individual does not have the legal authority to access trust assets for his own food, clothing, or shelter (e.g., there is an immediate beneficiary), the trust is not considered a resource.

Cash payments made to an individual, including those from a trust (regardless of whether the resources are considered income in the month received), are not considered income in the month received. Noncash payments (i.e., actual food, clothing, or shelter) are also considered income. No portion of SSI benefits received under which noncash payments are presumed to have a maximum value of one-third of the Federal SSI monthly benefit amount, plus a $20 monthly exclusion. If a person can show that any in-kind support and maintenance provided is less than the presumed value, the lesser is the basis for the disregarding of the trust payment.

Proposed change

The SSI statute would be amended to specify that a trust established for an SSI recipient to which the recipient does not have legal access would not be counted as a resource, and (2) cash payments to a recipient would not be counted as income. In addition, the Secretary of HHS would be authorized to disregard resources subject to the reporting requirement, if any, of families, if any, monthly reports will be required. If the State exercises the option, it may be able to place the payment in a trust for the benefit of the child. This information need not be provided in the form of a separate notice, but may be included in the notice of award of the retroactive payment.


Part III—Aid to Families with Dependent Children

1. State Option to Require Monthly Reporting and Retrospective Budgeting (Section 6020)

Present law

Under section 402A(k)(14) of the Social Security Act, States must require families with earned income or a recent work history to provide a monthly report on: (1) income and resources for the prior month; and (2) estimates of the income and resources anticipated in the current or future months. With respect to AFDC, the Secretary, a State may select categories of families to report at less frequent intervals, if monthly reporting is not cost effective. AFDC income and resources are determined monthly. Generally, a family's eligibility for and amount of aid for a month are based on the family's income, composition and resources in that month. However, under section 402A(k)(13) of the Social Security Act, for families who are subject to monthly reporting requirements, States are required to calculate benefits based upon retrospective budgeting. Under retrospective budgeting, although eligibility is based on the family's circumstances at the beginning of the month, payment amounts are based on the family's income in the first or second month preceding the current month.

Proposed change

The provision would give States the option of specifying from which categories of recipients, if any, monthly reports will be required. If the State exercises the option, it must describe in its State plan the categories subject to the reporting requirement.

Further, the State may choose to apply the budgeting technique to any one or more of the categories to whom the reporting requirement applies.

The provision would take effect with respect to reports pertaining to, or aid payable for, months after September 1990.


2. Treatment of Foster Care Maintenance Payments and Adoption Assistance (Section 6021)

Present law

Prior to October 1, 1984, a child receiving State or Federal foster care maintenance payments or adoption assistance did not have to be included in the AFDC family unit, and the income and resources of the child did not count as the income and resources of the AFDC family. A family unit rule implemented as part of the Deficit Reduction Act of 1984, however, required that parent or sibling of a dependent child be included in the AFDC unit. This rule applied to any sibling receiving foster care or adoption assistance.

The Tax Reform Act of 1986 amended AFDC law retroactively to October 1, 1984 to provide that, in determining a family's eligibility for AFDC benefits, or any receiving foster care maintenance payments under title IV-E, the child must be regarded as a member of the family, and the income and resources of the child, as well as the income and resources of the family (Section 478 of the Social Security Act).

Proposed change

A child receiving State and/or local foster care maintenance payments would not be regarded as a member of an AFDC family for purposes of determining a family's eligibility for or amounts of AFDC benefits, and the child's income and resources would not be regarded as the income and resources of the family. Further, a child receiving adoption assistance payments under title IV-E, or State and/or local adoption assistance payments would not be regarded as a member of an AFDC family for the purposes of determining a family's eligibility for or amounts of AFDC benefits, and the child's income and resources would not be regarded as the income and resources of the family. This would result in lower benefits for the family.

The provision would also move the section 407 provisions, as amended, from title IV-E of the Social Security Act to title IV-A.

The provision would take effect in the month beginning six months after the date of enactment.

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3. Eliminating the Use of the Term “Legal Guardian” (Section 6022)

Section 402(a)(39) of the Social Security Act requires that, in determining AFDC benefits for a dependent child whose parent or legal guardian is under the age of 18, the State agency must include the income of the minor parent's own parents or legal guardian who are living in the same home.

Proposed change

The provision would delete all references to legal guardians.

Legal guardianship is not relevant to eligibility determination or the deeming of income in three-generation families. The term is unsuitable because the child is subject to abuse, neglect or exploitation.

Proposed change

The provision would amend the AFDC, foster care and adoption assistance State plan requirements to require that each State agency report, to an appropriate agency or official, known or suspected instances of child abuse and neglect of a child receiving program aid. This would include instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or mistreatment under circumstances which indicate that the child's health or welfare is threatened. The State agency would also be required to provide such information with respect to the situation as it may have.

The provision would take effect on the date of enactment.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

5. Permissible Uses of AFDC Information (Section 6024)

Proposed change

The provision would apply to AFDC, adoption assistance and other Social Security Act programs.

Proposed change

The provision would add an explicit reference to title IV-E Family Support and adoption assistance programs, to the list of programs for which information about AFDC applicants and recipients may be made available.

Proposed change

The provision would take effect on the date of enactment.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

6. Repatriation (Section 6025)

Present law

Section 1113 of the Social Security Act authorizes the Secretary to provide temporary assistance to U.S. citizens and their dependents if they: (1) have returned or been returned from a foreign country to the U.S. because of severe sickness, illness, war, threat of war, invasion or similar crisis; and (2) are without resources.

Prior to June, 1980, the maximum amount of temporary assistance that could be provided in one fiscal year equalled $300,000. In June, 1980, the Secretary requested that the $300,000 limit be increased to $1 million, to accommodate the repatriation of several hundred Americans from Liberia. This increase was enacted in P.L. 101-382. According to the Secretary, the subsequent Iraqi invasion of Kuwait has placed new and unpredictable demands on the repatriation program. The Secretary expects the resulting program costs to exceed $1 million.

Proposed change

The provision temporarily renews the $1 million spending cap for the repatriation program for fiscal year 1990 and 1991, and permits HHS to receive gifts from those wishing to contribute assistance to repatriated Americans through the repatriation program.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

7. Technical Amendment to Allow Good Cause Exception (Section 6026)

Present law

Under current law, as a condition of eligibility for AFDC, a parent must cooperate with the child support enforcement (IV-D) agency in establishing paternity, and in obtaining and enforcing a support order unless there is "good cause" for refusal. "Good cause" factors include reasonable belief that cooperation could result in physical or emotional harm to the child or caretaker relative, and other factors established by regulation. The Family Support Act of 1988 established a similar requirement for cooperation with the IV-D agency in order for a family to be eligible to receive child care transition benefits. However, the "good cause" exception was omitted.

Proposed change

The good cause exception from cooperation with the IV-D agency would be made applicable to transitional child care benefits to make it consistent with the exception that applies to AFDC cash benefits.

The provision would take effect on the date of enactment.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

8. JOBS Technical Correction Regarding Penalty for Failure to Participate (Section 6027)

Present law

The Family Support Act of 1988 added a penalty provision to the AFDC statute (Section 402a(18)(G)) that provides that if the principal earner (in the case of a family eligible for AFDC or criminal or civil proceedings conducted in connection with the administration of any other Federal or Federally-assisted program providing assistance or services to individuals on the basis of need; and (4) any audit of such programs.

Proposed change

The provision would add an explicit reference to title IV-E Family Support and adoption assistance programs, to the list of programs for which information about AFDC applicants and recipients may be made available.

Proposed change

The provision would take effect on the date of enactment.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

9. Technical Correction Regarding AFDC-UP Eligibility Requirements (Section 6028)

Present law

Prior to October 1, 1990, participation in the Work Incentive (WIN) and Community Work Experience (CWEP) programs counted in the definition of "quarter of work" for purposes of qualifying a family for AFDC-UP. Title IV of the Family Support Act of 1988 amended the definition of "quarter of work" to include participation in JOBS, but deleted references to WIN and CWEP. The result is that beginning October 1, 1990, prior participation in WIN or CWEP will not count toward the "quarter of work" requirement for purposes of establishing eligibility for AFDC-UP.

Proposed change

Section 407(d) would be amended to allow participation in WIN and CWEP prior to October 1, 1990 to count toward the "quarter of work" requirement for purposes of AFDC-UP eligibility.

The provision would take effect on the date of enactment.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

10. Children's Commission Reporting Date (Section 6029)

Present law

The National Commission on Children is directed to study and recommend to the President and the Congress ways to improve the well-being of children. P.L. 101-239 included an amendment to the original legislation that was intended to establish a final reporting date for the Commission of March 31, 1991. The Amendment as enacted, however, includes a technical error.

Proposed change

The statute would be corrected to clarify that the final report date for the Commission is March 31, 1991.

The provision would take effect on the date of enactment.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.
11. Community Development Demonstration Technical Correction (Section 6030)

Present law

The Family Support Act of 1988 authorized the Secretary of HHS to enter into agreements with up to 10 nonprofit organizations (including community development corporations) for the purpose of conducting demonstrations of strategies to create employment opportunities for certain low income individuals. The authorization for the demonstrations is $6.5 million for each of fiscal years 1980, 1991, 1992, 1993, 1994, 1995, 6-year.

Proposed change

The statutory language may be clarified to specify that the Secretary could enter into agreements with up to 10 nonprofit organizations each year. There would be no increase in the authorization.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

12. GAO Study of JOBS Funding for Indian Tribes (Section 6031)

Present law

Under the Family Support Act of 1988, Indian tribes or Alaska Native organizations may apply to operate JOBS programs. The amount of funds is based on the ratio of adult recipients in the tribe relative to the adult recipients in the State. (The State's cap is appropriately reduced.) Requirements of the JOBS program may be waived if the Secretary determines that they are inappropriate.

Proposed change

The bill would direct the General Accounting Office to conduct a study of how the funds are used by Indian tribes and Alaska Native organizations and to make recommendations as to any legislative or administrative changes to keep the monies from being used. The GAO study would be conducted within six months after enactment of the Family Support Act.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

13. Mortariorum on Final Rulemaking for Emergency Assistance (Section 6032)

Present law

The Omnibus Budget Reconciliation Act of 1989 (P.L. 101-508) included a provision stating that any final regulation which would change any policy in effect immediately before the date of the enactment of that Act with respect to the use of emergency assistance or special needs funds under the AFDC program could not take effect before October 1, 1990.

Proposed change

The date on which final regulations would be extended to October 1, 1991.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

Part IV—Child Welfare, Foster Care, and Independent Living

1. Accounting for Administrative Costs (Section 6040)

Present law

States are entitled to Federal reimbursement at a rate of 50 percent for expenditures made for the proper and efficient administration of the State title IV-E plan. Under current law and regulation, Federal matching requirement includes administrative costs for activities that involve placement of the child in foster care, as well as what are ordinarily considered administrative functions. The “overhead” includes activities related to children protected by the Child Welfare and Adoption Assistance Amendments of 1980, such as referral to services at time of intake; preparation for, and participation in, judicial determinations; periodic reviews of the child's case plan; and case management and supervision.

Proposed change

Title IV-E would be amended to specifically add “child placement services” as activities for which States are entitled to receive Federal reimbursement. This is not intended in any way to alter the types of activities for which States are currently allowed to claim Federal reimbursement as an administrative cost under Title IV-E. In order to provide the States with more specific and uniform definitions for these activities, the Inspector General has estimated that only about 50 percent of foster care administrative overhead costs are tradition specifically considered administrative overhead expenses.

Proposed change

Title IV-E would be amended to specifically add “child placement services” as activities for which States are entitled to receive Federal reimbursement. This is not intended in any way to alter the types of activities for which States are currently allowed to claim Federal reimbursement as an administrative cost under Title IV-E. In order to provide the States with more specific and uniform definitions for these activities, the Inspector General has estimated that only about 50 percent of foster care administrative overhead costs are traditionally considered administrative overhead expenses.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

2. Section 427 Triennial Reviews (Section 6042)

Present law

Public Law 94-273, the Adoption Assistance and Child Welfare Amendments of 1980, was designed to provide financial incentives to the States to implement and operate a set of services and procedures to prevent the unnecessary removal of children from their home, prevent extended stays in foster care, and that efforts be made to reunify children with their families or place them for adoption. The services and procedures are outlined in section 427 of the Social Security Act.

According to the HHS Section 427 Review Handbook, to verify compliance with section 427 requirements, HHS conducts a two-stage review. The first stage is an administrative review which determines whether States have developed policy and procedures to implement the section 427 requirements for all children in foster care under the responsibility of the State. The second stage of the review is the record survey which confirms that the policies are being implemented throughout the State.

An initial review was conducted for the fiscal year in which the State first certifies its eligibility. If a State meets the initial review, a subsequent review is conducted for the following fiscal year. States that meet the requirements of this subsequent review will be reviewed for the third fiscal year following the fiscal year for which the subsequent review took place. These third year reviews are conducted for the third year thereafter. This is known as the triennial review. The case record survey must confirm that the section 417 foster care programs were provided for all children in the initial review, 80% in the subsequent review, and 90% in the triennial review. If a State does not meet the established standards for the year under review, the review is conducted each succeeding year until eligibility is established.

The Omnibus Budget Reconciliation Act of 1989 included a provision which prohibited the Secretary from, before October 1, 1990, reducing payments to, seeking repayment from, or withholding any payments for any State as a result of a disallowance determination made in connection with a triennial review of State compliance with the section 427 foster care protections for the fiscal year preceding fiscal year 1991.

HHS has convened a department-wide task force to review and revise the current section 427 reviews procedures. Final regulations are expected during calendar year 1991.

Proposed change

The provision would extend the current prohibition on reducing payments to, seeking repayment from, or withholding payments for any State under section 427 as a result of a disallowance determination made in connection with a triennial review of State compliance with section 427 foster care protections for the fiscal year preceding fiscal year 1991.

The provision would take effect on October 1, 1990.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

3. Independent Living at Age 21 at State Option (Section 6042)

Present law

The Independent Living Initiatives Program is a State entitlement program under title IV-E designed to help ease the transition of foster children age 16 and older to independent living. Independent living services may include school and vocational training, living skills training, housing location and career planning assistance, counseling, service coordination, outreach, and the development of plans for independent living as part of the case plan.

Proposed change

The statute would be amended to allow States to include youths who have been "discharged" from the foster care system before the independent living program to age 21.

The provision would take effect on October 1, 1990.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

4. Grants to States for child care (Section 6042)

Present law

Federal matching is available to States on an entitlement basis to provide child care for AFDC parents who are participating in work activities, including child care for a period of 12 months after the family loses eligibility for AFDC as a result of increased hours of, or increased income from employment.

Proposed change

Funding for the existing title IV child care program would be increased to provide $85 million for each of fiscal years 1991-1995 to enable States to provide child care to low income non-AFDC families that the State determines (1) need such care in order to work and (2) would otherwise be at risk.
of becoming dependent upon AFDC. Capped entitlement funds would be allocated on the basis of child population. Rules relating to Pell grant matching standards, reimbursement, and fee schedules would remain the same as in current law. States would be required to report annually to the Secretary on the amount of money carried in each entitlement fund under this entitlement. It is the Committee's intent that States will have maximum flexibility in determining how these funds are used.

In addition, the authorization for grants (enacted in the Family Support Act of 1988) to enable States to improve their child care infrastructure is continued and extended. The rules, procedures, and to monitor child care provided to children receiving AFDC, would be extended to provide $35 million for each of fiscal years 1992, 1993, and 1994 for these purposes.


Part V—Old-age, Survivors, and Disability Insurance

1. Make Permanent the Continuation of Disability Benefits During Appeal (Section 6050)

Present law

A disability insurance (DI) beneficiary who is determined to be no longer disabled may appeal the determination sequentially through three appellate levels within the Social Security Administration (SSA): a reconsideration, usually conducted by the SSA Disability Determination Service that rendered the initial unfavorable determination; an administrative law judge (ALJ); and a review by a member of SSA's Appeals Council.

The beneficiary has the option of having his or her case heard at the hearing stage on a temporary basis. If the earlier unfavorable determinations are upheld by the ALJ, the benefits are subject to recovery by the agency. (If an appeal is made in good faith, benefit recovery may be waived.) Medical eligibility is also continued, but medicaid eligibility would revert to receipt of medicaid.

The Disability Reform Amendments of 1994 (P.L. 98-460) provided benefits through the hearing stage on a temporary basis. The 1995 Amendments (enacted most recently by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239)) that Act extend the provisions of temporary appeal to the hearing stage. The provision would be effective for the period from October 1, 1990, to December 31, 1990. Under this latest extension, payments may continue through June 30, 1991 (i.e., through the July 1991 check).

Proposed change

The provision would make the temporary provision permanent. Thus, on a permanent basis, beneficiaries would have the option of having their cases heard at the hearing stage on a temporary basis. As under current law, DI benefits would be subject to recovery if the ALJ determines that the earlier unfavorable decision, while medicaid benefits would not be subject to subsequent recovery.

Medicaid will be effective upon enactment.


2. Improvement of the Definition of Disability Applied to Disabled Widow(er) (Section 6051)

Present law

Widower or surviving divorced spouse of a worker who is aged 62 (or surviving divorced spouse with no child in care and who is under age 60 but is at least age 50 may be eligible for widower('er's benefits as a disabled widow(er).

Generally, disability is defined as an inability to engage in any substantial gainful activity (defined in regulations as earnings of $500 per month, effective January 1, 1960) by reason of a physical or mental impairment. The impairment must be medically determinable and expected to last for at least 12 months or to result in death. A person is not disabled if he or she is entitled to retirement benefits. In addition, a disability may be determined to be disableness if, due to this impairment, he or she is unable to engage in any kind of substantial gainful work, considering the individual's education, training, and work experience, which exists in the national economy.

The definition of disability which is applied to widow(er)'s, however, is stricter than that which is applied to workers and to Supplemental Security Income (SSI) disability applicants. The ALJ, the benefits are subject to recovery where the ALJ upheld the hearing stage on a temporary basis. If the earlier unfavorable determination is not upheld by the ALJ, the benefits are subject to recovery by the agency. (If an appeal is made in good faith, recovery may be waived.)

The stricter test of disability for disabled widow(er)'s was established in the Social Security Amendments of 1967, which created this new entitlement to benefits. In explaining the reasons for the more restrictive rules, Chairman Wilbur Mills stated on the House floor, "We wrote this provision of the bill very narrowly, because it represents a unique area where cost potentials are an important consideration."

Proposed change

The provision of benefits to widow(ere)'s on the basis of disability has not been a significant portion of the trust fund. Therefore, the provision would repeal the stricter definition of disability that must be met by workers and apply the definition of disability used for SSI. Widow(e)'s who had been receiving SSI disability benefits or social security disability benefits on their own work records prior to becoming entitled for disabled widow(er)'s benefits would be able to count the months beginning with the month they first received these benefits towards the five-month waiting period for disability benefits. First, the 24-month waiting period for Medicare benefits. The stricter definition of disability for disabled widow(er)'s was established in the Social Security Amendments of 1967, which created this new entitlement to benefits. The provision would not apply to a disabled widow(er)'s benefits if he or she is caring for the worker's child who is under age 16. A widow(er)'s or surviving divorced spouse with no child in care and who is under age 60 but is at least age 50 may be eligible for widow(ere)'s benefits as a disabled widow(ere). Five-year, 235.


2. Payment of Benefits to a Child Adopted by a Surviving Spouse (Section 6052)

Present law

A child adopted by a surviving spouse of a deceased worker would be entitled to survivors benefits as a surviving divorced spouse if the worker died after the child was adopted. The longer the child has been a dependent of the worker, the more likely the child will be entitled to survivors benefits if the worker dies after the adoption. A child adopted after age 18 would not be eligible for survivors benefits if he or she is adopted after age 18. In addition, the Social Security Act may not be certified as a representative payee. An individual convicted of a felony under section 208 or section 1632 of the Social Security Act may not be certified as a representative payee.

Proposed change


3. Payment of Benefits to a Child Adopted by a Surviving Spouse (Section 6052)

Present law

A child adopted by the surviving spouse of a deceased worker would be entitled to the entitled to survivors benefits as a surviving divorced spouse if the worker died after the adoption. The longer the child has been a dependent of the worker, the more likely the child will be entitled to survivors benefits if the worker dies after the adoption. The provisions relating to the timing of the adoption would not be changed.

The provision would not apply if the representative payee applicant had ever been convicted of a social security felony under section 208 or section 1632 of the Social Security Act. Any individual convicted of a felony under section 208 or section 1632 of the Social Security Act may not be certified as a representative payee.

Proposed change

A child adopted by the surviving spouse of a deceased worker would be entitled to survivors benefits if the child either lived with the worker or received one-half support from the worker for at least 12 months prior to the worker's death. The requirements relating to the timing of the adoption would not be changed.

The provision would not apply if the representative payee applicant had ever been convicted of a social security felony under section 208 or section 1632 of the Social Security Act. Any individual convicted of a felony under section 208 or section 1632 of the Social Security Act may not be certified as a representative payee.
under section 208 or section 1632, or dismissed as a representative payee for misuse of the benefit payment, would not be permitted to serve as a representative payee on or after January 1, 1991. In such cases, the Secretary would be permitted to issue regulations under which an exempted payee, after a 1-month period of suspension, would be granted on a case-by-case basis, if the exemption would be in the best interests of the beneficiary. The Committee intends that the exemption would be granted only in rare instances.

The Secretary would be required to: (1) terminate a representative payee on or after January 1, 1991, if, in the Secretary’s judgment, the representative payee has ceased to be able to serve in the role of a representative payee; (2) maintain a list of payees terminated for misuse on or after January 1, 1991, and (3) provide such a list to local field offices. If the computer program necessary to maintain such a list is not in place, the Secretary would be required to maintain a list of all representative payees.

b. Withholding of benefits

In cases where the Secretary is unable to find a representative payee, and the Secretary determines that it would cause the Secretary to estimate that a Social Security or SSI benefit payment would be likely to cause substantial harm to make direct payment, the Secretary would be permitted to withhold payment for up to one month. Not later than the expiration of the one-month period, the Secretary would be required to begin direct payment to the beneficiary unless the Secretary determines that the withholding is no longer necessary.

The Secretary would be required to define as high-risk representative payees: (1) representatives who participate in a program that is not required to serve as a representative payee; (2) representatives who participate in a program that requires the representative payee to be bonded or licensed by their states; (3) representatives who may serve as a representative payee for any individual who is legally incompetent or is a minor under age 18; and (4) representatives who are bonded or licensed by their states.

The purposes of the provision is to identify groups or individuals serving as representative payees who may be likely to misuse or improperly use benefit payments. At a minimum, the Committee expects SSA to identify and report to the Committee, homes, and individuals who are not related to the beneficiary. The proposal does not apply to Federal or State governmental in-stitutions, or Federal or State governmental agencies.

c. Limitations on the appointment of representative payees

An individual who is a creditor providing goods and services to an OASDI or SSI beneficiary for consideration would be precluded from serving as the beneficiary's representative payee if certain exceptions.

The exceptions would include: (1) a relative who resides in the same household as the beneficiary; (2) a legal guardian or representative payee who is certified as a representative payee under State or local law; (3) an individual who is a creditor of the beneficiary, has a right to review the evidence upon which the determination was based, and submits additional evidence to support the appeal.

d. Appeal rights and notices

The provision would require that the notice be provided in advance of any benefits payment not to exceed the lesser of $10,000.

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The exceptions would include: (1) a relative who resides in the same household as the beneficiary; (2) a legal guardian or representative payee who is certified as a representative payee under State or local law; (3) an individual who is a creditor of the beneficiary, has a right to review the evidence upon which the determination was based, and submits additional evidence to support the appeal.

d. Appeal rights and notices

The provision would require that the notice be provided in advance of any benefits payment not to exceed the lesser of $10,000.
with no fewer than two states under which the Secretary would send to such states a list of all attorneys who have signed a fee agreement with SSA and all benefit payments are received by five or more unrelated beneficiaries. The Secretary would be required to send the information to the Attorney General to identify any persons for violations under this section and to the state agencies primarily responsible for regulating care facilities or for providing adult or child protective services in the particular state.

The committee would be required to study the feasibility of determining the type of representative payee, the claimant, or the representative must submit a fee petition. Where the claimant has been convicted of social security or SSI check fraud violations under section 405 of title 18 of the U.S. Code. As part of the study, the Secretary would be required to compile a list of claims representatives under section 405 of title 18 of the U.S. Code who have been convicted of social security or SSI check fraud violations under section 495 of title 18 of the U.S. Code. As part of the study, the Secretary would be required to compile a list of claims representatives under section 405 of title 18 of the U.S. Code who have been convicted of social security or SSI check fraud violations under section 495 of title 18 of the U.S. Code.

The representative, the claimant, or the ALJ who heard the case is required to review the fee petition. If the fee requested is less than $3,000, the ALJ has authority to approve or modify it. If the amount requested exceeds $3,000, it must be reviewed and approved or modified by the regional Chief ALJ. Where the claimant subsequently requests a fee and a favorable determination is made, SSA by statute may withhold up to 25 percent of the claimant's past-due social security benefits and pay the attorney the approved fee. In cases where the claimant is concurrently entitled to both retrospective social security and Supplemental Security Income (SSI) benefits is the Secretary required to review the case where the amount of past-due social security benefits payable is reduced by the amount of SSI benefits paid? If the social security benefits had been paid monthly when due rather than retroactively. In many such cases, this leaves little or no past-due social security benefits on which to pay the attorney the approved fee. Proposed change

The provision would generally replace the fee petition process with a streamlined process in which the Attorney General, or the Attorney General, would be paid the approved fee. In inflation at the Secretary's discretion. If the amount requested exceeds $3,000, a fee was requested for a claim which did not meet the conditions for the streamlined process, it would be reviewed under the regular fee petition process. A representative who is an attorney would be paid the approved fee out of the claimant's past-due social security benefits, the amount payable to the attorney out of the attorney's out of the past-due social security benefits would not exceed 25 percent of these benefits.

The representative, the claimant, or the ALJ who heard the case would have the right to appeal the Secretary's determination. However, if the Secretary's determination was unfavorable and the agreed-upon fee did not exceed a limit of 25 percent of the claimant's past-due benefits up to $4,000. The formula for computing the fee is radically different for inflation at the Secretary's discretion. If a fee was requested for a claim which did not meet the conditions for the streamlined process, it would be reviewed under the regular fee petition process. A representative who is an attorney would be paid the approved fee out of the claimant's past-due social security benefits, the amount payable to the attorney out of the attorney's out of the past-due social security benefits would not exceed 25 percent of these benefits.

The representative, the claimant, or the ALJ who heard the case would have the right to appeal the Secretary's determination. However, if the Secretary's determination was unfavorable and the agreed-upon fee did not exceed a limit of 25 percent of the claimant's past-due benefits up to $4,000. The formula for computing the fee is radically different for inflation at the Secretary's discretion. If a fee was requested for a claim which did not meet the conditions for the streamlined process, it would be reviewed under the regular fee petition process. A representative who is an attorney would be paid the approved fee out of the claimant's past-due social security benefits, the amount payable to the attorney out of the attorney's out of the past-due social security benefits would not exceed 25 percent of these benefits.

The representative, the claimant, or the ALJ who heard the case would have the right to appeal the Secretary's determination. However, if the Secretary's determination was unfavorable and the agreed-upon fee did not exceed a limit of 25 percent of the claimant's past-due benefits up to $4,000. The formula for computing the fee is radically different for inflation at the Secretary's discretion. If a fee was requested for a claim which did not meet the conditions for the streamlined process, it would be reviewed under the regular fee petition process. A representative who is an attorney would be paid the approved fee out of the claimant's past-due social security benefits, the amount payable to the attorney out of the attorney's out of the past-due social security benefits would not exceed 25 percent of these benefits.

The representative, the claimant, or the ALJ who heard the case would have the right to appeal the Secretary's determination. However, if the Secretary's determination was unfavorable and the agreed-upon fee did not exceed a limit of 25 percent of the claimant's past-due benefits up to $4,000. The formula for computing the fee is radically different for inflation at the Secretary's discretion. If a fee was requested for a claim which did not meet the conditions for the streamlined process, it would be reviewed under the regular fee petition process. A representative who is an attorney would be paid the approved fee out of the claimant's past-due social security benefits, the amount payable to the attorney out of the attorney's out of the past-due social security benefits would not exceed 25 percent of these benefits.
benefits but does not mention the second problem described above, i.e., an outright denial of eligibility without further consideration of the evidence.

Proposed change

The provision would establish an additional set of protections for claimants and beneficiaries.

a. SSA Telephone Accountability Demonstration Project: The Secretary would be required to conduct demonstration projects testing a set of accountability procedures in at least three teleservice centers. These procedures are intended to assure that individuals who conduct business with the agency via telephone concerning title II, title XVI, or title XVIII benefits are not disadvantaged, either as a result of receiving incorrect information or from their inability to document their own actions and requests. Under these procedures, callers who provide adequate identifying information would be given a written confirmation of the date and nature of their telephone communication

The provision would require the Secretary to reestablish telephone access to local SSA offices at the level generally available on September 30, 1989 (the date just prior to the disconnection of access to most local offices). The provision would also be required to list these local office numbers in telephone directories (as well as in the directories used by public telephone operators in providing callers with information). The required telephone listings would include an instruction to the public to call SSA's 800 number for general information.

b. Appeal Versus Reapplication: When a worker was previously entitled to disability benefits within five years before the month he again becomes disabled) is not entitled to a new, innovative technologies to enhance access to SSA's local telephone service by April 1, 1991.

The provision would be effective January 1, 1992.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

8. Improvement in Earnings and Benefit Statements (Section 6058)

The Omnibus Budget Reconciliation Act of 1989 required the Social Security Administration to establish a program under which covered workers receive periodic statements of their earnings and the potential benefits payable on the basis of those earnings. Under that legislation, these statements were provided on a biennial basis starting October 1, 1990.

Proposed change

The requirement that earnings and benefit statements be provided biennially starting in 1990 would be modified to require annual statements beginning at that time.

Proposed change

In addition, the provision would be effective upon enactment.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

9. Federal and State Vocational Rehabilitation Programs—SENATE

Candidates for Social Security or SSI benefits can demonstrate that he or she failed to appeal an adverse decision because of a misunderstanding, incorrect, incomplete, or misleading information provided by SSA, his or her failure to appeal could not be appealed as the basis for reconsideration of any application for any payment under title II or title XVI. This protection would apply to both initial denials and reconsiderations by the Secretary. The provision would be required to include in all notices of denial a clear, simple description of the effect on possible entitlement to benefits of reapplying.

The provision would apply to adverse determinations made on or after January 1, 1991.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

10. Continuation of Benefits on Account of Participation in a Non-State Vocational Rehabilitation Program (Section 6060)

Social security disability insurance (DI) benefits or Supplemental Security Income (SSI) benefits based on disability that are paid to a beneficiary who has medically recovered may not be terminated or suspended because the disability has ceased if the individual is participating in an approved State vocational rehabilitation program, and (2) the Commissioner of Social Security determines that the continuation of the program, or its continuation for an additional period of time, removes the likelihood that the individual may be permanently removed from the benefit rolls. The 1988 Disability Advisory Council recommended that the same benefit continuation provisions be extended to beneficiaries who medically recover while participating in other approved vocational rehabilitation programs.

Proposed change

The provision would extend to those DI or SSI beneficiaries who medically recover while participating in an approved State vocational rehabilitation program the same benefit continuation rights as those who medically recover while participating in a State vocational rehabilitation program.

The provision would be effective with respect to benefits payable for months after
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the eleventh month following the month of enactment and would apply with respect to individuals whose disability ceased after such eleventh month.

Budget Impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

11. Limitation on New Entitlement to Special Age-72 Payments (Section 6061)

Present law

Social security age-72 benefits (so-called "Prouty benefits") after Senator Winston Prouty of Vermont) were enacted in 1966 to provide some payment to individuals who, when the social security program began or when coverage ceased due to their jobs being too old to earn enough quarters of coverage to become fully insured for regular retirement benefits.

When the benefits were created in 1966, it was expected that new entitlement under this provision would not be possible for anyone reaching age 72 after 1971. This is because individuals age 72 after 1971 who met the quarters-of-coverage requirements for Prouty benefits would also have enough quarters of work to be fully insured, and because the amount of the Prouty benefits was less than the amount of the minimum benefit payable at age 62. However, due to subsequent changes in the law, it is now theoretically possible for certain people who will reach age 72 after 1990 and who receive the frozen minimum benefit (due to a change in the law) to become newly eligible for Prouty benefits in 1990, the Prouty benefit amount.

Proposed change

The provision would preclude the untaxed payment of Prouty benefits (due to the interaction of the Prouty benefit provision with subsequent changes in the law affecting the minimum benefit) by providing that Prouty benefits would not be payable to any individual reaching age 72 after 1971 who files an application for Prouty benefits after December 31, 1990. This change would affect any current beneficiaries.

The provision would be effective upon enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

12. Elimination of Advance Tax Transfer (Section 6112)

Present law

Because of the threatened insolvency of the social security trust funds, the Social Security Amendments of 1983 changed the rules for crediting the trust funds with social security tax receipts. Prior to 1983, the trust funds were credited with the receipts as they were collected throughout each month. Under the 1983 amendments, the trust funds are credited at the start of each month with the full amount of social security income such as interest, transfers of real property, and other elements of trust fund income and outgo of the social security tax receipts. Such computations must be done manually.

The provision would apply only to new claims for benefits, virtually all of which are for survivor's benefits, and to recomputations for retired workers now on the rolls who have recent earnings. However, it is unlikely that there are many individuals who are over 65 and are working at a wage high enough to result in an increase in benefits after a recomputation using a compensation method to be eliminated under this provision. No benefits paid to individuals already on the rolls would be reduced.

The provision would be effective 18 months after the month of enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

13. Repeal of Retroactive Benefits for Certain Categories of Individuals (Section 6063)

Present law

Social security retirement and survivor benefits can be paid for up to six months prior to the month of application if the applicant was otherwise eligible for benefits during that period.

In general, retroactive benefits cannot be paid if doing so would cause a reduction in future monthly benefits (i.e., it would be effective income that they would be filing for "early retirement," in which case an actuarial reduction in benefits is required). For example, if a retroactive application for retirement benefits were to cause a retiree's initial entitlement month to fall before the individual reached age 65, no retroactive payment could be made for the months prior to age 65. However, there are four exceptions to this rule which permit payment of retroactive benefits even though it causes an actuarial reduction in benefits.

Proposed change

The provision would eliminate eligibility for retroactive benefits for two categories of receiving benefits for actuarially reduced benefits: (1) individuals who have dependents who would be entitled to unreduced benefits during the retroactive period (i.e., a retiree under age 65 who has a spouse age 65 or over); and (2) individuals who have pre-retirement earnings over the amount allowed under the social security retirement and survivor benefits act at age 65 who are entitled to receive benefits for months prior to the month of application, thus permitting an early retiree to receive benefits for months prior to actual retirement.

The provision would be effective with respect to applications for benefits filed on or after January 1, 1991.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

14. Consolidation of Old Computation Methods (Section 6064)

Present law

A number of old, rarely-used benefit computation methods remain in the Social Security Act. They apply only to claims in which the worker filed for benefits or died before 1987 and are used only if they would provide a higher benefit than newer computation methods.

Such computations must be done manually. The Social Security Administration estimates that it would cost more to develop computer programs for these computation methods than would be paid in cumulative added benefits when the benefit payable under these computation methods are compared to newer computation methods.

Proposed change

The provision would eliminate all old computation methods which require manual intervention. It would substitute newer computation methods which may be fully processed by computer.
EXTEND MEDICARE SECONDARY PAYER REQUIREMENTS

Present Law

Medicare is the secondary payer to other third party insurers under specified circumstances when beneficiaries may be covered by the other insurer. Medicare may be the secondary payer to automobile, medical, no-fault and liability insurance, and to employer health plans. Requirements that employers offer primary coverage to Medicare-eligible enrollees or their dependents, and penalties for failure to comply with these requirements, vary with the basis for the individual's Medicare eligibility (age, disability or end-stage renal disease) as well as with the size of the employer. For beneficiaries eligible for Medicare on the basis that they have end-stage renal disease, however, Medicare is the secondary payer to available employer-based health insurance only for the first 12 months of eligibility. The requirement that Medicare be secondary payer for disabled beneficiaries expires.

The Omnibus Budget Reconciliation Act of 1989 requires the Internal Revenue Service (IRS) and the Social Security Administration (SSA) to provide information to the Health Care Financing Administration (HCFA) to improve identification and collection of Medicare secondary payer cases. SSA provides IRS with the names and Social Security numbers of all Medicare beneficiaries. IRS then provides SSA with a file of the names and Social Security numbers of all Medicare beneficiaries who filed a tax return for the previous calendar year. SSA provides HCFA with a listing of all Medicare beneficiaries and their spouses,
and the name of the beneficiary's or spouse's employer if: 1) the beneficiary and/or spouse filed a W-2, and 2) the beneficiary and/or spouse was employed by a large employer, defined as an employer with 20 or more employees.

HCFA uses the listing provided by SSA to identify more thoroughly secondary payer cases, including Medicare beneficiaries with employer-provided health coverage through the spouse's employment. HHS's contractors use this new information to contact employers in writing to determine whether the employer provided health coverage and the date of such coverage. General restrictions on the disclosure of information under the Internal Revenue Code and the Privacy Act also apply to the information provided by SSA and IRS to HCFA.

Third party payers, such as Medicare carriers and employers, receiving taxpayers information from BBS are subject to restrictions and safeguards on disclosure similar to those restrictions, safeguards and penalties currently provided for in the Internal Revenue Code with respect to other authorized recipients of taxpayer information.

To enable BBS to verify employer-provided health coverage, employers are required to respond to HCFA inquiries within 30 days of receiving the written request. HCFA would pay as secondary payer on all claims for beneficiaries currently covered by an employer health plan. Payments would be recovered from private insurers for claims erroneously paid for beneficiaries if the claim was submitted at a time when the beneficiary was covered by an employer health plan.

The provision expires on September 30, 1991.

Committee provision

Under the Committee bill, two provisions expiring in 1992 would be extended. One would continue requirements for data matching between the IRS and the Social Security Administration to Identify Medicare beneficiaries who may be covered by group health plans. The other would extend the requirement that Medicare be secondary payer for disabled beneficiaries.
Present law

Individuals entitled to benefits under part A of the Medicare program have the option of enrolling in part B of the program as well. Enrollees pay a monthly premium. The part B premium originally was set to ensure that enrollee premiums covered 50 percent of the costs of the part B program; the remainder of the funding came from general revenues.

Subsequent legislation limited the percentage increase in the part B premium for a given year to the percentage increase in Social Security cash benefits in that year. This had the effect of decreasing the share of program costs borne by enrollees.

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Social Security Amendments of 1983 provided for part B premiums in 1984 and 1985 to be set at a level that would cover 25 percent of program costs. If there were no cost of living adjustment (COLA) under the cash benefits program, there would be no increase in the part B premium, and the dollar value of an individual's premium increase could not exceed the dollar increase in his or her cash benefits. Subsequent legislation extended these provisions through 1990.

Committee provision

The Committee bill would require that for calendar years 1993 through 1995, part B premiums would be set to cover 25 percent of part B costs, with protections to ensure that no individual's premium increase could exceed the increase in Social Security cash benefits.
COST SHARING FOR MEDICARE BENEFICIARIES

Present law

The Medicare Catastrophic Coverage Act of 1988 requires State Medicaid plans to pay Medicare cost sharing (including Part B and, where applicable, Part A premiums) for elderly individuals who are eligible to participate in the Medicare program and whose income and resources are below specified levels. These individuals are referred to as Qualified Medicare Beneficiaries (QMBs). Effective January 1, 1991, to qualify as a QMB, one's income must be under 95 percent of the Federal poverty level. Effective January 1, 1992, one's income must be under 100 percent of the Federal poverty level to qualify. In certain States (so-called "209(b)") States) the applicable income levels are 90 percent and 95 percent, respectively.

Committee provision

States (except 209(b) States) would be required to pay all cost sharing for those individuals who meet current QMB asset standards who have incomes below 100% of the Federal poverty level, effective January 1, 1991. In 209(b) States, the requirement would be to pay cost-sharing for those up to 95 percent of the Federal poverty level in 1991 and 100 percent in 1992. Also effective January 1, 1991, States would have the option of making individuals eligible for QMB status if their income does not exceed 133 percent of the Federal poverty level.
PERMIT STATES TO MAKE DISABILITY DETERMINATIONS

Present law

On December 11, 1989, the Health Care Financing Administration issued a final rule, effective January 10, 1990, that prohibits States from making their own determinations of disability for the purpose of determining Medicaid eligibility.

Committee provision

All States would be given the option to make independent eligibility determinations—using Federal standards—for the purposes of Medicaid eligibility, pending a final determination by the Social Security Administration.
first $51,300 of self-employment income had, in general, the tax is reduced by any wages for which employment taxes were withheld during the year.

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

Reasons for Change

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

Explanation of Provision

The bill increases the cap on wages and self-employment income considered in calculating HI tax liability to $55,000. As under present law, for years beginning after 1991, this cap is indexed to changes in the average wages in the economy. The OASDI wage cap remains at the level provided under present law.

Effective Date

The provision is effective on January 1, 1991.

b. Extending Medicare coverage, and application of hospital insurance tax to all State and local government employees (sec. 7452 of the bill and sec. 3121 of the Code).

Present Law

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

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

Reasons for Change

The committee believes Medicare coverage should be extended to all employees of State and local governments.

Explanation of Provision

The bill requires coverage of all employees of State and local governments under Medicare without regard to the employee's date of hire. The 2.9 percent HI payroll tax rate would be phased in with respect to newly covered and local government employees so that the tax rate is 1.8 percent in 1992; 2.7 percent in 1993; and 2.9 percent in 1994. The rule that student-exception is retained with respect to students employed in public schools, colleges, and universities. Coverage may, as under present law, be provided to such individuals at the option of the State government.

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

Under the provision, the HI trust fund would be reimbursed from the general fund of the Treasury for any additional cost arising by reason of this provision.

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

Effective Date

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

c. Extend social security retirement coverage (OASDI) to State and local government employees not covered by a public employee retirement program (se. 7453 of the bill and sec. 3121 of the Code).

Present Law

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

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

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

Reasons for Change

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

Explanation of Provision

The bill requires social security (Old Age, Survivors, and Disability Insurance) coverage for State and local workers who are not covered by a retirement system in conjunction with their employment for the State or local government and subjects the wages of such employees to the OASDI portion of the tax under the Federal Insurance Contributions Act (FICA). An exception is provided to students employed in public schools, colleges, and universities, for whom coverage may continue to be provided at the option of the State government. This exception maintains parallel coverage rules for students employed by public educational institutions and those employed by private schools, colleges, and universities.

A retirement system is defined as under the definition of retirement system in the Social Security Act (42 U.S.C. sec. 1912). Thus, a retirement system is defined as a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof. Whether an employee is a member (i.e., a participant) of a retirement system is based upon whether the individual actually participates in the program. Thus, whether an employee participates is not determined by whether that individual holds a position.
that is included in a retirement system. Instead, that individual must actually be a member of the system. For example, an employee whose job classification is of a type that ordinarily is entitled to coverage, is not a member of a retirement system if he or she is ineligible because of age or service conditions contained in the plan and, therefore, is required to be covered under social security. Similarly, if participation in the system is elective, and the employee elects not to participate, that employee does not participate in a system for purposes of this provision.

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

Effective Date
The provision is effective with respect to

month, provided that the amount to be deposited equals or exceeds $3,000. These deposits must be made within three banking days after the end of the eighth-monthly period.

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

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

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

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

Effective Date
The provision is effective for amounts required to be deposited after December 31, 1990.
### III—Revenue Table Prepared by the Joint Committee on Taxation


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<tr>
<td>A. Extended expiring provisions through 12/31/91</td>
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<td>1. Foreign allocation of R&amp;D</td>
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<td>2. Research and experimentation tax credit (includes graduate students)</td>
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<td>3. Employer-provided educational assistance (includes graduate students)</td>
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<td>4. Employer-provided group legal services</td>
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<td>5. Targeted job tax credit</td>
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<td>6. Business energy tax credit (Solar, geothermal, and ocean thermal property)</td>
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<td>7. Low-income housing credit (with modifications)</td>
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<td>8. Mortgage revenue bonds and mortgage credit certificates</td>
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<td>9. Qualified small-captive manufacturing bonds</td>
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<td>10. Health insurance for self-employed (75% deduction)</td>
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<td>11. Orphan drug tax credit</td>
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<td>B. Subtotal, extension of expiring provisions</td>
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</table>

Other tax incentives:

1. Energy incentives:

   A. Extended unconventional fuels tax credit (section 29) permanently and expand to lignite and gas | | | | | | | |
   B. Tax incentives for ethanol production | | | | | | | |
   C. 15% credit for advanced energy systems | | | | | | | |
   D. Percentage depletion allowances | | | | | | | |
   E. Labor training credit and preference (ratio) | | | | | | | |
   F. Reduce AMT preference to percentage depletion on stripper wells | | | | | | | |

2. Additional small business incentives:

   A. Depreciation tax credit (section 79) | | | | | | | |
   B. Small business tax incentives (includes graduate students) | | | | | | | |
   C. Increase section 179 expiring in $14,000 | | | | | | | |
   D. Subtotal, other tax incentives | | | | | | | |

### Notes

1. In billions of dollars.
### Budget Reconciliation—Revenue Provisions

#### (In Billions of Dollars)

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<tbody>
<tr>
<td><strong>A. Progressive enhancement proposals</strong></td>
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<tr>
<td>Increase EIC and provide other credits in lowest Senate child care offer*</td>
<td>1/7/91</td>
<td>-</td>
<td>-2</td>
<td>-2</td>
<td>-3</td>
<td>-4</td>
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<td><strong>B. Deficit reduction provisions</strong></td>
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<tr>
<td>1. Increase allowable itemized deductions:</td>
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</tr>
<tr>
<td>a. Limitation on itemized deductions of high-income taxpayers*</td>
<td>1/7/91</td>
<td>-8</td>
<td>-6.5</td>
<td>-7.4</td>
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<td>b. Limits on accelerated depreciation of residential property, certain real property</td>
<td>1/7/91</td>
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<tr>
<td>c. Eliminate medical deduction for cosmetic surgery</td>
<td>1/7/91</td>
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<tr>
<td>2. Increase payroll tax by 2 cents per $100 of wage income, effective January 1, 1992</td>
<td>1/7/91</td>
<td>4.6</td>
<td>9.6</td>
<td>14.5</td>
<td>19.5</td>
<td>24.5</td>
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<tr>
<td>3. Increase income tax on estates (4% of value of property over $40,000)</td>
<td>1/7/91</td>
<td>4.0</td>
<td>8.0</td>
<td>12.0</td>
<td>16.0</td>
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<tr>
<td>4. Increase 10% luxury tax</td>
<td>1/7/91</td>
<td>-</td>
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<td>5. Expand some existing family tax credits</td>
<td>1/7/91</td>
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<tr>
<td>6. Expand expensing for certain property</td>
<td>1/7/91</td>
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<tr>
<td>7. Increase Airline Industry Essential Airports (IAE) Trust Fund excise tax (5 years)</td>
<td>1/7/91</td>
<td>-</td>
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<td>8. Increase State and local government excise tax</td>
<td>1/7/91</td>
<td>-</td>
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<tr>
<td>9. Limit deductions and tax credits for business</td>
<td>1/7/91</td>
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<td>10. Tax limitation on benefits and deductions for state and local government employees</td>
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<tr>
<td>11. Limit EIC rate for high-income taxpayers*</td>
<td>1/7/91</td>
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<td>12. Adopt tax compliance provisions including certain provisions from S. 2418</td>
<td>1/7/91</td>
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<td>13. Adopt other provisions</td>
<td>1/7/91</td>
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<tr>
<td><strong>C. Gross National Product</strong></td>
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<tr>
<td><strong>D. Gross business</strong></td>
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#### E. Other provisions

### Distribution of Summary Effects, by Income Category

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<tr>
<td>Less than $10,000</td>
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<td>$10,000 to 30,000</td>
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<td>-2.1</td>
<td>-4.2</td>
<td>-6.7</td>
<td>-9.1</td>
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<td>$30,000 to 50,000</td>
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<td>-6.5</td>
<td>-11.0</td>
<td>-16.5</td>
<td>-22.0</td>
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<td>$50,000 to 75,000</td>
<td>-5.6</td>
<td>-11.2</td>
<td>-18.7</td>
<td>-27.1</td>
<td>-36.5</td>
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<td>$75,000 to 100,000</td>
<td>-7.8</td>
<td>-16.1</td>
<td>-27.3</td>
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<td>More than $100,000</td>
<td>-10.0</td>
<td>-20.0</td>
<td>-33.3</td>
<td>-50.0</td>
<td>-66.6</td>
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<tr>
<td><strong>Total of taxpayers</strong></td>
<td>$779.3</td>
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<td>$2,033.2</td>
<td>4.7</td>
<td>$4,730.7</td>
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* Distribution analysis includes effects from the Budget Reconciliation Act, as modified by the Senate Finance Committee Budget Reconciliation-Revenue Provisions. ** Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (6) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (7) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (8) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (9) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (10) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (11) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (12) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (13) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (14) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (15) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense. (16) Effective tax rates on income categories are affected gross income categories (50% of all capital gains; non-capital gains of small business) and the journeyman carpenter and the home maintenance expense.
IV.—COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

SENATE FINANCE: RECONCILIATION PROVISIONS—SUBTITLES A THROUGH E

(By fiscal year, in millions of dollars)

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month after the date on which the lump-sum credit would otherwise have been paid. The remainder of the lump-sum credit shall be payable with interest.

The CBO estimates that elimination of this retirement option will reduce the Federal budget deficit by $1.23 billion in FY 1991 alone, and by $8.05 billion in FY 1991-1995.

Postal Service and D.C. Government

The Committee has approved legislation that would implement President Bush’s FY 1991 budget proposal to eliminate the Civil Service lump-sum retirement credit that certain federal and postal employees elect to receive upon retirement. Under the terms of the reconciliation agreement, the lump-sum credit would be eliminated November 1, 1990. An employee who elects retirement and the lump-sum benefit by October 31, 1990, would receive 50 percent of the amount of the lump-sum credit at the time of retirement.

The CBO estimates that this transfer of liability for premium payments will reduce the deficit by $726 million in FY 1991 and $4.431 billion in fiscal years 1991-1995.

Non-Medicare eligible annuitants

For the 1990 Budget Summit, the Office of Management and Budget (OMB) included a proposal to apply Medicare hospital and physician payment limits to payments to providers of services to FEHB annuitants and their survivors who retired between June 30, 1971 (the date of the Postal Reorganization) and October 1, 1986. The Committee has approved legislation that would implement the OMB proposal for hospital payments. The proposal to apply Medicare limits to non-Medicare annuitants over 65 would reduce expenditures for FEHB hospital claims. If this is the case, savings will be realized initially through reduced outlays (increased reserves) of the FEHB Trust Fund. Then, when premiums are negotiated for 1992 and beyond, additional savings will accrue to the Government because the premium reduction will reduce the Government’s premium share (as calculated by using the Big Six formula). However, while the aggregate effect on enrollees’ premium payments might be to reduce them, the distributional effect of the proposal is uncertain. The CBO estimates that enactment of this proposal will reduce the deficit by $190 million in Fiscal Year 1991 and by $1.53 billion over the next five fiscal years.

FEHB State Premium Taxes

Under current law, FEHB insurance carriers are required to pay state premium taxes. These taxes are built into the program’s premium base. Exempting carriers from paying this tax would result in a premium reduction (which of course, reduces the government’s share). The Committee recommendation would exempt the Federal Employees Health Benefits Program from state premium tax requirements in a manner similar to the exemption presently applicable to the Federal Employees’ Life Insurance Fund. It is estimated that enactment of this proposal will reduce the deficit by $31 million in FY 1991 and $155 million over the next 5 fiscal years.
The Committee has approved legislation that includes the text of H.R. 3139, the Computer Matching and Privacy Protection Act Amendments of 1990. The Administration supports enactment of the measure. The bill marks two changes to the Computer Matching and Privacy Protection Act of 1986. First, the bill changes the period of time required by law to notify recipients of federal welfare programs about the results of a computer match prior to taking adverse action against individuals. Second, the bill creates an alternative to independent verification requirements set up by the 1986 law in limited circumstances.

The 1988 Act established procedures for federal and state agencies to follow when conducting computer matches using federal information subject to the Privacy Act. These computer matches are generally used to check the eligibility of individuals to receive government benefits, like Food Stamps and AFDC. The law requires adequate due process protection for individuals, particularly that prior to taking adverse actions against an individual based on the results of a match, the agency must wait 30 days after giving notice. This gives the individual an opportunity to contest the results of the match. The law also requires the agency to take steps to independently verify the results of the match prior to taking adverse action.

Prior to the law's enactment, several state agencies administering AFDC, Medicaid, and Food Stamps programs—which generally had had a 10-day notice and wait period—expressed concern that the 30-day period would result in overpayments to individuals who did not qualify for benefits. These overpayments would then have to be recouped by the agency. States also expressed concern about the costs they would incur from having to independently verify certain information received from the federal government.

Accordingly, the bill modifies the notice and wait provision by allowing the agency to use the notice and wait period of the underlying benefit program before taking adverse action based on a computer match result. If the underlying program has no notice and wait requirement, the 30-day period contained in the original law is retained. The bill also provides for an alternative method of verifying information for purposes of complying with the law. The bill allows adverse action to be taken without independent verification if the Data Integrity Board of the agency provides the information that the information is limited only to identification of the individual (such as name and SS number), and that there is a high degree of confidence that the information in the records provided by the agency is accurate.

The CBO estimates that enactment of these provisions will produce a five-year cost saving of $270 million.

H.R. 3139 will allow the affected employees to make these changes without a loss in pay or benefits, such as retirement, leave, and health and life insurance. The bill allows service as a NAF employee to be creditable as Federal service for purposes of determining the order or retention during a reduction-in-force; computing the period of service used for determining eligibility for a periodic step increase; and determining the number of years of service applicable for accrual of annual leave.

The bill allows all annual leave, sick leave, and home leave of a NAF employee who moves to a civil service position to be transferred without limit. Likewise, all annual leave, sick leave, and home leave of a civil service employee who moves to a NAF position will be transferred without limit.

The CBO estimates that enactment of these provisions will produce a $6 million dollar savings in FY 91, with a five-year savings of $30 million.

Reforms to the Health Benefits Program

Section 8007 includes four specific legislative reforms in the Federal Employees Health Benefits Program (FEHBP). Section 8007(a) amends section 8902 of title 5, United States Code, by adding a new subsection (m). The new subsection directs that contracts for health benefits insurance under service benefit plans, indemnity benefit plans, and employee organization plans must require carriers to implement hospitalization cost-containment measures and establish incentives to encourage compliance with the measures implemented. Comprehensive medical plans are intentionally excluded from coverage of this new provision since the cost-containment measures envisioned by the amendments are inherent in the operation of those types of plans.

New section 8902(m)(1), subparagraphs (A) through (D), enumerate specific cost-containment measures which must be included in those implemented by the carrier in any contract for benefits. The specific measures are directed primarily toward pre-admission certification in non-emergency situations and large-case management.

Section 8007(b) amends section 8005(a) of title 5, United States Code, to require higher management controls in disbursement of monies from the Employees Health Benefits Fund (Benefits Fund). The amendment requires that payments made from the Benefits Fund to plans participating in the Medicare-eligible FEHBP annuitants. Establishment of this system will ensure that physicians may charge Medicare beneficiaries.

Section 8007(c) adds section 8910 of title 5, United States Code, to add a new subsection (d). The new subsection requires the Office of Personnel Management, in consultation with the Department of Health and Human Services, to develop and implement a system through which health benefits plan carriers will be able to identify Medicare-eligible FEHBP annuitants. Establishment of this system will ensure that the number of payments under coordination of benefits with Medicare do not exceed the present or future statutory maximums which physicians may charge Medicare beneficiaries.

Section 8007(e) sets forth the effective date for all amendments made by section 8002 as January 1, 1991. The amendments will apply with respect to all contract years beginning on or after that date.
U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, October 12, 1990.

Hon. Jim Sasser,
Chairman,
Hon. Pete V. Domenici,
Ranking minority member,
Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR JIM AND PETE: Pursuant to section 4(a) of House Concurrent Resolution 310, the Concurrent Resolution on the Budget for Fiscal Year 1991, and action of the Committee at an October 12, 1990, meeting, the Committee on Veterans' Affairs is submitting to the Budget Committee the enclosed legislation and report recommending budget savings. The reconciliation instructions contained in section 4(c)(10) of H. Con. Res. 310 require this Committee to report changes in laws within this Committee's jurisdiction sufficient to reduce outlays for veterans' programs by $620 million in fiscal year 1991 and $3.35 billion in fiscal years 1991-1995. In order to meet these requirements, our Committee, by voice vote, makes numerous recommendations, all of which are explained in the enclosed report language. We believe that these recommendations would make savings in the most appropriate areas.

We also have enclosed a cost estimate prepared by the Congressional Budget Office. Estimated savings resulting from enactment of the legislation we are submitting would exceed the five-year total of $3.35 billion in required reconciliation savings by $2.71 billion. According to CBO estimates, the Committee legislation would achieve net savings of $6.05 billion in outlays over fiscal years 1991 through 1995.

Sincerely,

ALAN CRANSTON,
Chairman.

FRANK H. MURkowski,
Ranking minority member.

TITLE XI—BUDGET RECONCILIATION RECOMMENDATIONS OF THE COMMITTEE ON VETERANS' AFFAIRS.

INTRODUCTION

Section 4(c)(10) of the Concurrent Resolution on the Budget for Fiscal Year 1991 (H. Con. Res. 310) requires the Senate Committee on Veterans' Affairs to submit to the Senate Committee on the Budget recommendations for changes in laws within the jurisdiction of the Committee on Veterans' Affairs that in FY 1991 would reduce outlays by $620 million and outlays in FYs 1991-1995 by $3.35 billion.

On October 12, 1990, the Committee met in open session and by voice vote agreed to recommend legislative provisions that would yield savings of $645 million in FY 1991 and a total of $6.05 billion in FYs 1991-1995.
VA health-care services based on income status under sections 610(a)(1)(I) and (2), 610(b), and 612(a)(2)(B) of title 38, and (b) only wage and self-employment information from such returns for purposes of determining eligibility for compensation paid, pursuant to section 4.16 of title 38, Code of Federal Regulations, at the total-disability-rating level based on an individual determination of unemployability.

Section 11051 is substantively identical to section 710 of S. 2100 as reported by the Committee on July 19 and to section 704 of S. 13 as reported on September 13, 1989, which is discussed in detail in the report accompanying S. 13 (S. Rept. No. 101-126, pages 297-303).

Savings
According to CBO, the enactment of section 11051 would result in savings of $28 million in outlays in FY 1991 and total savings of $787 million in outlays in FYs 1991-1995.
to authorize VA to require disclosure of claimants' and dependents' Social Security numbers (SSNs) in all claims for VA disability and death benefits. Congress declined to include S. 1110 in veterans legislation enacted last year because the Committee believed that VA had not provided additional information that would warrant enactment of this provision. On March 18, 1990, the Committee directed VA to report to the Committee (1) the nature and extent of any abuses VA has discovered through use of names and other indentifying information of claimants, beneficiaries, and dependents in the cases of compensation and pension benefits as to which VA now lacks authority to require SSNs, and (2) in the case of such benefits, the estimated number of cases in which VA believes SSNs are necessary to identify claimants, beneficiaries, and dependents in income verification processes, along with the estimated average monthly dollar amounts of the benefits involved.

Unfortunately the information that the Committee sought to obtain was not provided. In order for the Committee to have the opportunity to consider S. 1110 before the end of the current Congress, I would appreciate receiving responses to these questions before Congress reconvenes on September 10. If you have any questions regarding this matter, please have your staff contact Michael W. Cogan, Associate Counsel for the Committee.

Thank you, Ed, for your cooperation on this and other matters relating to the administration of veterans programs.

With warm regards,

ALAN CRANSTON, Chairman

THE SECRETARY OF VETERANS AFFAIRS

Washington, D.C., September 24, 1990

HON. ALAN CRANSTON, Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR Mr. CHAIRMAN: I am pleased to reply to your August 27, 1990 request for information justifying our need for the Social Security numbers of VA-benefit recipients to ensure proper payment levels. I have enclosed a responsive paper prepared by the Chief Benefits Director. We would appreciate whatever support you can lend our proposal.

Sincerely yours,

EDWARD J. DERWINSKI, Mandatory Disclosure of Social Security Numbers

Senator Cranston has requested information as to (1) the nature and extent of any abuses VA has discovered through the use of names of other identifying information of claimants and dependents in the cases of compensation and pension benefits as to which VA now lacks authority to require SSNs, and (2) in the case of each such benefit, the estimated number of cases in which VA believes SSNs are necessary to identify claimants, beneficiaries, and dependents in income verification processes, along with the estimated average monthly dollar amounts of the benefits involved.

The procedure we use for our data matching programs make it almost impossible to provide the type of data requested by Senator Cranston. For due process and privacy reasons, during our data matching programs we do not accept or provide data on a beneficiary unless we are absolutely confident that the individual in our file is the individual on the record and that the data match, not on name alone. Depending upon the nature of records against which the match is being made, there may or may not be a date of birth or some identifying information other than a social security number. If, during the matching process, any discrepancy is found in the name and/or other identifying data, or if there is no identifying information except the name, the case is placed in the "unable to match" category. Thus, no data is obtained to verify eligibility or payment amount, and we have no means of about the nature of the outcome of the problems or abuses in such cases.

The vast majority of our pension cases contain a social security number. Approximately 200,000 (8 percent) of the service-connected death and disability cases, however, lack this critical identifier. A study recently completed by the General Accounting Office illustrate one of the problems these cases present.

On July 27, 1990, GAO issued a report (entitled "VA Needs Death Information From Other Sources in Pension Program") which recommended that Congress authorize VA to require social security numbers of all veterans and dependents as a condition for eligibility for either compensation or pension benefits. During its study GAO matched VA's 3.5 million payment records for April 1989 against death information kept by the Social Security Administration and identified several hundred deceased veterans who had active compensation or pension awards. VA is doing a claims folder review of approximately 1,800 of these cases (about one-third of the cases GAO tentatively identified). To date, 563 folders have been reviewed. In all but 77 cases, the regional office of jurisdiction had received notice of the beneficiary's death and terminated payments in the interim since April 1989. The 77 cases still in payment status served as mechanisms to ensure that the recipient's Social Security number was entered in the case of compensation and pension payments. VA believes that Congress should amend Section 11053 to require such beneficiaries to disclose their correct social security numbers.

At recent meetings, representatives of the requested Pay Centers for the various military service branches again emphasized the importance and value of social security numbers in the VA TO-3 data match. In the past, millions of dollars in overpayments occurred each year because VA and the service departments could not identify cases in which a veteran was receiving compensation and retired pay or drill pay concurrently. Today, for those records which contain a social security number, these overpayments have all but been eliminated by on-going data matches.

We believe that our current data matching programs amply demonstrate the ad-advantages that can be achieved if Congress would amend section 1001 of title 38 to authorize VA to require disclosure of claimants' and dependents' Social Security numbers (SSNs) in all claims for VA disability and death benefits. Subsection (b) of section 11053 of Public Law 101-126 provides: "The information shall be used only for the purposes of-(1) validating the information contained in the file, and (2) identifying any individual in the file as a dependent or other beneficiary of the veteran for whom a determination of eligibility to receive a benefit has been made and for which a judgment of recovery has been entered."

We believe that our current data matching programs amply demonstrate the advantages that can be achieved if Congress would amend section 1001 of title 38 to authorize VA to require disclosure of claimants' and dependents' Social Security numbers (SSNs) in all claims for VA disability and death benefits. Subsection (b) of section 11053 of Public Law 101-126 provides: "The information shall be used only for the purposes of-(1) validating the information contained in the file, and (2) identifying any individual in the file as a dependent or other beneficiary of the veteran for whom a determination of eligibility to receive a benefit has been made and for which a judgment of recovery has been entered."

We believe that our current data matching programs amply demonstrate the advantages that can be achieved if Congress would amend section 1001 of title 38 to authorize VA to require disclosure of claimants' and dependents' Social Security numbers (SSNs) in all claims for VA disability and death benefits. Subsection (b) of section 11053 of Public Law 101-126 provides: "The information shall be used only for the purposes of-(1) validating the information contained in the file, and (2) identifying any individual in the file as a dependent or other beneficiary of the veteran for whom a determination of eligibility to receive a benefit has been made and for which a judgment of recovery has been entered."

The enactment of Section 8053 would result in savings of $4 million in outlays in FY 1989, and total savings of $47 million in outlays for FYs 1991-1995.
CONGRESSIONAL RECORD — SENATE

October 18, 1990

Title XI: Provisions Reducing Spending in Programs within the Jurisdiction of the Senate Committee on Veterans' Affairs

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

Sincerely,

Robert D. Reischauer,
Director.
OMNIBUS BUDGET
RECONCILIATION ACT OF 1990
(Continued)
OMNIBUS BUDGET RECONCILIATION ACT OF 1990
The Senate continued with the consideration of the bill.

AMENDMENT NO. 3033
(Purpose: To exclude the Social Security trust funds from the deficit calculation)

Mr. HOLLINGS. Mr. President, on behalf of Senator HEINZ, Senator MOYNIHAN, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina, (Mr. Hollings), for himself, Mr. Heinze, Mr. Mowry, Mr. Mccall, Mr. Pesselle, Mr. Mcconnell, Mr. Graham, and Mr. Grassley, proposes an amendment numbered 3033.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. 1. SOCIAL SECURITY PRESERVATION ACT.
(a) Short Title. This section may be cited as the "Social Security Preservation Act".

(b) Definition of Deficit. (1) The second sentence of paragraph (a) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(c) Social Security Act. Subsection (a) of section 710 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".

(d) Effective Date. The amendments made by subsections (b) and (c) shall apply with respect to fiscal years beginning after September 30, 1990.

Mr. HOLLINGS. Mr. President, the Senate at long last gets the opportunity to vote on taking the Social Security trust fund off budget. This is s
simple measure with an all-important public purpose: to preserve the integrity of the Social Security trust fund by removing the huge Social Security surpluses from calculations of the budget for purposes of Gramm-Rudman-Hollings.

This amendment passed by a bipartisan 20 to 1 vote in the Budget Committee 2 months ago. If signed into law, it will move us one giant step closer to exposing the true size and scale of the Federal budget deficit and attaining truth in budgeting. Unmasking the true deficit is, in turn, the essential precondition for rallying public support behind a meaningful effort to reduce the deficit through significant spending cuts and tax increases. And, ultimately, the only way to truly protect and preserve the Social Security trust fund surpluses is to balance the budget, surely the most reprehensible fraud surrounding $168.8 billion.

Mr. President, I say it is time to stop playing games with Social Security and the Government’s finances. It is time to use honest budget numbers and to make tough budget choices. By Republicans, by Democrats, by doing this we will indirectly act to safeguard the Social Security trust fund by increasing the pressure to tackle the deficits in a meaningful, dramatic way. After all, there is one sure-fire way to protect the Social Security surplus: balance the Federal budget.

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Mr. President, I say it is time to stop playing games with Social Security and the Government’s finances. It is time to use honest budget numbers and to make tough budget choices. By Republicans, by Democrats, by doing this we will indirectly act to safeguard the Social Security trust fund by increasing the pressure to tackle the deficits in a meaningful, dramatic way. After all, there is one sure-fire way to protect the Social Security surplus: balance the Federal budget.
I have shown, as these charts once again illustrate, how much faster our national debt is growing than what we refer to as the deficit. In just the last 4 years—our national debt has grown by some $376 billion more than the deficits that we tell people ought to add up to our debt.

Mr. President, the vote we are about to take is more than a vote on this annual game of deficit deception. This is a vote to demonstrate once and for all this Chamber's commitment to millions of aged and disabled Americans who depend on Social Security for their retirement. This is a vote to protect the Social Security trust funds for future generations who are now paying in. This is a vote to end the diversion of Social Security trust funds to a purpose for which they were never intended.

Finally, this is a vote for making truth in budgeting the standard upon which Republicans and Democrats and the American people may and will rely as we make the decisions we must for them.

SOCIAL SECURITY TRUST FUND SUPPLIES

Mr. President, later today we will be presented with a leadership amendment. That amendment as contemplated by the budget summit is deeply flawed. It fails to remove the Social Security Trust Funds—the OASDI Program and its finances as a whole, from the budget and the budget process.

The Heinz-Hollings amendment we offer today will demonstrate once and for all this Chamber's commitment to millions of aged and disabled Americans who depend on Social Security benefits in their retirement. It is an amendment designed as well to ensure that America regains its fiscal integrity and reenters the world market place as the engine of economic growth and opportunity for our country to lead the world once again.

The amendment that Senator Hollings and I are proposing, would separate the Social Security surpluses, cash and interest, from the deficit reduction calculations, would protect the trust fund for future generations, and end the practice of using these surpluses to hide annual deficits, and reduce and/or eliminate the public debt. That amendment as contemplated by the budget summit is deeply flawed. It fails to remove the Social Security Trust Funds—the OASDI Program and its finances as a whole, from the budget and the budget process.

This effort today is part of a larger understanding—a thoroughly thought-through effort to make truth in budgeting the standard against which Republicans and Democrats alike consider a budget and every vote.

This reconciliation bill came forth with a plan that included taking only a part of Social, Security out of the Gramm-Rudman-Hollings deficit calculations. It is a plan that only saves half a loaf. The other half—the large and growing interest payments that Social Security on funds—interest payments—is still missing. Mr. President, the purpose of our amendment is to safeguard the whole loaf. We have skirted the challenge of true budget reform for almost a decade now, preferring to nickel and dime away our children's future. We are now in lieu of making some hard political choices on spending and taxes. This occurred despite a recommendation from the Senate Finance Committee to exclude all Social Security funds, both revenues and expenditures, from the calculation of the deficit.

I ask now what should be a purely rhetorical question, that is: Are we going to move ahead with real budget reform; or continue the political coward's charade of blessing the budget with our right hand while we doctor the books with the left? I say it should be rhetorical, but having asked it here and before numerous committees on countless occasions—or can I re-count, I remain doubtful. We have yet to move ahead, despite mounting evidence that through our lack of initiative, like the Lilliputians, we immobilize the mighty Gulliver of our economy with ever-lengthened lines of debt.

With each morning headline and each nightly news report, the fiscal quandary this country is in deepens. Although the final figure has not yet been released, the Office of Management and Budget's mid-session review predicted that our fiscal year 1990 baseline deficit was $218.5 billion—$118.5 billion more than the Gramm-Rudman-Hollings target and $84.7 billion more than the deficit predicted by the President's budget for fiscal year 1991.

We are already bent—and bent totally out of shape by the burden of this debt. Last year, interest payments alone—over $180 billion—not will not go to help the poor without health insurance, or to build roads, or to cancer research or national defense or better schools. Those dollars go to investors, bankers, and the wealthy here and abroad. Mr. President, that $180 billion dedicated to interest on the national debt is more than the Federal Government plans to spend for farm aid; housing, education, unemployment compensation, veterans' benefits, the post office and highways—combined. I repeat, combined.

There are times when a nation might spend more. Times when debt is an outcome of necessity. There are times of financial famine, when extraordinary expenditures are required to provide basic services. Or times of foreign conflict, when freedom hangs on the ability to mobilize quickly and effectively. The debt we are amassing today comes from neither; it is driven simply by a lack of initiative, like the Lilliputians, we immobilize the mighty Gulliver of our economy with ever-lengthened lines of debt.

By running tremendous budget deficits to finance federal government and to borrow heavily in the private capital markets. This makes it more expensive for our growth-producing industries to attract the capital they need to invest in new plants and equipment. In the 1980's, U.S. short-term and long-term interest rates have consistently been 2.5 times as high as comparable Japanese rates. Because American industry is saddled with twice the interest costs of Japanese industry, our growth of government. We need to guarantee a prosperous future for ourselves and our children. The world economy is a competitive place, and we have not been keeping up with the competition. For it is in 1990, we have a trade deficit. In 1988, our trade deficit was $137 billion, money that flows overseas to the benefit of foreign investors. These same investors then turn around and buy Treasury bills—often in Government agencies. Then we wind up paying interest on the money we lost overseas because of the trade deficit. In 1989, $394 billion of our national debt was held by foreigners, and we paid them $33 billion in interest alone, one-sixth of the total interest paid on the national debt that year. Who's to blame for our failure to manufacture good quality, affordable merchandise in this country? Who has forced our manufacturing industries, once the envy of the world, to either close down or open up factories overseas? We, the Congress of the United States, have allowed our crucial heavy industries to suffer because we have continued to run tremendous deficits and have allowed an unconscionable Federal debt burden to accumulate.

This is a vote to demonstrate once and for all what the President's budget for fiscal year 1991.
productivity growth has slowed while Japan's has increased. In 1950, Japan's rate of productivity growth was only 15.2 percent of ours; by 1988, it had increased to 71.5 percent. At this rate, the Japanese economy will soon produce as much work product per worker as the United States economy; when that happens, it will be difficult to catch up without a traumatic reorientation of our economy and trade practices.

But the debt we face today is not a product of necessity, but of egregious fiscal management, of inflated expectations—and yes, of our own inability to make difficult choices. It reflects a laissez faire attitude toward the long-term economic well being and survival of this Nation, when we ought to show a determination to preserve the best of what we have and build for yet a better future. A case in point, Mr. President, is that just 10 years from now, depending on economic assumptions, as much as 40 percent of all non-Social Security revenues will be required to make interest payments on debt alone.

That, Mr. President, is the good news. The truth is that Congress, by counting the old-age, survivors and disability income trust funds as part of general revenues, radically distorts the actual financial health of this Nation by pretending that the money paid in by workers to Social Security will never be paid out. Just in fiscal year 1990 alone, this trick allowed us to pretend that the deficit was $3.6 billion smaller than it actually was.

It is important to remember that the reserves accumulating in the trust fund are not just protection against a post-1990 foreign, but their actual reserves are the realities of U.S. law, making the U.S. Treasury our Government's bank. It has been, as we said earlier, the Senator from Wisconsin described what is being done with the Social Security trust funds as embezzlement. I do not think he can use that word in the future if this amendment does not pass because embezzlement will have become legal. I have nothing more to say.

Mr. HOLLINGS. I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, earlier this spring, the distinguished Senator from Pennsylvania described what is being done with the Social Security trust funds as embezzlement. I do not think he can use that word in the future if this amendment does not pass because embezzlement will have become legal. I have nothing more to say.

Mr. HOLLINGS. Mr. President, on consideration of this particular matter earlier this spring, the Budget Committee voted, by a vote of 20 to 1, to support its favorable report, No. 812, S. 2999 by our distinguished chairman of the Budget Committee, Senator FASSEL. It has been, as we said earlier, the work of a couple of years. I have additional cosponsors who are coming forward by the moment. I ask unanimous consent that Senator SANFORD, Senator LEVINE, Senator KERRY, Senator JEFFORDS, Senator DECONCINI, Senator SIMON, Senator Ri¢I; and Senator KASTEN be added as cosponsors of the particular measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I yield to the Senator from Wisconsin.

Mr. KASTEN. I thank the Senator from South Carolina for yielding. I simply want to say that I would like to be added as a cosponsor of this amendment, and I congratulate and commend people on all sides of this debate. We are not quite where Senator MOYNIHAN would want us to be, and that is to also reduce the FICA tax. We might be there some day. This is a very important step. In fact, I proposed the first bill that would both reduce the payroll tax—and take Social Security out of the budget. My friend the Social Security Integrity and Tax Reduction Act, reduced the FICA tax over 3 years, and strengthen the trust fund by removing it from the deficit calculation. We are spending far more than we need for Social Security. Instead of using those funds to mask the deficit, we ought to give them back to the small businesses and working families who earned it. I commend all who have been involved.

Mr. HOLLINGS. I thank the distinguished Senator from Wisconsin. I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator's time has expired.

Mr. HOLLINGS. Mr. President, we are willing to yield back the time on our side.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANFORD. Mr. President, in March 1988, when I introduced legislation to remove Social Security from the deficit calculations, most people thought this was a radical notion. I am delighted that attitudes about the misuse of Social Security trust funds have changed, and I am proud to be an original cosponsor of this important legislation. I am delighted that Senators GIEicate, and Senator SANFORD's able leadership on this issue has helped generate nearly unanimous support for it.

There are excellent reasons for protecting Social Security by removing it from the Gramm-Rudman deficit calculations. This is a giant step forward, but it falls short of getting us to an honest accounting of the Federal budget. The misuse of Social Security reserves, including Interest earned by the trust funds, has changed, and I am proud to be an original cosponsor of this important legislation. I am delighted that Senators BAXTER, and Senator SANFORD's able leadership on this issue has helped generate nearly unanimous support for it.

However, removing Social Security alone will not prevent the White House and Congress from continuing to conceal the budget deficit. The misuse of Social Security reserves, including Interest received by the trust funds, has changed, and I am proud to be an original cosponsor of this important legislation. I am delighted that Senators BAXTER, and Senator SANFORD's able leadership on this issue has helped generate nearly unanimous support for it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I yield to the Senator from Wisconsin.

Mr. KASTEN. I thank the Senator from South Carolina for yielding. I simply want to say that I would like to be added as a cosponsor of this amendment, and I congratulate and commend people on all sides of this debate. We are not quite where Senator MOYNIHAN would want us to be, and that is to also reduce the FICA tax. We might be there some day. This
The budget deficit calculation, and I support the Heinz-Hollings-Moynihan amendment. I want to protect the Social Security system, for today's retirees and the retirees of the next century. But I have some concerns with the amendment we adopted today.

Interest is a bookkeeping entry. Interest payments to the Social Security trust funds are paper transactions within the Government. No funds are actually transferred, and there is no direct impact on the amount the Government must borrow from private markets.

A Government surplus or deficit is measured by transactions with the public: The difference between receipts from the public and outlays to the public. Interest payments that are merely bookkeeping entries within the Government do not in any way affect the amount of funds paid to or received from the public. As a result, keeping interest on-budget in no way masks the deficit.

Interest off-budget means more deficit accounting.

The issues involved in taking Social Security, including interest, out of the budget deficit are not as simple, or painless, as they seem, or as the sponsors of this measure have suggested.

If we take interest off-budget, then we have to come up with more deficit reduction. And that means only one of two things: More taxes or more spending cuts.

And I note that the amendment adopted today does not in any way acknowledge that we have to get additional deficit reduction: The budget targets are not revised nor is Gramm-Rudman-Hollings extended to ensure a balanced non-Social Security budget. We will face a 1992 sequester cut of about $27 billion simply because we decided to take interest out of the budget without revising the Gramm-Rudman-Hollings targets.

We should consider whether or not we want the American people to make additional sacrifices—more spending cuts or more taxes—so that we can claim we have taken these paper transactions out of the deficit.

Given the difficulty we are having with the current budget, I'm sure we can agree on more deficit reduction at this time. But in any event, excluding the cash Social Security surpluses from the deficit captures two-thirds of the total surpluses going to Social Security over the next 5 years.

Mr. HEINZ. Mr. President, I ask unanimous consent the Senator from Maine (Mr. Conrad) be added as a co-sponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. We yield back our time and ask for the call of the roll.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I note, not for the first time, no one rises to oppose these measures.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SASSER. Mr. President, may I ask who is controlling the time in opposition?

The PRESIDING OFFICER. The Senator from Tennessee would control that time, unless he favors the amendment.

Mr. SASSER. Mr. President, I know of no one who wishes to speak.

I see the distinguished ranking member of the Budget Committee is on the floor.

Mr. DOMENICI. I do not care to speak. I will put a statement in. Are we out of time?

Mr. SASSER. No, we have time, I say to my friend from New Mexico. We simply had no one who wished to speak, which is a rare occurrence on this floor.

Mr. DOMENICI. That is rare. I will just put a statement in explaining what I think this does ultimately in terms of deficits, and the need for additional revenues and/or budget cuts.

Mr. SASSER. I thank the Senator from New Mexico.

Mr. President, we yield all time in opposition.

The PRESIDING OFFICER. All time is yielded back. There being no further debate, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 98, nays 2, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—98


NAYS—2

Armstrong Wallop

So, the amendment (No. 3033) was agreed to.
AMENDMENT NO. 3435

(Purpose: To reinstate the $75 Medicare part B deductible and to impose a surtax on income over $1,000,000)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself, Mr. RIEDEL, Mr. SIMON, Mr. BRYAN, Mr. MIKULSKI, Mr. KENNEDY, Mr. AKaka, Mr. HAYFIELD, Mr. DeCONCINI, Mr. GRAHAM, and Mr. ADAMS, proposes amendment number 3435.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 6162 and insert the following new section:

SEC. 5152. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) General Rule.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part—

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 595. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 18 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

(2) the total amount of such individual's taxable income for such taxable year.

"Sec. 59C. SURTAX ON MINIMUM TAX.

In case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 18 percent of the amount which bears the same ratio to the amount of such tentative minimum tax (determined without regard to this section) as—

(1) the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000, bears to...
Our amendment is supported by most of the major groups representing older Americans and American workers including: Families USA, the National Council of Senior Citizens, the AFL-CIO, the United Auto Workers, the National Committee to Preserve Social Security and Medicare, National Council on the Aging, and the Older Women's League.

Mr. President, our amendment is about fairness. Older Americans are already overburdened with high health care costs. As this chart clearly shows, over the past decade, the elderly have been forced to pay more and more out of their own pockets for the health care they need. Their out-of-pocket costs have more than tripled since 1977, leaping from $712 to $2,394 in 1988. Because increases in the cost of medical care have outpaced increases in Social Security benefits, seniors are now forced to spend a larger percentage of their incomes on needed health care than they did before Medicare was established. As this chart shows, seniors spent about 15 percent of their budget on medical care in 1965, the year Medicare was enacted; they are spending over 18 percent of their incomes today.

Our senior citizens are being saddled with an ever-increasing burden of health care costs; most are already paying more than they can afford. Let's take a look at a typical older American—an elderly widow living alone. She's 75, just lost her husband of 50 years and is just starting to have some increased medical needs. In Iowa, the average widow receives $526 a month in Social Security benefits and has little other source of support besides it. She stretches every dollar to make ends meet, carefully planning out a budget for food, utilities, medical care and other necessities down to the dollar. Yet, because of rising health care costs, she is having to cut back on other necessities even further. To this elderly widow, the $75 increase in the deductible before Medicare starts to help pay her doctor bills, would mean the choice between going to the doctor when she's sick or buying the food she needs. For her, $75 is more than 2 weeks worth of groceries or a month's worth of needed medications. For her, and for many of her American friends and neighbors, like her, our cold budget numbers can mean the difference between making it and not.

The woman I described is fairly typical. The average older Iowan, living alone has an income of $8,000 a year or $750 a month. For about two-thirds of older Iowans, their monthly Social Security check—which average $560—or $750 a month. For about two-thirds of older Iowans, their monthly Social Security check—which average $560—is their only income. The increased Medicare payments called for in the reconciliation bill would effectively cut the average older American's Social Security cost of living adjustment—dollar for dollar. And the $75 deductible increase in particular hits the sickest and poorest senior citizens the hardest. Those most unable to pay are asked to pay more.

Mr. President, on the other end of the spectrum, there is group of Americans which has gotten off over the past decade without paying its fair share. We raise the funds to place the burden on the elderly sick by providing a surcharge on the super rich—on the taxes they pay on their income over a million dollars a year. This small group of millionaires, decimillionaires, and billionaires has benefited the most from the tax policy of the past decade. As this chart clearly shows, over the past decade, the richest of the rich have gotten richer and at the same time have paid dramatically less in taxes. The top 1 percent of American earners have nearly doubled their real income since 1977, rising some 96.2 percent—96.2 percent. Over the same period, their tax rate has decreased 23.2 percent.

This other chart dramatically shows that the unfair drop in the tax rate of the richest of the rich's share of the tax burden. While middle income Americans will pay $8.4 billion more in total taxes this year than if the effective tax rate was what it was in 1977, the richest 1 percent of Americans will pay $39 billion less. Mr. President, our amendment is not even talking about all of those in the top 1 percent. The average person in the top 1 percent of income doesn't make half of what he or she would need to make to be touched by this amendment. Although the average person in the top 1 percent of income in our country makes $549,000 per year, after tax breaks allowed under the Tax Code, such a person has a taxable income of a mere $400,000, less than half the income level required to be touched by our amendment. We are talking about the super-rich—those who earn, after all of their deductions, exclusions, and other benefits and loopholes that their accountant can find, more than $1 million a year. And we are talking about increasing their effective tax rate on income over a million from 28 percent to about 33 percent. Let's take a look at some of the people our amendment would affect and how it will affect them.

Who are we talking about taxing? One group is top executives of major companies.

Some make more than $10 million a year. Their families live on at least $200,000 a year. And they include:

The head of Reebok International, who had a total salary and compensation of $13,687,000 in 1989. Now, we are not talking about any additional income on his outside investments, just salary and compensation and stock from that company. That is $280,000 per week. The head of BIC Industries, with salary and compensation of $13,687,000;
CONGRESSIONAL RECORD — SENATE

The head of Freeport-McMoran, with $13,517,000 in salary and compensation; and
The head of Coca-Cola, with $10,814,000 in salary and compensation.

Will this tax mean that they don’t buy a spare $10,000 watch? Perhaps. But, I think that is better than some elderly people going back on line in the winter and a good breakfast in the morning. We have a chance to choose and I believe that the very rich, making a million dollars a year should pay more and the elderly sick should have a smaller portion of the burden.

The wealthiest Americans are those billionaires in our country, people whose assets are in excess of $1 billion, not million, billion.

These are people whose incomes are usually in excess of $100 million per year.

I believe these individuals can be asked to contribute a little more in order to hold down costs for the elderly. I have no problem with having elderly people making $11,000 per year pay more for Medicare.

These billionaires, on average, are making $11,000 per hour. Can they afford to pay an extra 5 percent? I think that they can.

I don’t think this is going to pinch their lifestyles unduly.

So Mr. President, this amendment just asks for a little more fairness.

It says that those who have benefited the most in the past decade should be asked to pay a little bit more so that the elderly sick can get a little relief.

Now some may argue. Well, older people need to pay their fair share. They should pay something toward deficit reduction. First, the elderly are not exempted from all of the increases called for in this bill. There’s no age 65 cutoff on the gas tax. They pay just like everyone else. Second, the fact is that even without the higher deductible on Part B, seniors would still be paying about $10 billion more in Medicare costs over the next 5 years than they would under current law. They will see their premiums and copayments rise. The elderly are already paying more than their fair share. Let’s not add to their burdens.

Mr. President, How much time do I have?

The PRESIDING OFFICER. The Senator has 42 seconds remaining.

Mr. HARKIN. Senator HATFIELD wished to speak on this. I reserve the remainder of my time.

The PRESIDING OFFICER. Under the previous order the Senator from Missouri (Mr. DANFORTH) is recognized with 9/4 minutes under his control.

Mr. DANFORTH. Mr. President, charts have blossomed on the floor of the Senate. A chart is your passport to get on the floor these days, and I am not going to be outdone by anybody. I have four charts.

But I think that the four charts are very, very illuminating and,

as a matter of fact, I am very proud of my four charts. They go to the question of the cost of health care, which is the basic problem that is before us, and it is going to be before us for a long time to come.

Mr. President, the first chart shows the average annual growth of Federal outlays in various components of the various budgets by the decade beginning in the 1970's. As you can see, Mr. President, the orange bar, which is health care, grew in the 1970's 15.9 percent, compared to a total growth of Federal spending of 11.7 percent. In the 1980's, health care grew at 10.5 percent, exceeded only by interest on the national debt. 10.5, compared to a total growth in Federal spending annually of 7.7.

Projected by the Congressional Budget Office for the first 5 years of the 1990's, health care, which is the orange bar, is 9.9 percent; Social Security, 6.3 percent; total increase, 4.7 percent. This is the problem of the Federal budget in general.

Now, Mr. President, a very interesting chart indicating that by the year 2007, Medicare will become the largest single item in the Federal budget, passing Social Security in the year 2007, passing national defense a few years before that.

The third chart. The question is, how fast are deductibles rising? The huge orange bar shows that we first had Medicare, $50, the present deductible is $75. The Finance Committee’s bill would increase it to $150. If we had indexed for inflation, the Consumer Price Index, the original $50 deductible in 1965 would increase not to $150 under this bill, but to $225. If we indexed if for the medical consumer price index, the deductible would not be $150 under this bill but $275.

The deductible increase has far from kept up with inflation much less medical inflation.

The final chart. Over the next 5 years, which is the period that we are talking about in this budget, the entire pie here is the total increase projected cost of Medicare. Under what we are talking about in this legislation, a total of $20.9 billion will be paid for by the elderly. Part of that is the deductible in part A, part of it is the deductibles and the premiums in part B. The total increase in the health care costs to the beneficiaries over this 5-year period of time is $20.9 billion, but the total cost to everybody else, that is, the people on the workforce who are paying the payroll tax and the Treasury, under part B is $73.5 billion.

Now, the point that is made by the advocates of this amendment is that this green slice of the total pie is too large. They want to reduce, maybe cut in half, this green slice of the pie. I think that this is a pretty fair deal for the elderly, sick, and frail. I think the real problem we have to deal with is the cost of Medicare.

How much time do I have remaining Mr. President?

The PRESIDING OFFICER. The Senator has 54 seconds remaining.

Mr. DURENBERGER. Mr. President, I rise to speak to another controversial and frequently misunderstood area, the Medicare Program. You have all probably heard budget-related headlines about projected deficits and the need to constrain aggregate spending increases for hospital and physician services, while improving reimbursement and access to primary care, community health centers and the services of health professionals practicing in rural areas.

We also took initiatives to correct inequities in how certain classes of providers are treated under the program and to give beneficiaries greater protection with respect to how certain benefits are administered, including allowing out-of-pocket management in lieu of out-of-pocket management in prospective payments to rural and urban hospitals; eliminating the arbitrary 210-day limit on hospice benefits for the terminally ill; authorizing assistance in the home for certain end-stage renal disease beneficiaries on home dialysis. The list of improvements is extensive.

Further, a number of us collaborated on the first major reform in a decade of standards regulating the sale to beneficiaries of private insurance benefits that are supplementary to Medicare. These are widely known as Medicare policies. Our proposals will help make sure that beneficiaries receive better value when they purchase wrap-around policies, and be better able to make valid price and benefit comparisons.

Unfortunately, these substantial successes have been virtually obliterated
by debate over budget summit proposals that would impose higher cost-sharing on beneficiaries. Turning to the major issue of beneficiary contributions to the program, I have thought long and hard about what I think is appropriate and equitable in the areas of premiums, deductibles, and copayments. But first, a little history is in order. Since its inception in 1965, the Medicare Program has been divided into two parts—one mandatory and one voluntary. The mandatory part is part A or the hospital insurance benefit. This is financed through payroll taxes on current workers. In 1966, 136 million workers contributed $68.4 billion in payroll taxes to the HI trust fund. This financed $60.8 billion in hospital services for 33 million eligible beneficiaries. It is important to understand that no significant changes to part A were proposed as part of the budget summit agreement, nor in the Senate package.

However, changes were proposed to part B or the supplementary medical insurance portion of the Medicare Program. Part B is the part that protects against the cost of doctors and other types of medical bills. Enrollment in part B is voluntary and purchase of the coverage is analogous to purchase of a year, renewable term insurance. It is a popular program—in 1989, 32 million beneficiaries were enrolled or over 98 percent of the eligible population.

Part B is financed from premiums paid by the aged, disabled and chronic patients, and a portion from the general revenues. The hybrid financing makes it an odd specimen, part social insurance and part private insurance. But make no mistake, it is just as subject to the pressures of health care inflation as any private insurance package. The premium rate is derived annually based upon projected part B costs for the coming year. Originally, the premium was set to cover the anticipated costs of the Medicare program for the aged. Subsequent law changes linked increases in the premium to the percentage by which cash benefits were increased under the COLA provisions of the Social Security Program. As a result of this formula, premium income, which originally financed half of the costs of part B has seriously declined to less than 25 percent of total program income. The current premium is $29.50 a month or $354.30 a year.

In addition, beneficiaries have to meet a deductible of $75.00. This deductible has changed only once (from $50 to $75) in 25 years! How many private insurance packages can make the same claim? I would bet none, in this era of rising health care costs and increased cost-sharing by insureds. In fact, according to the U.S. Department of Labor, over 30 percent of employees covered under employer-based health benefit plans had deductibles greater than $150.

But let us return to the Medicare Program and look more closely at what has happened. Since 1965, part B spending per enrollee has increased a whopping 1,370 percent. The premium increases have lagged behind considerably in real terms, growing only 85 percent. The deductible has grown only 54 percent. This is the real story of Medicare and what this really means. If the deductible had kept pace in value with that of the benefit, it would now be nearly nine times higher than it is, or $75, not $75. If the premium had kept pace, it would be over $700 a year, not $343.

If we acted now in accordance with what the founders of the Medicare Program thought was fair and reasonable, these are the kinds of numbers we would be talking about. But, we are not. Instead, we are proposing truly modest increases by setting the premium contribution at 25 percent and by raising the deductible to $150. In my mind, these are not deficit reduction changes, but legitimate changes that are urgently needed to protect the original intent and structure of the Medicare Program.

It is also important to keep in mind that as a group, the elderly have experienced the greatest gains in real income—about a 14-percent rise over the last decade. Despite this, there are many aged people who live on very low incomes. Therefore, we have improved protection for beneficiaries at or below the poverty line for whom even these modest increases are difficult. Over the past few years, we have used the Medicaid Program as a vehicle for protecting what are known as qualified Medicare beneficiaries through the concept of the Medicare buy-in. Under this program, Federal funds flow in from the States to pay for Medicare for those beneficiaries at or below the poverty line for whom even these modest increases are difficult. For the millions of beneficiaries in this area, we have order?
in the same way as a cut in the Social Security COLA.

Our proposals would eliminate the increase in the part B deductible. This would be offset by imposing a small surtax on taxable income over $1 million a year, making this amendment budget neutral. The amendment would reduce the Medicare cuts by $6.2 billion over 5 years.

The Medicare Program has been cut more than any single domestic program in recent years. Changes to Medicare mandated for the past 6 years are projected to be somewhere between $12 billion and $15 billion. Additional excessive cuts in Medicare will undermine the system, reducing quality of care and potentially limiting the availability of health care to people.

A 7½ per year increase in the part B deductible will adversely affect seniors, and particularly low-income persons. The projected average yearly Social Security COLA increase is about $325. The part B deductible increase of $147 would raise the real COLA cut for a person paying the full deductible. Congress would not be able to get enacted a COLA cut of that degree. As I stated earlier, 75 percent of seniors have incomes up to $24,000 a year—less than 125 percent of the poverty level. I fully expect us in the Senate-House conference to come out with greater protections for this especially vulnerable group.

Mr. President, we are substituting for these cuts a surcharge that would raise the real COLA cut for persons paying the full deductible. Congress would not be able to get enacted a COLA cut of that degree. As I stated earlier, 75 percent of seniors have incomes up to $24,000 a year—less than 125 percent of the poverty level. I fully expect us in the Senate-House conference to come out with greater protections for this especially vulnerable group.

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planned increases—not a cut in any honest sense.

This is what we have before us on Medicare—Hollings's plan to save $18 billion in savings over 5 years—and $32 billion of this is completely in the area of reductions to health-care providers—not to recipients. Cuts pertaining to beneficiaries make up only one-tenth of that amount—slightly more than one-third. How would beneficiaries actually be affected? Part B premiums now stand to go up by an amount of—sorry in 1991, zero in 1992, $3.20 in 1993, and a total of $8.90 by 1995. Nine dollars and eighty cents a year! How does it add up? In the event of a sequester. Well, just for those of you out there in the real world do you think are earning $98,400 every year by—yes—none other than Joe and Leona Helmsley. If one of the people out there in the real world do you think are earning $98,400 a year? Only about 2 percent of all of the individuals in the United States have incomes as high as $75,000, and that includes salary, Government benefits, or any other income, only 2 percent. That sounds like a pretty good definition of the rich to me, the top 2 percent of America's salary earners, we are earning what that group was earning before our salary hikes. But we passed the amendment, we accept the responsibility for my part in that process. I didn't take the bucks. Now that is in the pot of expenditures that we can't touch. That big money machine which is the U.S. Government is taxing the rich. We are going to pay out that money to someone else, without regard for any demonstrated need. And all of those expenses are untouchable.

It is time that they ceased to be untouchable. We made some very slight progress with this budget package in slowing the snowballing of entitlements expenses. This is not the time to now undo even that small progress. It is time, however, to stop kidding the American people, to stop pretending that our debt can be paid without reforming the entitlement systems in some way, means-testing on COLA's or however else. I want to ask my colleagues one question: What do they think is going to happen? Do we have to create new deductible expenses of 11.6 percent a year forever? And similar increases in Social Security and other entitlement programs? Does anyone here on this floor really believe that we can just let that juggernaut keep rolling along forever? What is their answer to that terrible problem? Tax the rich? If we can't even effect a modest deceleration of entitlements spending, I can tell you with absolute certainty that we shall never solve our deficit problem—whether we raise taxes or not. What are we doing to ourselves and more importantly to the people who sent us here? That is a challenge that faces us. It is a challenge that we must face. It is a challenge that demonstrates our mislead prior to any demonstrated need. It is essential, as we move ahead to implement whatever budget agreement is enacted, that we avoid unreasonable restrictions on our ability to allocate our limited resources to the areas where the challenges are greatest.

The Medicare portion of the budget summit agreement was an unfair attempt, one again, to make every elderly American the scapegoat for the enormous budget deficits we face. The Finance Committee package, while making some improvements over the summit agreement, would still place too heavy a burden on Medicare beneficiaries.

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Once the summit agreement, Medicare would have been cut by $60 billion over the next 5 years. Nearly half of these cuts—$28 billion would come from beneficiaries by increasing the part B deductible, linking the part B premium to 30 percent of premium, requiring a copayment for laboratory costs. The Finance Committee package reduces that burden somewhat by approximately a third, raising the deductible to $117.60, but it is still grossly unfair to millions of senior citizens.

The Medicare part B deductible is the amount that elderly and disabled Medicare beneficiaries must pay for physician services. Under current law, this deductible is $75 a

In my view, the reconciliation package places needless restrictions on our ability to meet the challenges. For the next 3 years, it puts separate caps on the amount of funds that can be allocated for each of the three broad categories of discretionary spending—defense, foreign aid, and domestic programs. If we want to fund a major new initiative, we must reduce some other program within the same category.

One obvious result of the separate caps is to prevent reductions in defense from being used to pay for initiatives in other areas such as education.

We have a drug problem that is ravaging our communities and threatens every American family; 37 million Americans have no health insurance coverage. The AIDS crisis has infected and affected nearly 800,000 Americans and 250,000 children. Millions of children suffer because decent child care is beyond the reach of most working families. Middle-income families are being priced out of higher education.

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The Medicare part B deductible is the amount that elderly and disabled Medicare beneficiaries must pay for physician services. Under current law, this deductible is $75 a
year. The budget summit agreement would double this level to $150, and the Senate Finance Committee proposed a 25 percent increase on this additional amount. The agreement increases the elderly with a difficult choice. They will have to ask themselves in the future whether they are "$150 sick" before they decide to seek care.

As a result, many will delay seeking health care. The elderly currently spend 19 percent of their income on health care, compared to less than 6 percent for the average American. Moreover, the elderly rely solely on Medicare for their health care protection.

For a decade, one of the highest priorities of Reagon and Bush administrations has been to increase the share of the part B premium. When the Medicare Program started, the premium was set at 50 percent of program costs. In 1976, because health care inflation had outpaced general inflation, Congress increased the premium to 65 percent. In 1982, Congress never adopted the 65 percent premium increase at the percentage increase in the Social Security COLA.

As a result of this cap, the share of the part B premium costs paid by beneficiaries declined to 25 percent by 1982. The Reagan administration made numerous attempts to restore the tie between the premium and program costs, and to raise the share of the program costs covered by the premium. Congress never adopted the premium increases that President Reagan requested—which went as high as raising the premium to 35 percent of program costs. Beginning with the budget reconciliation bill in 1982, however, Congress and the administration did adopt a series of temporary measures keeping the premium from falling below 25 percent of program costs. The budget summit agreement proposed to increase the share of the part B premium to 30 percent. The current proposals by the House and Senate continue the temporary 25 percent rule. I disagree with this policy. I urge the Senate to let this rule expire, and return the part B premium to its link with the Social Security COLA.

The House package is preferable. It included an $10 billion in beneficiary savings. It increased the deductible to $100, and the part B premium is held to 25 percent of program costs.

All three of the budget packages included an increase in the taxable limit for the Medicare payroll tax, the so-called HI tax. Under the summit agreement, the cap would be increased to $73,000 and raising $12.8 billion over the next 5 years. Under the Senate plan, the cap would be raised $4.3 billion, raising $19 billion. The House Democratic package would increase the cap to $100,000, raising $32 billion.

The HI tax is clearly regressive. There is no justification for any cap at all. Raising the cap even further would be good tax policy, and using these revenues to offset Medicare beneficiaries cuts would represent good health policy as well.

I join with Senator HARKIN in the amendment that he is offering to the Senate package. I would prefer to go even further, by providing full protection at least for low-income elderly citizens against additional Medicare cost-sharing, and delinking part B premium and program costs. But this amendment is an important step in easing the burden placed on the elderly by any increase in the part B deductible, and it will keep the deductible at its level under current law $75. These reductions in the burden on the elderly will be offset by applying a surtax on the wealthiest Americans. This amendment means greater fairness for our senior citizens, and I urge the Senate to approve it.

I ask unanimous consent that a table indicating the revenue raised by increasing the cap on the HI tax to various levels may be printed in the Record.

I hope the Senate-House conferences will consider the alternative of raising the HI cap as a means of easing the burden on Medicare beneficiaries.

There being no objection, the table was ordered to be printed in the Record, as follows:

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<tr>
<td>Revenue</td>
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Source: Estimates from the Congressional Budget Office.

Mr. HATFIELD. Mr. President, during the past several months, I have been unable to support the budget agreements we have considered because a disproportionate share of the cuts in budget-cutting has been placed on the elderly. I cannot—and I will not—stand by and watch this Congress balance the budget on the backs of one of the most vulnerable segments of our population.

In my mind, Medicare and Social Security are nonnegotiable items. Period. End of statement.
The Conrad amendment and the Gore amendment raised substantially the same issue that is raised here today. We are trying to get through this bill and get to the conference and complete action by the deadline of midnight tomorrow.

This is an attractive amendment. Who would not be attracted to the notion of imposing higher tax on those above a certain level and using the funds to reduce the cost of medical care to the beneficiaries? But we have to get a bill passed. We have to get this job done. I hope and pray that this is the last time we are going to vote on this issue, because it is the third time we are voting on this issue. And we have already disposed of it.

The Senate has spoken. I have made my views very clear. I say to the Senator from Iowa and other Senators, I agree with the thrust of these amendments. Once again, we face the same question we face so often in this body: Do we want to make a statement or do we want to make a law? I choose to make a law. For that, I am prepared to oppose amendments which I believe have merit because I know that the effect of their approval will be the opposite of that which is intended.

So I ask all Senators to join me in making clear for the third and last time that we want to finish action on this bill, we want to complete action on this bill, and we are going to refuse to waive the Budget Act for this purpose.

I understand the deeply held conviction of the Senator from Iowa. He is my friend and I have the greatest respect for him, but we have already decided this issue twice before. I do not see any reason why we have to keep on deciding the same issue in a slightly different form over and over again.

So with the greatest of respect and with the greatest of reluctance because I like the idea presented, I have been the principal advocate and the most outspoken Member of the Senate expressing the view that those whose incomes are the highest in our society should pay a high rate of taxation. That is not going to be the case.

So I urge my colleagues to join in refusing to waive this budget point of order and let us get on with the business before us and let us complete action on this bill tonight so that we can get to conference, get a conference report and complete action on that by tomorrow midnight. I thank my colleagues.

Mr. MITCHELL. Mr. President, this will be the third time in less than 24 hours in which we voted on substantially the same issue. How many times is the Senate going to be asked to vote on the same issue? How many more Senators are going to craft amendments which are very attractive and which will require the Senate to go back over the same issue over and over and over again?

Mr. MITCHENBAUM, Grassel, and HARKIN, has been unanimously reported by the Senate Appropriations Committee and is awaiting floor action. This bill calls for a significant increase in funding for both research and support for caregivers. While this is pending, however, the Senate Appropriations Committee has moved forward in its commitment to addressing this devastating illness.

This year alone, the Senate has provided $377 million for research at the National Institute on Aging—an increase of $138 million over last year.

In addition, Senator HARKIN and I introduced the 'Independence for Older Americans Act' calling for a $1 billion increase in the federal research investment for all diseases and injuries which affect the elderly. I am pleased that a scaled down version of this legislation has also been reported from the Senate Labor Committee and will soon be considered on the floor.

In addition to key support for these efforts, the Senate Appropriations Committee has provided increased support for the timely processing of Medicare claims. Funding has increased by $475 million since 1986 to ensure that Medicare claims receive prompt and adequate support for the timely processing of Medicare claims. Funding has increased by $475 million since 1986 to ensure that Medicare claims receive prompt and adequate support to the beneficiaries? But we have to get a bill passed. We have to get this job done. I hope and pray that this is the last time we are going to vote on this issue, because it is the third time we are voting on this issue. And we have already disposed of it.

The Senate Labor Committee and will report and complete action on that by midnight tomorrow.

Mr. MITCHELL. Mr. President, I have laid out all these programs and initiatives to make a point: We have been moving forward in our commitment to addressing this devastating illness.

$15 million above the President's request—and $144 million over the 1990 funding level—to ensure that Medicare claims receive prompt and adequate support to the beneficiaries? But we have to get a bill passed. We have to get this job done. I hope and pray that this is the last time we are going to vote on this issue, because it is the third time we are voting on this issue. And we have already disposed of it.

The Senate has spoken. I have made my views very clear. I say to the Senator from Iowa and other Senators, I agree with the thrust of these amendments. Once again, we face the same question we face so often in this body: Do we want to make a statement or do we want to make a law? I choose to make a law. For that, I am prepared to oppose amendments which I believe have merit because I know that the effect of their approval will be the opposite of that which is intended.

So I ask all Senators to join me in making clear for the third and last time that we want to finish action on this bill, we want to complete action on this bill, and we are going to refuse to waive the Budget Act for this purpose.

I understand the deeply held conviction of the Senator from Iowa. He is my friend and I have the greatest respect for him, but we have already decided this issue twice before. I do not see any reason why we have to keep on deciding the same issue in a slightly different form over and over again.

So with the greatest of respect and with the greatest of reluctance because I like the idea presented, I have been the principal advocate and the most outspoken Member of the Senate expressing the view that those whose incomes are the highest in our society should pay a high rate of taxation. That is not going to be the case.

So I urge my colleagues to join in refusing to waive this budget point of order and let us get on with the business before us and let us complete action on this bill tonight so that we can get to conference, get a conference report and complete action on that by tomorrow midnight. I thank my colleagues.

Mr. MITCHELL. Mr. President, this will be the third time in less than 24 hours in which we voted on substantially the same issue. How many times is the Senate going to be asked to vote on the same issue? How many more Senators are going to craft amendments which are very attractive and which will require the Senate to go back over the same issue over and over and over again?

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AMENDMENT NO. 3035 MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the motion of the Senator from Iowa to waive the Budget Act on his amendment, No. 3035. The yeas and nays have been ordered, and the clerk will call the roll.

The PRESIDING OFFICER (Mr. Ross). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Roll Call Vote No. 285 Leg.]

YEAS—49

Adams  Graham  McConnell
Alaska  Grassley  Menendez
Baucus  Harkin  Mikulski
Biden  Heflin  Pell
Bingaman  Hollings  Preston
Boschwitz  Jefords  Riegle
Bradley  Johnson  Rockefeller
Bryan  Kennedy  Sanford
Burdick  Kerry  Sarbanes
Conrad  Kerry  Shelby
Crabson  Kohl  Simon
D'Amato  Lautenberg  Specter
DeConcini  Leahy  Warner
Dixon  Levin  Wilson
Exon  Lieberman  McCain
Gore

NAYS—51

Armstrong  Bumpers  Cochran
Bentsen  Burns  Danforth
Bond  Byrd  Daschle
Boren  Chafee  Dodd
Breaux  Collins  Dole
The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 51; three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The motion to waive having failed, the Chair is prepared to rule the amendment of the Senator from Iowa proposes a surtax on individuals with taxable incomes in excess of $1 million. Since there is nothing in the bill on the tax rate for individuals, the amendment is not germane and falls under section 305(B)(2) of the Budget Act.
Mr. MITCHELL. Mr. President, the hour is late. I know all Senators are weary from weeks in which we have been engaged in this process. There remains this one additional amendment which is a very important amendment. It is the budget process reform provisions that have been worked out through several weeks of negotiation.

I know many Members of the Senate have a keen interest in and concern about these provisions. Under the rules by which we deal with the reconciliation bill there is no time remaining for debate. I have consulted with the distinguished Republican leader, with the managers, with several interested and concerned Senators. It is my belief that an amendment of this magnitude warrants a period of debate and discussion and the opportunity for Senators to ask questions or express their views about it. So I will momentarily propound a unanimous-consent request, asking that there be 1 hour of debate on this amendment so any Senator who wishes to ask questions or to express a view on it will be free to do so.

I suggest that time period not arbitrarily, but after having consulted with a large number of Senators who have expressed an interest in this matter. It is conceivable, indeed likely, that I did not, personally, reach everyone because I am not aware of each Senator who may be interested in this. But I made an effort to contact as many as possible and consulted with as wide a range as possible. In view of the hour I believe, as do most of the Senators with whom I conferred, that this would be an appropriate time period.

Accordingly, Mr. President, I ask unanimous consent that there now be a period for 1 hour of debate on the Budget Process Reform Act amendment which I will now send to the desk in behalf of myself, Senator Dole, Senator Sasser, Senator Domenici, Senator Byrd, and Senator Bennett and ask for its immediate consideration.

Mr. STEVENS. Reserving the right to object.

Mr. MITCHELL. Let me separate the two so that Senators will have a chance to express objection.

AMENDMENT NO. 3044
(Purpose: To reform the budget process)

Mr. MITCHELL. Mr. President, I send the amendment to the desk and ask for its immediate consideration, and I withhold the unanimous-consent request with respect to the time for debate on the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Maine (Mr. Mitchell), for himself, Mr. Dole, Mr. Sasser, Mr. Domenici, Mr. Byrd and Mr. Bennett, proposes an amendment numbered 3044.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under "Amendments Submitted").

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the majority leader for giving us this opportunity to discuss the matter. I know the Senator from North Carolina and I do. I see other Senators standing.

Mr. MITCHELL. If the Senator will yield, I have not yet obtained unanimous consent to 1 hour for debate. I wonder if I might do that, if it is the Senator's intention to discuss the matter. I wanted to make certain Senators had an opportunity to express objection to it.

I now ask unanimous consent that there be a period—

Mr. PRESSLER. Reserving the right to object, is it possible if a Senator has questions, say to the chairman of the
Mr. MITCHELL. I am going to ask the time be controlled and divided in the usual form by the distinguished chairman and ranking member, the managers of the bill.

I will state my request.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I would like to speak on it. I also have a secondary amendment. Is that included in the 1 hour?

Mr. MITCHELL. I did not have a chance to complete my request. I intend to cover that in my request, if I might complete it, and then give the opportunity to any Senator to object if he wishes to do so.

Mr. President, I ask unanimous consent to have 1 hour for debate on the amendment with the time to be equally divided and controlled in the usual form; and that there be 30 minutes equally divided and controlled in the usual form for debate on any second-degree amendments which may be offered to the amendment.

Mr. JOHNSTON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the hour is late and there could be unlimited second-degree amendments. We could be here past 2 a.m. Just by Senators putting in second-degree amendments, I hope we will not have to stay here all night long. We have been here a long time.

Mr. MITCHELL. Mr. President, as the Senator knows, my original unanimous-consent request would have precluded second-degree amendments. Objection was heard to that. I am attempting to accommodate that. I want to modify or amend my request that any second-degree amendments be general and not to my initial request. I do not believe I stated it in this latter reiteration.

Mr. STEVENS. Reserving the right to object, and I have great respect for the leader, as the Senate knows. This is the far-reaching nongermane amendment that is subject to a point of order I have ever seen. It is a procedure that further complicates the procedure that we have now gone through to pass a package that should have been completed by May.

I am being respectful to my friend by saying I think if we could have a period of discussion to find out what the intent of the leadership is with regard to this package, we may not have any amendments, and it may well be that the leadership may see fit to modify it itself to avoid such amendments.

I do not have any amendments in mind myself at this time. I do have a series of questions. I think others have questions.

We are grateful to all who have been part of the leadership group in negotiating this package, but I saw it for the first time this afternoon and I have spent 2 hours reading it. Maybe I am dilatory in that, but that is when I received it from my staff. It has raised a series of questions with me, and I do not mean to prolong this matter.

I would like to have some answers to questions as to what is intended with regard to some of the powers that are conferred on the Office of Management and Budget with the Budget Director and how these triggers would impact particular processes under these caps that are outlines.

My colleagues, I think, understand it full well. I am not trying to delay. I urge the leader to let us have the debate period without any amendments in order at all and then see if any of us want amendments later on. Maybe we can work it out that way.

Mr. MITCHELL. Mr. President, I appreciate the concern of my friend, the distinguished Senator from Alaska, and share that concern. This is a far-reaching measure. That is why I am attempting to accommodate the interjection of the distinguished leader. I do not want to have time to debate it. Under the rule, there would be no time for that purpose.

The object of this unanimous-consent request is to create a period of time for such discussion which would not otherwise exist.

I would also say while I did not attend meetings involving budget process reform at any stage during this process—from our side that was left entirely to the distinguished chairman of the relevant committees—I am acutely aware from my meetings in the summit that this is of critical importance to the President. Over and over again I was told directly by the distinguished leader that budget process reform was an essential condition to the President of any budget legislative package. The distinguished ranking member is here and if I am incorrect in that regard, I would appreciate being told. But I have been under the impression what we are doing here is attempting to accommodate the President's request by proceeding with this package of reforms.

Mr. DOMENICI. Will the majority leader yield for a second?

Mr. MITCHELL. Yes.

Mr. DOMENICI. Mr. President, for a moment, I will speak to this side of the aisle. I will speak generally. Over the past 3 days as this package of tax increases, entitlement changes, and reductions in 5 years of discretionary accounts, principally defense, I do not know how many of my colleagues have asked, will there be a new process to make sure we get what we bargained for? I do not know how many said, if you do not give us that, you can rest assured the package is not going to pass.

We tried. That is what this is. I think by the time we are finished discussing it, we will be able to convince you that while it is different, it truly renders this package rather credible, not only from our eyes but from the public's eyes. We can expect the deficit reduction that we vote for, in terms of the various cuts, taxes, changes, and the like, will be achieved.

Might I say to all the Senators, I think a very similar package has been put by the House. So for those who think it is extremely different from anything we have ever had, it is only somewhat different. They have adopted it with a couple of changes, but for the most part, it is part of their reconciliation package.

In fact, I think I know a couple of areas where we differ and we can probably talk about those, or we will talk about them in conference, if we ever get this matter through, and I hope we do.

I might say from this side of the aisle, I heard from at least 10 Senators who said they were resistant for substantial deficit reduction unless the budget processes were reformed to assure we got what we bargained for. I think we tried that, and I look forward to sharing with you what we achieved.

There were about five Senators in opposition from both sides of the aisle, about five House Members, and ultimately 10 or 15 Members from each side, along with the OMB Director and whatever experts we had here. We did the best we could, and I think it is a good package.

I thank the majority leader.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER (Mr. HARKIN). Mr. MITCHELL, is there objection to the request of the majority leader?

Mr. STEVENS. Is this the request for 1 hour of debate making 30 minutes any germane amendment that is offered thereto?

Mr. MITCHELL. No, it is the request for 1 hour of debate on the pending amendment and 30 minutes on any germane second-degree amendment that is offered thereto.

The PRESIDING OFFICER. The request is granted.

Mr. MITCHELL. I thank my colleagues. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

If I might just state before yielding to the distinguished Senator from New York, I think we can complete action on this within a reasonable period and leave for the night. I implore my colleagues to permit us to complete action at a reasonable hour this evening. We have a very long day tomorrow with appropriations bills pending and we hope at some point to get back a conference report on this measure. So I thank my colleagues for their cooperation.

Mr. DECONCINI. Will the majority leader yield for a question?

Mr. MITCHELL. Certainly.

Mr. DECONCINI. Will the majority leader pursue or consider having a vote on this tomorrow?

Mr. MITCHELL. No.
Mr. DECONCINI. I take it the majority leader would like staying here until midnight tonight.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, there has been a request for time from this side of the aisle, and it has been representative to the Senator from Tennessee that the Senator from New York was requesting 10 minutes.

Mr. MOYNIHAN. Correct.

Mr. SASSER. I yield 10 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. MOYNIHAN. I thank the chair of the committee. I thank the President.

Mr. President, we are told this is a bill to reform the budget process. And if that is not an oxymoron, we have not heard one in this Chamber since Senator Russell grazed our asides.

This bill of momentous consequence appeared on our desks this afternoon. I obtained a copy at 11:25. A 122-page bill that changes the way the Government works, and the Senate works, and we have never seen it.

We are told by the majority leader, our friend, that it was the result of several weeks of negotiation. We learned from the distinguished ranking member of the Budget Committee that there were, count them, five Senators involved. I assume I have reason to believe that this negotiation took place in an armed military base behind barbed wire some distance from the Capitol. Further, that last-minute changes were made by the Budget Director at the White House during an all-night meeting determining whether or not the President would come down to give his assent.

If I can say from my deep knowledge of Roman history acquired from the novels of Robert Graves, I have come to the conclusion that it is a mistake for Senators to allow themselves to be taken off to a military base, put under armed guard, and told to write legislation.

There were no hearings. There has been no debate. There has been no consideration. The distinguished Senator from Alaska got it at 7 o'clock this evening. I claim the earliest arrival. I stood down by the Xerox machine and at 11:25 I got my hot copy in my hands. We have no idea what is in this. I will tell you a few things.

First, Mr. President, 5 years ago on this floor I stood and, as a bill of this magnitude begins to appear on our desks this afternoon, I assumed that the Committee of the Whole would have to consider legislation changes hourly. Just as there are in here, you will be interested to know, new budget targets for 5 years.

I have an important announcement to make. Things are getting worse in our country. The first enacted by the President—this mode of legislation, we have always known that in 5 years time we would have a balanced budget. Not this year, not next year, but in 5 years.

In 1986 we set the targets which led up to 1991; zero. Again, in 1988 we set the targets, set it up to 1993; zero. We are now at the first zero and we find in this bill, that, no, the deficit is not zero; it is $242 billion. I have to report to the Senate that in 5 years time this is it is not zero anymore. It is $62 billion.

Now we propose to divide our budget into three parts. The defense spending authorization part actually goes up each year for 3 years. International affairs, a monster $20 billion, stays there, with no opportunity taken to use a peace dividend in world affairs.

much less domestic affairs. The Pentagon is getting all it wants, even at the end of the cold war. Yes, it is over. The Secretary of State keeps telling us. The President keeps telling us that their defense budget rises. As Helen Dewar wrote in the Washington Post this morning, "not one weapon system of the cold war disappeared from this budget."

I have 60 years of my life in that era, and I do not have to apologize I hope for the views I had then. But that was then. This is now. But not according to this measure.

There cannot be five Members of this body who have read more than three pages of this amendment. I say to you, Mr. President, we do not know what we are doing accepting this one measure.

The New York Times after the Senate returned under guard, or at least by military vehicle, from Fort Anthony, spoke of government by cabal.

How else do you describe the measure of this consequence? Never printed, never seen until the day of enactment on which point we are assured it has been agreed to in another place, unspecified; by other persons, unnamed, except that it is important to the President.

I give you just one item. I will not keep you long because I have not a great deal to say about a bill which I have not had time to dimly understand. But how do you like this? Remember, we were told in the State of the Union message do not mess around with Social Security. Which will we let spend it as if it were general revenue. There is a little item here. Anything you want to do on any subject, if it spends any money, takes 60 votes, forever now. Forever.

But with respect to Social Security, there is one additional nice provision here. Under this leadership legislation, changes to the financing of Social Security would also be subject to that ubiquitous 60-vote point of order, and I now I quote, Mr. President—this may be as much as anybody in the Senate learns about this legislation tonight so I ask my friends to listen. This point of order obtains "without regard to whether such changes increase or decrease or have no impact on the outlays of and income to such program." Whether it increases outlays, decreases outlays or has no effect, you need 60 votes even to consider it.

That is a gag on the Senate. This legislation is filled with such provisions. It is taking away the Senate's prerogative. There was something deeply symbolic about the President taking our people away to a military base, keeping them there until they had agreed, and then giving them the Hill in something less than the stature with which they left.

I do not speak as to any individual, but can this really be done to U.S. Senators? Given legislation at noon today and told to enact it, forever. Enact it in the evening and no votes, no amendments, no discussion, no hearings, not even having it printed. Why do we do this? I will tell you why we do this. We do this to reelect the President. That was the price of letting our Senators free.

First of all, we increased the debt ceiling by $1.9 trillion. That means 5 years with no debt ceiling discussions, none of those inconvenient discussions as to what are you doing with that money? How much are you borrowing? Where did it all go? Five years. No more of that during the first term. For 3 years in this world of sequester, sequester, sequester, for 3 years we are told, let us see, 1991, 1992, 1993. That is it, 1993, 1994 all the sequesters you want. No sequester now. Like in Alice it was jam yesterday and jam tomorrow, never jam today.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. MOYNIHAN. No, the Senator will not yield for any question. I have never been asked about this before. It is too late to ask now.

Mr. President, if you want to reelect, if you want to reelect—

Mr. BYRD. Mr. President, may we have order in the galleries as well as in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. The Chair has responsibility to maintain order in the galleries as well as in the Chamber.

The PRESIDING OFFICER. There will be no outbursts from the galleries.

Mr. MOYNIHAN. I appreciate the intervention.

The PRESIDING OFFICER. Will the Senator please desist just a moment. The Chair will remind the
Mr. MOYNIHAN. Might I have 10 seconds?

The PRESIDING OFFICER. Does the Senator from Tennessee yield more time to the distinguished Senator from New York?

Mr. MOYNIHAN. Ten seconds.

Mr. SASSER. Yes, Mr. President.

The PRESIDING OFFICER. How much time did the Senator yield?

Mr. MOYNIHAN. Ten seconds.

Mr. SASSER. I would be pleased to yield 1 minute to the Senator from New York.

Mr. MOYNIHAN. One minute.

I thank the Senator.

Mr. President, we are in the process of diminishing the legislative roll of the Senate at the behest of the President. If you would like to diminish the national election process as well, here we have it. This is a bill to reelect the President of the United States by statute. All that could be done is done. It is too late. You will have done it. God save the President. Thank you, Mr. President.

Mr. DOMENICI. Mr. President, will the Senator from Tennessee yield 1 minute; half a minute?

Mr. SASSER. I say to my friend from New Mexico, of course I would be pleased to yield to him. I have a number of Senators on our side who want to speak.

Mr. DOMENICI. I want to make a clarification. It will take me 30 seconds.

The PRESIDING OFFICER. If the Senator will suspend, the Senator from New Mexico controls one-half hour of time.

Mr. DOMENICI. I will take 30 seconds.

I just want to say to my fellow Senators the Social Security provisions that the distinguished Senator from New York has talked about are current law. We codified them in this amendment because the Finance Committee made the request. They are current law.

Mr. SASSER. Mr. President, on our side of the aisle there have been requests from a number of Senators to speak. The distinguished Senator from North Carolina [Mr. Sanford] has requested 5 minutes, as has the distinguished Senator from Florida [Mr. Graham], as has the distinguished Senator from South Carolina [Mr. Hollings]; 5 minutes for each of those Senators, and the distinguished Senator from Arkansas has not requested—

Mr. PRYOR. I would like to request time or at least ask a question.

Mr. SASSER. Does the Senator wish time or to ask a question?

Mr. PRYOR. If I may have 5 minutes of questions.

Mr. SASSER. The distinguished Senator from Arkansas is allocated 5 minutes, and that eats up the 30 minutes on our side of the aisle.

Mr. SIMON. Mr. President, if I may ask the Senator, the chairman of the Budget Committee, I thought I had 5 minutes in there.

Mr. SASSER. As a matter of fact, the distinguished Senator from Illinois has 5 minutes.

Let us recapitulate here. I have allocated out more time than I actually can allocate, I say to my friend. I say to the distinguished Senator from Arkansas there is a Senator Simon on the list prior to the distinguished Senator requesting time. Perhaps the Senator from Illinois would be good enough to split his time with the distinguished Senator from Arkansas.

Mr. SIMON. If I may respond to the Chairman, I will be offering a second-degree amendment. I will not take 30 minutes. I would be pleased to give some of that to the Senator from Arkansas.

Mr. PRYOR. I thank the Senator from Illinois.

Mr. SANFORD addressed the Chair.

Mr. SASSER. I yield 5 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. SANFORD. Mr. President, there are a great many things about this bill that ought to bring rejection. The Senator from New York has certainly made the case very well on most of the points. I want to simply emphasize one point primarily, and then maybe a couple of secondary points.

For the past several years I have been bothered by one major factor in the budget; that is, that we did not know what the real deficits were. Somehow we managed to cover up the true deficits. All the time, for 10 years, when we claimed we were reducing deficits we were actually increasing the deficits contrary to the unprecedented national debt—the largest in the history of both this Nation and the world.

I think that has to stop. I think we have to have honesty in our budget. I think the people must know the honest figures if we expect the support of the people in dealing with the deficits.

Mr. SASSER. If the distinguished Senator from North Carolina will yield for a quick question?

Mr. SANFORD. Yes.

Mr. SASSER. The distinguished Senator is requested to be pleased to—

Mr. SANFORD. I am well aware of that section.

Mr. SASSER. I ask him if he does know that in the package before us we have—

Mr. SANFORD. Yes, I am going to come to that. I was going to say we had a little bit of honesty in here. Mr. SASSER. We included the provision that he has supported for a number of years here. We think that is a welcome addition to the package.

Mr. SANFORD. I think it is the best thing in this amendment. But we come to this 5-year plan, Mr. President, and we proclaim loudly that we are going to take $500 billion off the budget deficits, and at the same time over that 5-year period we are going to be adding $1.4 trillion, $1.6 trillion, $1.9 trillion, depending on whose figures you take to the debt.

I think this is something that we cannot permit to go on for 5 years. We must come to terms with this deficit and this debt. To lull ourselves for 5 more years of complacency I think would be a great tragedy.

I can see the day when the big luminaries do not pull up to the Federal Reserve building, and our bonds do not get bought. If that happens, 1992 is going to look like a church picnic. We are going to have the worst kind of financial disaster that could be imagined.

So I think it would be a great mistake if we saw this as a 5-year plan, and if we permitted a President or ourselves to talk about this 5-year plan as getting at our problem in a substantial way.

I thank the chairman for both putting into this bill and mentioning that the debt increase will be considered a measure of the deficit. However, I do not think that the debt increase is a measure of deficit. I think the debt increase is the deficit, and the sooner we admit it, the sooner we get honest, the sooner we will get on with solving this problem so we will not bankrupt and wreck this country.

1 yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Let me yield 5 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. GRAHAM. Mr. President, physicians train so that first you diagnose the patient, attempt to understand the problem, and then you prescribe. I would suggest if you look at the diagnosis of Gramm-Rudman-Hollings over the last 5 years you would find these as some of the problem areas: First, it has not contributed to credible deficit reduction. That is, I suggest that we have had unprecedented addition to our national debt during the same period of time that we have had Gramm-Rudman-Hollings.

I suggest that the reason why we have not had credible deficit reduction has been in part because so many items were off budget; that we did not count.

We did not count, for instance, a substantial amount of the S&L bailout costs last year. We do not count those things that occur after the magic date when the window was closed and all spending no longer counts for the calculation of Gramm-Rudman. We have
no effective postenactment enforcement mechanisms.

Most States which have a balanced budget constitutional amendment require some kind of combination of expenditure and inflow provisions to reduce spending in the event that fiscal patterns are leading toward an imbalanced budget. We do not have that with Gramm-Rudman-Hollings.

So what is our prescription to this discipline? Our prescription is adequate for all practical purposes the deficit targets. We no longer are talking about attempting to reduce the deficit. We are now talking about reducing spending, maintaining our spending within certain ceiling levels.

I will make with the highest sense of confidence the statement that if we adopt this approach tonight, we will have deficits in the next 3 years that will make the deficits of the last 10 days pale in comparison. There will be no discipline in our spending, there will be no discipline in our overall deficit posture, because the only thing we will be looking at are the spending ceilings.

The revenue falls below expectations because of unrealistic economic ambitions, and I believe this whole program is built upon those. We will have burgeoning deficits. There is no sequester because of unrealistic economic ambitions, and I believe this whole program is built upon those. We will have burgeoning deficits.

Spending ceilings. The ceiling limits on spending are not transferable among categories. There will be no disincentive not to spend up to the ceiling because there are no opportunities to, for instance, find new domestic programs that justify greater spending by saving spending on the defense side. Enormous loopholes.

How many people realize that in this provision, we are about to vote effectively for Egyptian debt relief, Polish debt relief, and completely a blank check for Operation Desert Shield? All of these are not going to be cut. There is no sequester to provide any minimal restraint in the event of those burgeoning deficits.

The ceiling limits on spending are not transferable among categories. There will be no disincentive not to spend up to the ceiling because there are no opportunities to, for instance, find new domestic programs that justify greater spending by saving spending on the defense side. Enormous loopholes.

Mr. President, when this century opened, there was a country which many people thought would be the great country of the 20th century; it had beautiful land, it had cultured people, it had tremendous possibilities. It was at that time the sixth largest economy in the world.

Today, the country is the 65th economy in the world. It struggles with one of the largest debts and one of the most broken economies in the world. That country is Argentina. And it is all because of a problem in large part because it did not have a capacity to exercise some discipline, some sense of vision, some direction, to its national process.

I am concerned that by adopting provisions such as this before us tonight we are about to move even further down the path of Argentina, and it saddens me that our generation of Americans should be the generation that will take that step.

I imagine that this is going to pass. I can count, not as well as everyone in here, but well enough to see that there is a majority of votes for this. I do not think this is going to be one of our part hours, and I believe we will have ample opportunity to be well advised of the ill wisdom of the decision that we are about to make.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOSCHWITZ. Mr. President, I yield 5 minutes to the Junior Senator from the State of Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I wondered if our time here tonight was well spent. The distinguished Senator from New York has told us that on this vote we really do decide whether we are doing the Lord's work, and I rejoice in being part of it.

Mr. President, we have had a reference here to the budget process being an oxymoron.

Mr. President, I submit if we went out to any household in America we would find that they had a budget process, and that budget process would not be an oxymoron. I submit that in any business in America, be it large or small, they have a budget process that is not an oxymoron.

In fact, we stand on the single spot in the United States of America where budget process is an oxymoron, and as a result we are the laughing stock of the Nation.

Mr. President, it is interesting that after all of these remarks, we are finally debating, in my humble opinion, the one issue in this bill, and I believe we are in the interest of the people who do the work, and pay the taxes, and pull the wagon in this country.

Mr. President, let me outline the so-called outrages we are talking about in this bill. The most outrageous is that we have three caps on spending each year for 3 years, and what the cap says is if you violate that cap, 15 days after you pass the spending bill there is an across-the-board adjustment that cuts spending back to the level that you said in law that you would adopt.

Mr. President, if that were submitted to any office, the working people of this country, it would be adopted by an overwhelming margin.

I hear our colleagues say there is no enforcement, there is no sequester. Mr. President, we have more sequencers in this bill, more enforcement in this bill by far than we have ever had before. We have three caps that are absolutely enforced with a mandatory offset. We have a sequester for the first time on entitlements and underperforming funding measures. We have the Gramm-Rudman sequencer process strengthened with an ironclad enforcement.

Mr. President, what we are trying to do here is to do something that we have all been concerned about. It is easy to make promises, it is easy to write budgets. It is very hard to live up to those promises in those budgets. There is no legislator who is going to have a citizen, or legislator who is going to build legislatively a four-sided fort where you can draw the drawbridge up and go back to sleep. But what we have here is the strongest process we have ever had before, a stone wall to our back in the gunflight of those who really want to do something about spending.

Mr. President, I have heard the language stretched to the breaking point, but how anybody could possibly believe that by having binding constraints on spending, we move this great Republic toward the financial crises of Argentina, I find that totally incomprehensible, and obviously I do not believe it to be the case.

Let me say, Mr. President, that the current vehicle that we operate on, as imperfect as it is has worked. Let me say to my colleagues that before 1985, when on the floor of the Senate we adopted the Gramm-Rudman-Hollings balanced budget law, the 20 years prior to the adoption of that law saw Federal spending grow by 11 percent a year.

With all of its failings since that law went into effect, Federal spending has grown by half of that rate. The Federal Government was spending 23.9 percent of GNP the day that law passed. Today the Federal Government is spending 22.4 percent of GNP.

And let me let you in on a secret. With this agreement fully enforced, with moderate growth at least 80 percent of the level we have achieved in the last 6 years, Government spending as percentage of GNP in 1995, at the end of that fiscal year, will be 18.3 percent. 24 percent smaller than it was when Gramm-Rudman-Hollings was enacted in 1985.

Mr. President, I ask for 1 additional minute.

Mr. STEVENS. Is the Senator going to save time for those who want to ask questions?

Mr. DOMENICI. I yield 1 additional minute, and say to the Senator I clearly intend to.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. GRAMM. Mr. President, we do not have a perfect device in front of us. We have a device that is aimed at trying to deal with runaway entitlements; we have a device aimed at trying to control spending and help us live up to the commitment that we make in this bill.

It is not a perfect process. But it is a dramatic improvement over any enforcement process that we have had ever in the Congress of the United States of America.

I believe that of all we do here, if this reconciliation bill ultimately becomes law, that the greatest impact by
far will be the changes we make in the budget process tonight.

I yield back the remainder of my time.

Mr. SASSER. I yield 5 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am most struck this evening by the tremendous change, the shocking change, in our procedures. Heretofore, since 1974, whenever we finally got a budget determined, settled upon, we would immediately forward it over to the Congressional Budget Office to get their estimations. Not so with this one.

As the Senator from New York said, you could not find this blooming amendment until late this afternoon. I heard rumors about it. I wondered how the S&L bailout was treated, and I wondered about Social Security, and I wondered about many other critical elements. Then, in one fell swoop, we are presented with a 126-page amendment.

Under this leadership amendment, you can forget about the Congressional Budget Office. The fellow who is going to oversee all the enforcement that the Senator from Texas talks about is the same guy, Richard Darman, who told us less than a year ago that we would have a $100 billion deficit, and we ended up with $282 billion. Now, the House same says don’t worry about deficit targets, and it quote-unquote “holds harmless” huge chunks of Federal spending.

Well, that reminds me of the insur- ance company looking for a slogan, Capital Life: “We’ll surely pay, if the small print on the back doesn’t take it away.” They are going to hold harmless. Well, you know who is going to see to it that the Administration’s pet projects are held harmless. That is the Director of OMB, and, with his fiscal judgment and his fiscal acumen, he will measure our fiscal costs. A more accurate deficit projection foresees a $63 billion deficit—even after raiding the trust funds, which no one on this side of the aisle has, I assume, günne the White House, and particularly the Office of Management and Budget, to get the budget process tonight.

Mr. DOMENICI. We can do it either way. I want a little time to explain this as I see it, but it is not urgent. Why does the Senator not direct his questions to me?

Mr. STEVENS. I will wait.

Mr. DOMENICI. I yield myself 5 minutes.

I am sure others are going to do a much better job of explaining this package. I see the distinguished chairman of the Appropriations Committee, Senator Boren, who spent untold hours on this process and with his colleagues, I really do not believe that he would be part of many of the things that have been alleged about this package. It is inconceivable to me that he would have turned over the power of the Congress and the U.S. Senate to the White House, the U.S. House, or anyone.

Having said that, let me tell Senators about the background on this process reform proposal. We were not going to get it done last year, nor will be the changes we make in the budget process tonight.

The President of the United States said in sequence: Let us put everything on the table, and let us try to solve this problem. Ten days later that was not enough. He did what was right. He said revenues are on the table; taxes, too. The President of the U.S. Congress and I am ashamed of this particular thing.

I thank the distinguished chair.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. I ask the distinguished Senator from New Mexico if he has anyone on his side of the aisle who wishes to speak?

Mr. DOMENICI. We have the distinguished Senator from Alaska, who desires to use some time to ask questions. I assume

How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. There are 23 minutes and 46 seconds remaining to the Senator from New Mexico.

Mr. DOMENICI. What is the desire of my colleague?

Mr. STEVENS. I do not wish to use this time if there are people who wish to ask questions. I can get time on an amendment, and intend to do so, if it is necessary, I do have some questions. I will be pleased to have some time to ask them now.

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discretionary appropriations, entitlements, and revenues. We said let us have a 5-year plan on discretionary appropriations for this country. The distinguished chairman will better explain what happened there, how it all will work, and his support for what was done.

But we set actual numbers, budget authority, and outlays for the next 5 years for all of the discretionary programs combined. Then we broke it down into defense, discretionary domestic, and foreign. And we set numbers for each one and said for the first 3 years those targets are binding, both the big one cumulatively, and each one under it.

For the last 2 years, only the cumulative target is binding.

What does binding mean? Binding means that when you are through appointing you have met the target. And, if you have not, no bill, no line item veto, no rescissions. Instead, the entity that is appropriated will take whatever small cut or large cut across the board that is required because you broke the targets.

I do not think that is a terribly onerous provision. In fact I think it is calculated to make the American people believe that over the next 5 years we will achieve $184 billion in discretionary savings, most of which comes out of defense.

Then we said, third, let us have pay-as-you-go entitlements in they have to pay for them and they have to be budgetary neutral or there is a point of order. I do not know what is wrong with that. I think that is pretty good.

That is new. I think it is pretty healthy.

Then we said we ought to extend the Gramm-Rudman-Hollings for 5 years and see if we can get close to zero, and we have in the appropriations the Gramm-Rudman-Hollings. We modify it annually for the first 3 years, if the economic change, or if technological change.

Those who are interested in budget language will know that we are really trying not to punish the appropriations for failures to meet the targets. And we are trying not to sequester appropriations based on economic changes or cut the sequester numbers to change. We did that.

We then put in credit reform that is required to proceed for an additional 3 minutes.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SASSER. How much time did I yield myself?

The PRESIDING OFFICER. All of the time of the Senator has expired.

Mr. SASSER. Mr. President, I ask unanimous consent that I be allowed to proceed for an additional 3 minutes.

The PRESIDING OFFICER. Is the Senator proceeding to answer questions?

Mr. SASSER. Mr. President, I ask unanimous consent that I be allowed to proceed to answer questions.

The PRESIDING OFFICER. Is there any objection?

Mr. STEVENS. Mr. President, will the Senator yield me 5 minutes?

The PRESIDING OFFICER. The Senator from New Mexico probably has some time left.

Mr. STEVENS. Mr. President, will the Senator yield me 5 minutes?
Mr. DOMENICI. I yield the Senator from Alaska 5 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, keeping in mind the problem the Senator from South Carolina has mentioned, and realizing that at that point of order there are potential second-degree amendments, I want to ask some questions that might be relevant to our consideration of that point of order which I know will be made.

I want to address to the Members who are managing this proposition this question: We have in this proposal, for instance, a new concept. It is called a look-back sequester on November 15. The sequester is part of existing law already, but this look-back concept is new. I think the Senator from Texas and the Senator from New Mexico might be able to tell us. As I understand it, the results of the fiscal year that preceded that November 15th would be reviewed by the Director of OMB and he would look to see what deficit overage had occurred in the previous fiscal year, not the one coming ahead, as is the case in current law.

Today we have an initial sequester on October 1 where you actually look ahead, take a snapshot of the projected deficit and see what might happen. But this is a look-back concept. I want to ask this question: Suppose we had another S & L type failure. As I see it right now, that has cost us somewhere between $195 billion and $195 billion, or at least that is the estimate now. Suppose the OMB Director sees that another crisis of that sort took place in September and he had to listen to the Secretary of Treasury, as we did; and say, we need more money, billions more money. He has to deal with this November 15 comes and the Director of OMB says, there is at least a $165 billion deficit that you have not taken care of. What happens under this look back? As I understand it, there will be an automatic sequester, is that right? Will there not be an automatic sequester if he finds that? We are out of session and there is an across-the-board cut somewhere.

Mr. DOMENICI. The Senator's question had to do with an S & L type of problem.

Mr. STEVENS. An S & L type loss. It is a loss that was not projected in any of the budget process caused by legislative action that was passed in the preceding year.

Mr. DOMENICI. Let me say to the Senator in response to this question, and other Senators, what we are doing here is to address a constant concern that the sequester process, as it is now written, imposes the appropriated accounts. That is what we were worried about, that at the end of the year, if you breached your targets, you looked and said, "Well, what else could you cut out?" I quoted Rudman defined the pool. The pool was half comes out of defense and half comes out of discretionary. So we said, how can we make other parts of the budget more responsible for breaking the budget, breaking the targets, and this concept of look-back eliminations. It is applied at the end of the year. If the entitlements exceed their targets—

Mr. STEVENS. Respectfully now, the Senator gave me 5 minutes. What happens under this law if there is an unexpected loss of $165 billion to $195 billion when the Budget Director looks at the results on November 15?

Mr. DOMENICI. I say to the Senator, I cannot answer easily because I am trying to tell you that the ministe—

Mr. STEVENS. The proposition this plan does not presume a balanced-budget concept?

Mr. DOMENICI. I say to my colleague, it takes everything we know was going to occur and everything that we could project, and on those projections, and given the economics we used that gets to balance under OMB in 5 years. If you are concerned about a sequester occurring because of an S & L crisis, then I would tell the Senator, or the OMB Director, having to cut something because of that kind of S & L crisis, it is not there. The Gramm-Rudman targets are automatically adjusted in the first 3 years, including this year.

Mr. STEVENS. Is the answer that by 1995 then we do not have a Budget Act? What happens in the succeeding years in terms of planning? We are knocking out a 2-year planning process and putting in a 4-year planning process. What kind of planning cycle do we have now if this passes?

Mr. DOMENICI. We have this year and 4 years and when these targets and these provisions expire, we have the Budget Act. And we have met our targets.

Mr. STEVENS. Where is that Budget Act after the end of the 5 years? Where is it?

Mr. DOMENICI. It is still substantive law.

Mr. STEVENS. But this is changing the substantive law, Mr. President.

Mr. DOMENICI. Were we to have brought 6 years in—not the Senator from Alaska—some would say it is too long. We brought in a 5-year plan. Some even think that is too long. Some think we cannot plan beyond 2. We think with the flexibility we have provided that we can plan for 5 years. Mr. STEVENS. Does this not set up 4 years out? Next year will we not be dealing with 4 years again?

Mr. DOMENICI. Next year we will be dealing with 3 additional years, as far as the mandatory targets.

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fused I apologize, but I do not think that is the document that explains this bill. I think that is the document that explains the so-called summit agreement and I think we changed it, but I am not sure of that.

Let me ask the Senator about page 36 of the amendment.

Mr. DOMENICI. Let me see that.

Mr. STEVENS. "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 five times that specified and directed for the first year covered for each committee directed." Is that permanent law? Is it every year we are dealing with 5 years from now on?

Mr. DOMENICI. When we write a budget resolution, what we are doing is creating a bill that will cover the first year and 4 years after the first year. So if we write a 5-year budget resolution, and we do that every year. So if we write one next, it will be for 1 year longer than the previous one before. What is talked about in this bill is to make certain new provisions binding for those 5 years.

Mr. STEVENS. That is what I am talking about next. Are they binding for the full 5 years in the enactment now? Under what conditions can Congress change.

Mr. DOMENICI. That is right.

Mr. STEVENS. What does it take to change this 3 years out?

Mr. DOMENICI. You have to change the law. There are many things that you can change with 60 votes.

Mr. STEVENS. It takes a supermajority to change any of it, right?

Mr. DOMENICI. For much of it.

Mr. STEVENS. Any of it.

Mr. DOMENICI. You can change the law and you can change much of it by simple majority.

Let me also say, Mr. President, intentionally—and I want all Senators to know—we intentionally made reconciliation bills 5-year bills and they will be measured on their 5-year impact, not 1 year as in the past, because you used to put big savings in the first year and none in the outyears.

Mr. ADAMS. Will the Senator from New Mexico yield me 2 minutes?

Mr. STEVENS. Mr. President, I believe I have almost exhausted my time. I will have some amendments. I might make some comments about the matter. I say most respectfully, the positions who have been involved in this process have my absolute admiration and respect. I just really fear this process because here we are late in the session, we have a lot of things I have concerns about the schedule that says the next Congress will do things by April 15, by May 30. It has never been done. I think one-third of the votes we have cast this year have been votes related to the restrictions we put on ourselves to try to perform and what is the result? We have not performed. We find out that we have had an S&L crisis that has crippled the banking industry, harmed a great many people. We did not even know it was going on.

And now the proposal before us would not solve a similar problem if it came upon the country. I do not understand why we should go through the process and call it reform when it is a procedural nightmare that we are dealing with in this bill.

The chairman of our Appropriations Committee I think has protected domestic spending in a way that is herculean and we have tried our best to make certain that the defenses of this country will be protected under this law, and entitlements need protection. I do not question that. What I question is why a group of grown people have to do to promote and their future colleagues in order to do our job and to do it right, Mr. ADAMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico yield time to the Senator from Washington?

Mr. ADAMS. Will the Senator from New Mexico yield me 2 minutes?

The ACTING PRESIDENT pro tempore. The Senator from New Mexico has 2 minutes remaining.

Mr. DOMENICI. How much time do I have remaining?

The ACTING PRESIDENT pro tempore. Two minutes remaining.

Mr. DOMENICI. I have 2 minutes only.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico has 2 minutes.

Mr. DOMENICI. Have arrangements been made for Senator BYRD to have some time?

Mr. SASSER. Do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator does not.

Mr. SASSER. Pardon?

The ACTING PRESIDENT pro tempore. The Senator does not have any time remaining.

Mr. ADAMS. Then if the Senator would yield me 30 seconds.

Mr. DOMENICI. I yield 30 seconds.

Mr. ADAMS. I just want the Senator to know—the Senator is a good friend and dear friend—I am so deeply offended by this document that I cannot now vote for this whole process. I cannot tell you—and I am saying what the Senator from Alaska did—whether this is permanent law or what the budget process was, which was a rule-making part of the process of the two Houses of Congress. That is what was rule-making. And yet as I understand from Alaska just stated, for 5 years we have passed a permanent law that removes from the Congress of the United States its powers, its rule-making power capacity, concurrent resolutions, and established permanent law which controls all budget and appropriation processes. I am deep offended by it.

I thank the Senator for the 30 seconds.

Mr. SASSER. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SASSER. Parliamentary Inquiry. The Senator from South Carolina, I believe, is on the verge of making—

Mr. HOLLINGS. A point of order at the chairman's volition. I am not sure how to preempt anybody. At the appropriate time.

Mr. SASSER. Following the point of order on the motion to waive, we will have 30 minutes, will we not?

Mr. HOLLINGS. All time has expired on the first degree.

The ACTING PRESIDENT pro tempore. Thirty minutes will be available should the point of order not be sustained and should second-degree amendments be proposed.

Mr. PRYOR. Mr. President, I am sorry; I did not hear the ruling of the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. I am sorry; I did not hear the ruling of the Chair as to the point of order.

The ACTING PRESIDENT pro tempore. No point of order has been made.

Mr. SASSER. Parliamentary Inquiry, Mr. President.

Mr. HOLLINGS. All time has expired.

Mr. SASSER. There will be time for debate available on the motion to waive.

The ACTING PRESIDENT pro tempore. There is no time provided for on the motion to waive.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico controls the time.

Mr. DOMENICI. Mr. President, might I say to the Senator from Washington, I will try my best, if I have an opportunity, to dissuade the Senator from his views. I do not believe they are right.

Mr. ADAMS. If this is a part of the rule-making power, this is appropriate.

Mr. DOMENICI. I will go over it in detail with the Senator.

Let me ask, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Forty seconds.

Mr. DOMENICI. I wonder if the Senator would consider yielding an additional 10 minutes to the distinguished chairman of the Appropriations Committee.

Mr. SITKOFF. Parliamentary inquiry.

Mr. DOMENICI. I ask unanimous consent that the chairman of the Appropriations Committee, Senator Byrd, have 10 minutes.
The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I apologize. I want to hear the chairman of the Appropriations Committee, but this is pertinent and I would like the opportunity to ask at least five or six questions after a while. When will that opportunity be available to a Senator, let us say to the junior Senator from Arkansas, to be specific?

The ACTING PRESIDENT pro tempore. I can ask questions only if those controlling time are prepared to yield time for that purpose.

Senator Byrd has 10 minutes.

Mr. BYRD. Mr. President, I have 10 minutes. I yield to the Senator to ask them.

Mr. PRYOR. Mr. President, during World War II in order to save gasoline—I am old enough to remember that. A lot of our colleagues are not—little signs were posted on the highways and byways that said, "Is this trip really necessary?" Is this trip not necessary that we have a budget reform package of this magnitude in order to move this reconciliation bill that I am supporting on to the House of Representatives to a conference? Is it necessary that we have this package?

Mr. BYRD. May I say, Mr. President, this package of 123 pages is not budget reform. This contains the entire package that has to do with taxes, entitlements, discretionary spending, et cetera, et cetera. This is not all budget reform. As a matter of fact, references to the budget reform process is a misnomer. This is not budget reform. What we have here is an agreement, and provisions whereby we will enforce those provisions. This is not the budget.

Mr. PRYOR. If the distinguished chairman would also follow with me on page 11, section 12. I am deeply concerned that our acceptance of this amendment tonight of 120 pages is going to vastly change a system by which we might, for example, forgive the debt of Israel, or for an Arab republic, or of Egypt. That is on page 12. I am wondering if that adds to our deficit. I think that we are really walking off into some waters that we are not sure about.

I wonder if the Chairman could explain this area.

Mr. BYRD. Mr. President, the problem here is we do not have enough time.

May we have order?

The PRESIDING OFFICER. We will have order in the Senate.

Mr. BYRD. We do not have enough time. That is our problem. These are serious questions. Most of them is I think ought to be answered. We cannot do that in this limited time.

Let me try to answer the one question of the Senator. With reference to writing off of debts, of Egypt, or Israel, or whatever, would the Senator ask his question again?

Mr. PRYOR. Yes. I am wondering if the process is being changed or if we are permitting ourselves or even allowing the President to write off these debts without congressional consent.

Mr. BYRD. No, no, no. That is not being changed. Furthermore, let me say this. The provisions that are in this package protect the Appropriations Committee from having such writing off of debts, if it is agreed to; if such writing off is agreed to. A vote on this does not ipso facto agree to writing off the debt.

But if it is the position of the Senate and the House that those debts for Egypt and Poland should be written off, they will not be charged against the international discretionary spending cap. Otherwise, if we had foreign operations and domestic discretionary, all as a single fundable item, and the decision was to cancel Israeli debt, and then someone offered an amendment to cancel the debt of Turkey, to cancel many of those debts could have impinged upon domestic discretionary spending. Under this amendment domestic discretionary spending is not penalized if international spending exceeds the cap.

So the protections are in here that will assure us that if the Senate and the House should make those decisions they will not be charged against domestic discretionary spending of the Appropriations Committee. Those protections are there, and they are important.

I am not sure I answered the Senator's question.

Mr. PRYOR. I once again am not challenging the Senator's question.

Mr. BYRD. No. No.

Mr. PRYOR. The distinguished President pro tempore. There is no person in this body who has more respect, as our friend from Tennessee, Senator Sasser, has said, and has said Senator Sasser does not. In no way am I even suggesting that the Senator is trying to give away any powers of this Senate. There is no greater protector of this body in this institution. But may I once again ask this question?

Mr. BYRD. Yes.

Mr. PRYOR. On page 14, section (E), top of the page, this relates to Operation Desert Shield costs, costs meaning no incremental costs directly associated with increases in operations in the Middle East, and do not consider costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

Is there an interpretation of this that a layman like myself might understand?

Mr. BYRD. Mr. President, the administration at the summit wanted to include Desert Shield in the regular appropriations process. And the question was how do we know how much Desert Shield will cost in fiscal year 1990. The answer was, well, we would predict that it would cost $15 billion.

My position throughout that conference was that whatever Desert Shield costs, it will be outside this appropriation, the regular process. It would not be charged against the defense allocations, and it would not be charged against the domestic discretionary; it would be done in a supplemental appropriation.

Mr. SASSER. Will the Senator yield?

Mr. BYRD. Yes.

Mr. SASSER. The funding for Operation Desert Shield would be treated as an ordinary emergency supplemental appropriations bill.

Mr. PRYOR. It would have to be appropriated by the House and Senate.

Mr. SASSER. It would have to be appropriated. It would have to be in an emergency, subject to hearings, and acted upon by the Appropriations Committee.

The distinguished chairman of the Appropriations Committee was seeking to protect the Senate and the Congress from having the administration come in here and ask for massive amounts of additional defense money without proving this was indeed an emergency under the provisions of an emergency supplemental bill. There would be hearings. There would be offsets from other funds collected from Saudi Arabia, et cetera.

Mr. PRYOR. Mr. President, I am going to sit down because I am embarrassed keeping the distinguished chairman up answering these questions.

Mr. BYRD. Mr. President, let me say to the distinguished Senator that his questions are important indeed. He should not be embarrassed by keeping my attention here or keeping me on my feet.

The position I took and the result of this agreement the way it is written is that the administration would have to come before the Appropriations Committee and request a supplemental appropriation for any amounts that result from Desert Shield.

I took the position that it ought to come by way of the appropriations process so that the Appropriations Committee can conduct hearings, receive testimony, and find out how much other countries are contributing to Desert Shield.

We have no way of seeing how much they are going to contribute. We have no way of knowing what costs are going to be. We cannot predict what is going to happen.

Therefore, if the administration wants to make requests for Desert Shield, let the administration come before the Senate and House, before the Appropriations Committee, request its supplemental, and submit the facts and let the Senate and House make a judgment thereon. It will be outside this process, so the Senate and the House are fully protected insofar as Desert Shield is concerned.
That was an excellent question, and I hope I have helped the Senator.

Mr. PRYOR. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. The time of the Senator from West Virginia has expired. The Senator from New Mexico has 15 seconds.

Mr. MITCHELL. Mr. President, in view of the importance of this matter and the fact that several Senators have very serious and appropriate concerns about it, I ask unanimous consent that the Senator from West Virginia be recognized to respond to questions and to comment on this matter for an additional 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. PRYOR. Mr. President, I would like to ask the distinguished chairman if he can commit or an obligation?

Mr. BYRD. Mr. President, what are we talking about here, insofar as my part is concerned, is discretionary enforcement.

We do not want to talk about budget process reform.

I know where that term got started. I know where that term got started.

Mr. ADAMS. May I ask a question?

Mr. PRYOR. Commitment for a new, for example, system of budgets, a new Gramm-Rudman-Hollings, and this is Gramm-Rudman-Hollings II.

What are we committing ourselves to in the outyears with the adoption of this amendment?

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We do not have that in here. What we have here are provisions that will enable us to enforce the agreement which we have entered into. Whether or not that agreement bears the final stamp of the Senate and the House remains to be seen. But I feel that if we are going to deal with the new obligation for a 5-year period that we have not had, before we vote on this amendmint, Are we creating a new 5-year commitment or an obligation?

Mr. BYRD. Commitment for what, may I ask?

Mr. PRYOR. Commitment for a new, for example, system of budgets, a new Gramm-Rudman-Hollings, and this is Gramm-Rudman-Hollings II. What are we committing ourselves to in the outyears with the adoption of this amendment?

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I can fully appreciate the frustration of the Senator. I wish we could take the time and answer all the questions. But some of it we will have to accept on faith, and I am accepting some of it on faith as well. I do not know. I hope it will work, but who is to know?

I yield to Senator Adams.

Mr. ADAMS. Mr. President, I say to the Senate that he is a very good friend, and he is one of the great experts on the Senate. Many of us are concerned because we received this this afternoon. One of the reasons I left the Congress. I am through and I have left it. I have never said to any Member the summit did not work. I have said nothing about them. I have said nothing about the budget process because I felt that it had changed since I was the first chairman and came into the rulemaking power.

The questions that we have, Senator Pryor is correct, cannot be answered in a short period of time. We are going to debate this. We have been placed up against the wall as happened in 1982. And that is going to occur.

I am sorry if in any way gave you the impression that my sense of outrage and frustration was directed toward you or any other Member of this body. There is a great change that occurs here, I say to the Senator. We now have in law, that will have to be signed by the President, a series of limitations on the power of this Congress. I have read the last part that says it is rulemaking power. But the first portions of this that state what the limits are by various categories will be in law, just as your protections are in law.

I compliment you for separating Desert Shield. I see your fine hand through this as I read it in the short period of time that I had. I compliment you on protecting us against the Executive without provision because this document is a mixture of rulemaking power and of law. In the reconciliation process, it is almost impossible for some of us, even though we have worked with the budget process, to know which parts are law in the reconciliation bill and which parts are rulemaking power.

For 5 years we have taken the position, as I read this document, that the Budget Committee will have three separate categories and cannot exceed those categories without the signature of the President. It is a secondary type of veto which goes beyond the veto of individual bills. It is a veto in the aggregate. It is cleverly done, and it is very well done because it means that all revenues that come in beyond what we have anticipated will go immediately to pay on the deficit. I think it is a very clever plan.

I do not accuse you or any other Member of giving away the powers of the President. You made an agreement. It is an agreement which we in 1974 were trying to fight off Nixon who was impounding the money by saying the President should stay out of our business. We will send the bills over and you will sign them or veto them. I am not directing anything toward you or any other Member because I respect what you did there. I am stating that what this Senator sees, and it is a short view that I have had an opportunity to make, is that we now have the President in the budget process.

The second thing is we tried to fight off OMB. We did not want to accept their projections. They are now accepted in here. Those are projections which came over in the Presidential document, and I am referring to the pages up to page 18 in the budget of the President. They are always political documents. You and I have seen those. I have helped draft some of them. The economic assumptions, the economic projections are all of that nature.

I do not mean to prolong this debate. I am not even going to debate it because I do not think there is time and I do not think I could do it justice, and I would not attempt to interfere with what the people who have worked on it have done. I think we should go to a vote.

I simply wanted, as one Senator, to say what I felt in my heart about it and explain why I was going to vote the way I did. And if my tongue was sharp, I do not know. I want to apologize to you and the other Members for that.

But it is not something that we can study for weeks. I do not intend to, I do not intend to debate it any further. I hope we will vote right now because I think the Members have their minds made up, and I think this will go on different lines than an intellectual debate.

So I ask no further questions of Senator Bryan, but I wanted him to know what my position was, why I had taken it, and why I am concerned about the separation of powers. And I know, God willing, you would do everything in your power and have, and I respect particularly what you have done for discretionary spending and its protection. I am concerned about the fact that the levels for defense are higher than they are for domestic spending and remain higher during the whole 5-year period. But if that is the will of the body, then we should pass this—it is 20 minutes of 12—and not spend any more time discussing it.

I thank you very much for giving me the time and I thank you, Mr. President, for letting me say what I had to say.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes 40 seconds.

Mr. BYRD. Mr. President, if we could have both sides and we will have order before I start using my 13 minutes.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I suppose the best way for me to proceed is to attempt to read into the record a short statement here. Perhaps it will help to answer some of the questions that have been asked and some that would be asked. So let me try that.

It is important to remember that the provisions contained in this amendment to enforce the 5-year deficit reduction targets that are provided for in this budget agreement are not permanent. They do not displace the Gramm-Rudman-Hollings targets, which have been left in place as a further control on spending and in order to keep us aware of the size of the budget deficit.

For fiscal years 1991, 1992, and 1993, there will be three caps on discretionary appropriations: One cap on budget authority and outlays for defense, one cap on domestic discretionary budget authority and outlays for international, and a cap on domestic discretionary budget authority annual outlays.

These caps are ceilings, they are not floors. There was an attempt to make them floors. Some of the earlier discussions, as I understood them, would have made them floors also. How a number can be both a ceiling and a floor and expect to achieve budgetary cuts I cannot understand. So they are not ceilings and floors. They are ceiling caps that are provided for the Congress is not required to fund up to the levels allowed for in the cap.

To the extent that the funding levels enacted are below the caps, the savings will go toward deficit reduction. If funding for any of the three categories exceeds its cap, a sequester will occur to bring spending for that category back into conformance with the cap. The distinguished Senator from Alaska was asking questions on that point.

The device of a cap puts a real lid on the spending, and the three separate caps protect each category from being raided by another category. I do not want to see domestic discretionary spending raided by foreign operations. Because the Senate, in its wisdom, may march down one day and because a certain popular amendment is offered, we fall all over ourselves to vote yes on that amendment and we relieve a particular country of its debt and it comes out of domestic discretionary spending.

I want to protect domestic discretionary. And all Senators, especially those who are subcommittee chairmen on appropriations, ought to have some appreciation of the fact that their chickens did not all go back into the barn to protect discretionary spending so that the various subcommittees can have higher allocations and not have those allocations wiped out because a popular amendment is offered here and the Senate, because of special interest groups or whatever, votes for that amendment. And then we find it has wiped out our allocations.
Like the distinguished Senator from South Carolina, he needed some additional money allocated to him to carry out certain important programs, and he told me to look at some of those programs which are beneficial to the country. I saw to it that he would have some additional money and I said to him in the conference that we would work out over in Andrews, and many nights over in the other side of the Capitol, and nights down in my office. Not under guard; not tipping our hat to any President, saying I go, Mr. President? When may I return? 

And I should think that we would appreciate the fact that some did their best and did some good.

I said to Mr. Sununu, we are nobody's underlings. May I say, I am not very persuaded by Senators who are always ready to criticize what somebody else does. What everybody else does is wrong. I do not apologize for my work over at the summit or here in Andrews. And I did. He did not have to come out here and attempt to raise money and I said to him in the conference with respect to deficit reduction. The amendments should preclude the policy goals set forth in the agreement with respect to deficit reduction. In addition, executive branch agencies can better plan annual spending programs without the unreasonableness and the disruption that the threats of sequesters cause. If we live up to the deficit reductions called for in this package in entitlement savings and real estate and stay within our appropriations caps, there should be no sequester for fiscal years 1991, 1992, and 1993. I do not like sequesters. There are some who would like to have them every year. I do not like them and I do not think that we have written anything in here that will assure the re-election of President Reagan, or Reagan-Bush, or whoever it may be. I turn a deaf ear to the constant naysayers who can do nothing. But I turn a deaf ear to the conscientious questions that Senators who will ever grace this Chamber. Constitution as any other Senator does. What everybody else does is wrong. I do not apologize for my work over at the summit or here in Andrews. There is nothing hidden. I do not have anything hidden in this. And I am as loyal to the Senate, as loyal to the flag and as loyal to the Appropriations Committee as any other Senator here in this Chamber now, any who has ever sat in this Chamber or any who will ever grace this Chamber.

I can understand the honest, sincere, conscientious questions that Senators have about this packet. I understand that. But I turn a deaf ear to the constant naysayers who can do nothing but find fault and pick and pick and pick and pick. It is right but their plan; nothing will work but whatever they suggest. And I say let them vote against the packet. They probably will not vote for it anyhow.

If funding for any of the three categories exceeds its cap, a sequester will occur to bring spending for that category back into conformity with the cap.

As I said, this protects each category from being raided by another.

The amendments should preclude sequesters for fiscal years 1991, 1992, and 1993, so long as congressional action remains within the caps for discretionary appropriations and achieves the policy goals set forth in the agreement with respect to deficit reduction.

Unlike previous years, across-the-board reductions in discretionary operation are occurring in three consecutive fiscal years 1991, 1992, and 1993 simply because of mistakes made by OMB such as economic and technical miscalculations or inaccurate forecasts. This means that Congress will be able to proceed with its budget and appropriations processes each year with greater assurance that, as long as congressional action comports with the agreement, no sequesters should occur.

In addition, executive branch agencies can better plan annual spending programs without the unreasonableness and the disruption that the threats of sequesters cause. If we live up to the deficit reductions called for in this package in entitlement savings and real estate and stay within our appropriations caps, there should be no sequester for fiscal years 1991, 1992, and 1993.

The amendment will place the burden of meeting the deficit reduction called for in the agreement upon all the committees of jurisdiction, not just upon the Appropriations Committee. Upon all committees of jurisdiction.

Unlike existing law, those committees that violate this agreement will be forced to pay a penalty for their short fall. That is all committees, not just the Appropriations Committee. All committees will have a stake in making this agreement work.

Now, what do we want to do? Do we want to enter into an agreement today and then break it tomorrow? An agreement is an agreement. A handshake is a handshake, back where I live. And if we make an agreement I expect to keep my part and I expect the other fellow to keep his. That just did not happen my credit yesterday.

In addition, the agreement will allow a mechanism for the President and Congress to provide funding for unforeseen emergencies—earthquakes, hurricanes and so forth—without having such costs trigger a sequester. Last year we had two sets of disasters, hurricanes Hugo and the California earthquake.

OMB ruled that a portion of the appropriations that were made for these disasters was discretionary. For example, the $1 billion appropriation that was made to repair the bridges and highways that were destroyed in the earthquake was treated as discretionary spending. This $1 billion caused the Appropriations Committee to exceed its allocation, but we escaped a sequester because this was a disaster that occurred after the October 15 sequester date.

The PRESIDING OFFICER. The Chair informs the Senator his time has expired.

Mr. BYRD. I ask unanimous consent to proceed for such time as I may need.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. No, Mr. President.

The PRESIDING OFFICER. Mr. BYRD. Do not worry, this Senator will end it.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. I thank you for your nice card that I received today. [Laughter.]

Mr. CHAFEE. Well, Mr. President.

Mr. BYRD. Your very nice card about the item that I helped you with in the Interior appropriations bill. [Laughter.]

Mr. CHAFEE. I had that in mind as I rose to my feet. [Laughter.]

The reason I rose was I thought I wanted to assist you in any way I could in this extension of the time you wanted. [Laughter.]

Mr. BYRD. I say to the Senator, wait until next year and he will write me a bigger card. I thank the Senator. Under this agreement, disasters will be treated as mandatory spending and will not cause a sequester, no matter
when they occur. And that might occur in my State, it may occur in your State or any State.

It is sound policy; it is good common sense. As I have already indicated, the administration sought to have Desert Shield funded in the regular fiscal year 1991 Defense appropriations bill. I opposed that approach because it would have hidden the costs of Desert Shield in the DOD baseline which would have meant from then on Defense would have had a blank check, a blank check, and those Senators who are so concerned about how much Defense spends and how we should cut Defense might take careful note of that. Desert Shield will not become a part of the baseline which would go on and on, as inflation goes up. This would have made it very difficult to keep a separate accounting of Desert Shield appropriations. Under this agreement, Desert Shield spending will be treated as a separate supplemental appropriation. This will enable Congress to carefully scrutinize the administration’s request for Desert Shield funds and prevent DOD from getting a blank check by assuring necessary funds will be made available.

This agreement also strongly encourages the administration to secure contributions from our allies to pay their fair share of Desert Shield costs. I understand Saudi Arabia, for example, has increased oil profits from this crisis to the tune of $10 billion since August 2 because of the rise in oil prices. Perhaps it is more than $10 billion.

Overall, I believe this enforcement package, not budget reform process, this enforcement package is necessary. I think it is fair to us. If I did not think that way I would not have signed this authority.

At the same time, I think the administration is committed also. I cannot have it all my way, nor do I expect the administration to have it all their way. It does not do injustice to the delicate balance of power between the executive and legislative branches, but it does provide the teeth to keep us faithful to this bipartisan agreement.

Mr. President, I thank the Members of the Senate.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. JOHNSTON. Do I understand that there is a fence for a period of 3 years between that part of 050 which goes to energy, water, discretionary non-Defense and Defense?

Mr. BYRD. There is a fence for Defense discretionary and for domestic discretionary.

Mr. JOHNSTON. And that lasts for 3 years?

Mr. BYRD. 1991 and 1992 and 1993.

Mr. JOHNSTON. After that, the targets under this are for 5 years, but that fence lasts 3 years.

Mr. BYRD. Only for 3 years. After that, everything is fungible.

Mr. JOHNSTON. The assumptions, the economic assumptions, I understand are locked into these targets so that if the economic assumptions at least for the next fiscal year should change, that they do not affect the targets? Will the Senator explain that mechanism?

Mr. BYRD. The easy answer is, that is correct. And that did not come easy, may I say.

Mr. JOHNSTON. Do those assumptions last beyond the 1 year? Are they locked in?

Mr. BYRD. For the 3 years, 1991, 1992 and 1993, appropriations will be held harmless for economic and technical miscalculations.

Mr. JOHNSTON. That is for succeeding years, next fiscal year, those assumptions are already made and they are only made for 1 year by this document; is that correct?

Mr. SASSER. I say to the chairman, might I amplify in response to Senator Johnston’s question, we need to exchange our mindset a little bit. I will say to the Senator. The economic assumptions themselves become irrelevant for the 3 years.

What Senator Byrd and the Congress has bound itself to do with the administration is to reduce the deficit by a set amount for 3 years. Therefore, thanks largely to Senator Byrd’s work, the economic and technical assumptions become almost irrelevant. In other words, we are safeguarded from those in the sense that if the economy should deteriorate or if the administration should have faulty economic or technical assumptions, then the appropriated accounts will not have to pay the penalty. We are simply committed to a set amount of deficit-reduction for 3 years.

Mr. JOHNSTON. And, in effect, we would not need the budget resolution for a period of 3 years; in fact, we will have that for 3 years.

Mr. BYRD. We should have the budget resolution as well. This does not eliminate the requirement for a budget resolution.

Mr. JOHNSTON. But we will be given the operative numbers for that budget resolution.

Mr. BYRD. We know what the allocations will be now under the budget resolution.

Mr. SASSER. If the Senator will allow me to amplify more on that. We will need a budget resolution because the agreement itself provides for new programs. In other words, we may institute a new entitlement program, but we must pay as we go. If we institute a new entitlement program in the budget resolution, then the program will also have to be paid for and the budget resolution would be a vehicle for providing either for a new mandatory program which would have to pay for itself by increased revenues or by cutting other entitlement programs or for a new domestic program which would have to pay for itself by raising funds through the budget resolution by directing the Finance Committee to do that or by cutting another program.

Mr. JOHNSTON. If we adopt some form of a budget package here that is assumed to raise a certain amount of money over a period of, or reduce spending by a certain amount of money over a period of years, is that kind of assumption that is then locked in for 3 years, or do we come back and find out exactly how much money you did raise under your taxes and have to readjust from year to year?

Mr. SASSER. If the Senator will permit me.

Mr. BYRD. Please.

Mr. SASSER. The enactment of the reconciliation bill itself locks in the deficit-reduction amounts that we are committed to for the 3-year period.

Mr. SASSER. For that reason, the Gramm-Rudman-Hollings targets for those 3 years will become simply advisory because we meet our commitment. If we reduce the deficit the first year by $40 billion figure and the corresponding figures for the second and third year, then we do not check again next year to find out that a deteriorated economy had actually resulted and less taxes had been collected.

Mr. SASSER. That is correct. Thanks again to the distinguished chairman of the Appropriations Committee, we are held harmless for technical mis-estimates and economies. For example, if there is a faulty estimate of the amount of revenue that can be produced or if there is a deterioration in the economy which would produce a revenue loss, then the appropriated accounts would not be held liable by that way of sequester as long as they met the deficit reduction amounts that they had agreed to.

Mr. JOHNSTON. My final question is: What this package will give us, is first of all, budget peace and, second, budget certainty, so that we will not have to fight these battles and be here on October 1 wondering whether we are going to meet the new fiscal year; we will have all that information early enough so that we will be able to plan with certainty, not will not have to come back and redo what we did the previous year but will have budget peace, is that correct?

Mr. BYRD. I hope that will be the result. Nobody can foresee what is going to happen in the Middle East. Nobody can see what is going to happen with respect to recession or depression. But best we can we require protected the legislative process, and we have made it possible for the Appropriations Committees to act with some certainty and be able to pro-
ceed with some certainty so that we can deal with the infrastructure and the investment deficit to which I attempted to address my remarks last evening.

There will still be sequesters if certain things happen. There can still be a Gramm-Rudman-Hollings sequester if we reach the targets and there can be sequesters that may occur in the appropriations process. If we do not live up to our part of the agreement and we exceed our allocations in domestic discretionary, whatever, then there will be a sequester that will be across the board, as it were, for discretionary spending. I hope that we can discipline ourselves. We always like to vote for these measures that increase spending. At the same time we want to reduce the deficit.

Mr. STEVENS. Mr. President, will the Senator yield there?

Mr. BYRD. Yes.

Mr. STEVENS. I am sorry to interrupt, but that is precisely the question I was going to get to with the first amendment I was going to offer. It is getting very late. I am not going to do that.

I would like to ask this question. The Senator said now several times if we live up to the deadlines in this proposal, sequester would not take place. I recall the Senator from Texas as saying that same comment when we supported Gramm-Rudman-Hollings and I was going to call attention to the two schedules that start on page 73 of the amendment that deal with specific deadlines for the Congressional Budget Office, the Senate Budget Committee, the concurrent resolution deadline, annual appropriations bills to commence by May 15, to be finished by September 30.

Mr. STEVENS. Mr. President, please yield, and the Senator from West Virginia is my good friend. I am sure we all know that, and I am delighted to work with him on this process. As I understand it, there is no discipline implicit in the whole process yet for the Congress as a whole to meet those deadlines, but there is a severe worry and fear in this Senator's mind that we are going to live through 5 more years of threatened sequesters on the appropriations process because other committees have not in fact done what they are supposed to do.

Why not build into this proposal now some sort of a mechanism to assure that the Budget Committee will report its concurrent resolution on April 1, that we will start appropriations bills through the House on April 15? We waited until after August for our appropriations bills this year, never had a problem, but once since Gramm-Rudman-Hollings passed we have not had the appropriations bills to act on before the summer recess.

Now, my good friend has been inconvenienced by that, and the whole Senate has. Why can we not have some mechanism built into the system for discipline on the part of the rest of the Congress in dealing with these deadlines?

Mr. BYRD. Mr. President, there is discipline here. The Senator is pointing to the fact that there are times when we cannot get budget resolutions out and enacted and agreed to by the other body so that the appropriations process can begin in the Senate. The House can proceed under its rule but the Senate cannot.

Mr. President, if I may have the attention of distinguished chairman of the Budget Committee, there is no discipline unless we can get a resolution out of his committee. He has a difficult time in his committee. Give him four or five or six additional members over there who will support him and he will get that resolution out.

Mr. STEVENS. Mr. President—

Mr. BYRD. Let me finish. We do have discipline here. We are providing that within the appropriations process there will be sequesters that will be discretionary and if defense exceeds its allocation, if defense exceeds its allocations, if foreign operations exceed its allocation, and as a result the overall allocations for domestic discretionary, let us say, are above the allocations, then there will be a sequester, there will be a sequestration of domestic discretionary, and it will go entirely across the board, across every one of the 10 appropriations subcommittees with jurisdiction over domestic discretionary programs. That should help us to discipline ourselves.

When I come out here and offer an amendment, it may be good for my subcommittee but every other subcommittee chairman should view that amendment with some jaundice in his eye saying, well, if that results in a sequester down the road, if that results in raising the allocation, domestic discretionary, Senator Byrd's subcommittee is not the only one that is going to have to pay for it. My subcommittee is going to have to pay an equal percentage. So there is that self-discipline in this process. The same would be true with regard to defense and government ops.

Mr. STEVENS. Mr. President, I appreciate the Senator's comment. I think we have come through this process now, particularly this year, where to some people sequester was a crutch. They voted for things that they knew we could not afford, knowing full well that sequester would come along and take them away. As I look at the developments in the world with the European Community coming along, the great changes in Europe, the whole world of security problems, one of the great fears this Senator has is that revenues will not be there that are in these projections. If they are not there, it is my understanding sequesters is going to become a reality no matter whether we do our job or not. Am I wrong?

Mr. BYRD. Two points. If the Gramm-Rudman-Hollings figure is exceeded, there will be a sequester, just like we have now—50 percent discretionary, 50 percent defense.

Mr. STEVENS. What if revenues are not up?

Mr. BYRD. Then the Appropriations Committee will be held harmless. There are categorical sequesters on entitlements, and one on discretionary spending. So that discretionary spending does not have to take all of the brunt anymore. Last year the appropriations took the brunt for $4 billion because certain other committees did not meet their requirements for reconciliation.

They did not meet; they did not fulfill their Instructions. So we took it. The majority leader told us in his office. And Senator Sasser was there. The chairman of House Ways and Means was there, Mr. Rostenkowski. Mr. Bentsen and others were there. The majority leader says we have this problem. We are $4 billion short. I can tell you the exact words I said to the majority leader. It did not take me 30 seconds to do it. I have seen a lot of Senators around here hem and haw, hem and haw, when they are asked to bleed a little bit. I said to the majority leader, I do not like it, but if that is what it takes, we will absorb it; $4 billion.

Do you think I had forgotten that when I went to the summit? No. I said if other committees don't meet their targets the revenue raising falls down, let those committees take their cut. I believe Senator Bentsen supports that 100 percent. If it is entitlements, then they are entitlements. Do not put it back on our domestic discretionary spending. So there will be that categorical sequester. I may say to my friend.

Mr. STEVENS. Mr. President, speaking to the distinguished chairman of the Appropriations Committee, let me say I do not see anything in here that takes care of the problem that I am addressing, that spending are not raised, according to the projections, and the Director of the Office of Management and Budget makes the finding on November 15 that there is a deficit because of the failure of the systems to produce the kind of revenue that was anticipated, is not there going to be a sequester because of that failure of revenues, and will that not fall on both entitlements and domestic spending—no defense?

Mr. DOMENICI. Mr. President, will the distinguished chairman yield, and I will try to respond.

One of the changes that was effective in this agreement—and I want to say to the Senator from West Virginia, all of us kind of lost in our explanations the forest from the trees. The Senator from West Virginia brought it back when he said we are trying to enforce an agreement.

This is a 5-year effort. That is what we agreed to. We did two things: first, with reference to Gramm-Rudman-
The PRESIDING OFFICER. The time has expired.

Mr. STEVENS. No. This Senator is worried about the failures of revenues in the budget. I do not see anything here that takes care of it, I tell the Senator frankly.

Mr. DOMENICI. If the Senator will just let me finish, the reason he is worried about revenues not reaching where he wants them to be is because they create a deficit. You do not get the deficit until you are going to have a Gramm-Rudman sequester. That is why he is worried about it.

Because the distinguished Senator from West Virginia insisted, and he won, the first 3 years of Gramm-Rudman-Hollings and the sequester under this agreement is changed significantly, and perhaps I could explain how it has changed.

First, the target is fixed but it is altered upward in real economics and technical adjustments. One of those real economic aspects is the revenues. The reason revenues are down is because we are using old economics and we have a fixed target.

Remember the fixed target only had a $10 billion float. The $10 billion float was to take care of economic errors, technical errors, and overages. There is no float left because you do not need it because every year for the first 3 years of the agreement the targets are adjusted because economics and technicals are out of our control and are redadjusted each year based on economics, the chances of having a sequester if we do our job are very minimal.

The savings that are permanent all occur when we pass this reconciliation bill tonight, and when we live up to the targets under appropriations.

So what could go wrong would be economics that might be off, or technicals that could not in those years we protected against it. I think that is a fair statement. Those who were there—Senator GRAMM, is that a fair statement?

I thank the chairman for yielding.

Mr. BYRD. Mr. President, some of the questions that are being asked are under the jurisdiction of the Finance Committee.

Mr. BINGAMAN. Mr. President, if I can address a question to the Chairman of the Appropriations Committee.

The PRESIDING OFFICER. The Senator from West Virginia retains the floor.

Mr. BYRD. I do not intend to hold the floor longer. I want Senators to have an adequate opportunity to ask questions. I think they are entitled to that. I do not want to impose on the Senate if it seems that I am doing that.

The PRESIDING OFFICER. The Chair would inform the Senator that as soon as he gives up the floor all time has expired.

Mr. BYRD. I thank the Chair.

Mr. BINGAMAN. Mr. President, could I address a question to the Chairman of the Appropriations Committee?

As I understand the provisions that we have in here, technical revisions on page 11 essentially provided that the Director of OMB has the authority to allow certain increased funding in a limited number of cases without that increased funding counting against the deficit, counting as increasing the deficit.

The specific that I wanted to ask about is with regard to the item that is at the bottom of page 12 where we essentially provide that the Director of OMB can make reestimates to cover any amount appropriated in 1990 or 1991 calendar years to forgive debts of Egypt or Poland. In the case of Egypt it is the foreign military sales indebtedness. I am not sure I understand that. That would then not be counted against the deficit.

Mr. BYRD. The Senator is correct. That is to hold us harmless in appropriations in case it is enacted.

Mr. BINGAMAN. That would come out of international discretionary, if spending in that category were in excess of the international cap.

Mr. BINGAMAN. That would come out of foreign ops if we forgive the debt for any country except Egypt and Poland?

Mr. BYRD. The Senator is correct.

Mr. BINGAMAN. I thank the Senator.

Mr. LEVIN. Will the chairman yield for a question?

Mr. BYRD. I am glad to yield for a question.

Mr. LEVIN. I think the Senator from West Virginia has pointed out eloquently in recent days that domestic discretionary spending has gone down in real terms over the last decade. I think nobody in this body for a moment has ever argued that we can do without that increased funding in a limited number of cases. The Senator is correct. The only way that we can protect the other two categories is that we could move $5 billion from defense to domestic discretionary, or vice versa, that we could not do so under this?

Mr. BYRD. You could do so. A point of order could be raised, and if the Senate were able to get the 60 votes to waive the point of order, it could be done.

Mr. LEVIN. Am I correct, though, if I do not even with 60 votes, it would put the account above the cap and therefore require a sequester?

Mr. BYRD. The Senator is correct.

Mr. LEVIN. That seems to me to be tying our hands in advance to numbers, which again I commend to the chairman of the Appropriations Committee because I know how hard he worked to get a reasonable number for the discretionary domestic accounts. So I am not in any way being critical of this effort; quite the opposite.

But we still may want to transfer more into our domestic programs from defense in 1992 or 1993, or vice versa. We always have to allow for that possibility, and we cannot do so. Our priorities are backed into for 3 years by the agreement and I must say in frankness—and we talked about this—that I am very troubled by that effort.

Mr. BYRD. We cannot have it both ways. We cannot have it both ways. We cannot protect the discretionary and build a fence and say no trespassing, and at the same time, if we are going to have an agreement and the administration is part of the agreement, and I am part of it and the other Senators who participated, we cannot have it both ways.

I wanted to protect domestic discretionary from the predatory raids that are being made on domestic discretionary. The only way that we can protect domestic discretionary is to at the same time have some fences that will protect the other two categories.

Mr. LEVIN. This Senator will agree we cannot have it both ways. My problem is we should have it neither way. We should not attempt in this Congress to say for 1991 and 1992 what those numbers are, and there cannot be a transfer from any of those three accounts to any of the other three.

Mr. BYRD. If I could by a wave of my hand produce the solutions absolutely perfect to me, I would have done it.

Mr. LEVIN. I think the Senator did not do so, and if I may so, if you do have that.

Mr. BYRD. That is fungible; that is true. Let us suppose, when it is fungible, suppose a Senator offers an amendment to forgive the debts in 1991 to Egypt or Israel. If it is fungible, does the Senator frankly.

Mr. LEVIN. Am I correct, though, if I do not even with 60 votes, it would put the account above the cap and therefore require a sequester?

Mr. BYRD. The Senator is correct.

Mr. LEVIN. That seems to me to be tying our hands in advance to numbers, which again I commend to the chairman of the Appropriations Committee because I know how hard he worked to get a reasonable number for the discretionary domestic accounts. So I am not in any way being critical of this effort; quite the opposite.
Mr. LEVIN. It is a matter of present with me; whatever the transfer is in years 4 or 5, we permit it. But in years 1, 2, and 3, we do not. I do not think we can appropriately prohibit the future Congress from transferring money from one priority of this Nation to another.

Mr. BYRD. We cannot prohibit a future Congress from coming in and changing this.

Mr. LEVIN. No. They can change the law if in fact they can get the votes to do so.

Mr. BYRD. That is right.

Mr. LEVIN. Which in the Senate requires 60 votes.

Mr. BYRD. We do not have to wait to future Congress. If this Congress were not able to end, this Congress even if it could break it. I would oppose that. There is an agreement.

As to the fungibility of the last 2 years, may I say to the distinguished Senator, the Senator can thank summitters for making that fungible. The administration wanted it solid, across the board, for all 5 years. But we made it fungible for the third, fourth, and fifth.

But I will say to the distinguished Senator, I think that by protecting discretionary, domestic discretionary, as we do here, we are striking a blow for liberty for the United States of America and its infrastructure, physical and human.

The administration wanted to freeze domestic discretionary spending for a year. That would have put us $39 billion below the baseline. He backed off a little bit and said: How about 6 months? That would have been $19 billion below baseline.

Where we are now, we are above baseline, we are reversing the trends. I hope we can reverse this trend in cutting away at the infrastructure of this country. But in order to do that, when you are dealing with another party, I cannot have it all my way. I would like to have had it differently, but I think I got a little better than 50 percent of the bargain, and otherwise we would not have had any bargain.

Mr. LEVIN. I thank the Senator.

Mr. BYRD. I thank the distinguished Senator, and I appreciate his concern. I believe if he had been the fly on the wall watching that summit, he would be there tonight saying:

What, I think it is a pretty good package.

It is the best that we could expect under the circumstances. You cannot forget that we are dealing with a situation in which here where everybody is going to reverse to hurt a little bit. It cannot be painless.

Mr. SIMON. If the chairman of the Appropriations Committee will yield, just to respond briefly to my friend from Michigan, I would like to say that this amendment very shortly, I hope, that would get rid of the 60-vote fence that is there. That, I think, would make it easier to make that transition.

Mr. LEVIN. If the Senator will yield, and I know he does not have the floor.

Mr. SIMON. I do not have the floor.

Mr. LEVIN. If my friend from West Virginia will yield, I do not believe an amendment that simply eliminates the 60-vote requirement will cure the problem.

Mr. SIMON. It does not cure it, but it helps.

Mr. LEVIN. Not if not allowed to transfer the money from one account to another. For if in the process there, you put more money in the accounts then it is not a automatic sequester. Elimination of the 60-vote requirement does not cure that problem.

Mr. SIMON. We will get into it shortly.

Mr. BYRD. I know the distinguished Senator from South Carolina wishes to make a point of order. I will sit down shortly. Does the Senator from Florida have a question?

Mr. GRAHAM. I am concerned about the question of the deficit as we have defined it in Gramm-Rudman-Hollings, which is the difference between spending and revenue.

Under the current law, we are supposed to be at a deficit for fiscal year 1991 to $64 billion. Under this bill, the deficit for 1991 will be $242 billion.

My question is: What happens if we do not meet the $242 billion figure? We know what happens under the current law, because that is why we had a weekend sequester a couple weeks ago, and we are faced with the prospect of substantial reductions in Government spending to come into compliance or near compliance with the $65 billion figure.

What happens if we end up with a substantially greater deficit than $242 billion? What is the discipline that will go into effect?

Mr. BYRD. If it is beyond the control of Congress that that is breached, it will not be a sequester.

Mr. GRAHAM. So, if, for instance, the recession that many people think we are in or heading toward were to result in—

Mr. BYRD. Gramm-Rudman allows an exemption, if there are two successive quarters.

Mr. GRAHAM. If serious decline in revenues or if other external events cause that deficit to be greater than $242 billion, is there any consequence or any mandatory restrictions; is that correct?

Mr. BYRD. It depends on what cause the severe decline in the revenue. If it is cause by a number of circumstances beyond the control of the Congress, we would not be held responsible. If it is the fault of Congress, then there would be sequester.

Mr. GRAHAM. Under my concern is, to get this in a sense of a family. If you had a family, and let us say the main source of income was real estate commissions. They are living on a level of 550,000 a year that was their spending ceiling because that is what they had been taking in.

Now it gets to a tough year in the real estate business. Instead of having commissions of $50,000, you only have commissions of $35,000. The family would have to make some adjustments to bring its spending from its traditional levels down to what would accommodate this new reality of family income.

If we were that family and had a sudden differential or spread between discretionary spending levels—what we hoped and expected and what the new reality of our income is—what are we going to do?

Mr. BYRD. Mr. President, I say to the Senator we cannot operate like a family, No. 1. No. 2, this is an agreement whereby, if you live up to our part of what is expected, we hope to be able to cut the deficit by $40 billion this year and $500 billion over the period of 5 years. Now that is about the best we could do. Let me respond, then, if we go below that by the best we can do. That was discussed at the beginning of the summit.

And if anybody wanted to cut it $1 trillion, it was felt that would push this country off the precipice into a recession or even a depression.

So that was the figure that was decided upon as being prudent and realistic and efficacious. And that is what we are striving to do here. That is a pretty good-sized step. And if we live up to our part of the agreement, we hope to achieve it and, if something happens beyond our control, then we will be held harmless on appropriations.

Mr. GRAHAM. It seems to me that this puts a tremendous amount of obligations on us to have confidence that the economic assumptions upon which we are entering this are realistic to conservative. That is, if we start with economic assumptions that are unlikely to be real, then we are going into this transaction but the results are not going to be as they appear on page 3.

What are the economic assumptions upon which the maximum deficit reductions for the 3 years that we are about to enter are predicated?

Mr. BYRD. That falls a little out of my purview.

Mr. SAESSER. As I indicated earlier, I believe in response to a question of the Senator from Louisiana, for the first 3 years, the Gramm-Rudman-Hollings targets are merely advisory. We are not seeking to hit those targets at all and we are seeking to do and we pledge to do under this agreement is simply to reduce the deficit by a set amount over 3 years.

If the economy declines precipitously or falls out from under us, we are still just obligated to reduce the deficit by those set amounts over 3 years. Clearly, if there is a severe economic downturn, then all bets are off and there has to be some sort of change in...
policy emanating from the executive branch in conjunction with the legislative branch.

Mr. GRAHAM. Let me ask the question a little different way. Are the economic assumptions upon which these deficit targets are grounded in the same economic assumptions that OMB utilized in its—

Mr. SASSER. If I could interrupt the Senator, I think I could shorten it. The economic assumptions on which these targets are grounded in this budget agreement are based on the latest CBO economic assumptions. And that would be as late as June. We have not received any new CBO economic assumptions since then, although we expect some in the not too distant future. These deficit numbers are not based on the OMB economic assumptions that some were criticizing a few weeks ago.

Mr. GRAHAM. Does the staff in the committee have a set of those CBO economic assumptions?

Mr. SASSER. I am sure they could be furnished to the Senator, yes.

Mr. HOLLINGS. Thank you, Mr. President. I thank all Senators for their attention. I will shortly yield. I thank those who asked questions. I thank the distinguished majority leader and Republican leader. I thank all other Senators who have been very patient.

I feel we have gone some distance in attempting to allay the concerns of the Senators. I think Senators who have listened to this debate, although I would not give it much of anything like 75 percent or above a grade C in my responses, at least I think they feel that I share their frustrations and their concerns, and perhaps they may be a little bit overly excited. All this is making it hard to keep a handbasket in my chair if I can help it.

What we have done, I think we have protected the legislative branch, protected the appropriations process. There has not been any shift of power to the executive branch from the legislative here. We simply have an agreement and we are attempting to enforce it. That requires some discipline on our part.

In the final analysis, we hope that this will redound to the good interests of the American people. There will not be an opportunity to debate the point of order. There will not be an opportunity to debate the waiver of the point of order.

I would like, while I retain the floor, to yield to the majority leader if he has something to say.

Mr. MITCHELL. Mr. President. I thank the distinguished President pro tempore and chairman of the Appropriations Committee for what I think has been a most informative discussion here this evening. I, who sat through much of the budget summit process, learned a great deal from it and I know that all the other Senators did. I also thank him for the tremendous effort he put into the preparation of this agreement, as he puts it very succinctly, a way to enforce an agreement.

It is my hope, Mr. President, that we can now bring this to a conclusion. I hope that every Senator feels he or she has had ample opportunity to express his or her views, ask questions, and understand it. There comes a time when we simply have to take action and complete that action. I hope we can do that shortly, I say to the chairman. I hope all Members of the Senate are prepared to vote. I know the distinguished Senator from North Carolina is prepared to make a point of order, and I understand the chairman will move to waive that point of order.

I urge my colleagues to join us in the motion to waive the point of order. This is an essential part of this agreement. This is a deficit reduction package which includes reduction over a 5-year period, and this is the means by which we attempt to ensure that the reductions will be on a 5-year period. Obviously, no one of us can fully foresee with great precision what is going to occur next year, let alone 5 years from now. This is the best effort by very experienced and knowledgeable persons, to accomplish that objective led specifically by the distinguished chairman of the Appropriations Committee and others.

I hope we can now bring it to a conclusion, and I hope my colleagues will join us in waiving the point of order so that we can proceed to approve this, approve the deficit reduction package, and get moving toward completion of this effort.

Mr. BYRD. Mr. President, I have not yielded the floor yet. I simply want to thank the majority leader. I want to express to my colleagues my deep concern if this point of order should not be waived. I think this is a critical decision, the waiving of this point of order. And I hope we will vote to waive.

I thank all Senators. I thank the distinguished Senator from South Carolina for his patience.

Mr. HOLLINGS. I raise the point of order. Mr. President, under section 305(b), the point of order of germaneness.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays. Is that the procedure? I simply would like to know that all the other Senators did. I also thank him for the tremendous effort he put into the preparation of this agreement, as he puts it very succinctly, a way to enforce an agreement.

Mr. SIMON. Yes, I have been waiting all evening to have a very brief amendment and a very brief explanation.

At what point? Do we vote first on the motion and then the amendments are in order? Is that the procedure?

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion and then the amendments are in order. The clerk will call the roll.

The yeas and nays resulted—yeas 75, nays 25, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—75

NAYS—25

The PRESIDING OFFICER. On this vote there are 75 yeas and 25 nays. These representatives of the Senate duly chosen and sworn, having voted in the affirmative, the motion is agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KOHL. Mr. President, tonight I reluctantly voted against the leadership amendment. I say reluctantly, because I believe that those who put this package together did so in good faith. I believe that they had the best interests of the Nation and of the Senate in mind. And I honestly appreciate their efforts.

However, as I understand it, this amendment fundamentally changes how the Senate goes about budgeting for the operations of the Federal Government. Where in years past, we tried to live within our means with our receipts, now we will focus on preset spending
ceilings. These ceilings are written into law. They won't change with economic circumstances, with the unseen needs of the Government, or with the changing priorities of this body.

I am afraid that this new way of budgeting separates our spending decisions from our bottom line. And in my opinion, this amendment policy both irrational and dangerous.

No business or no family could run its operations on the basic principles we adopted tonight. Firms, banks, multinational corporations, even other committees, both to how much money they have coming and how much money they have going out. In the long run, the two sides of this equation have to match up. Only the United States—because it is large and powerful and vital to the world economy—has been able to get away with piling up debt year after year after year. And even the United States, with all its power and importance and vitality, has started to reach the limits of how much it can borrow.

Yet, by adopting the leadership amendment, we have denied that we are coming to the dangerous end of our enormous line of credit. This amendment says that it is the budget policy of the United States to ignore what we add to the debt each year as long as we hit certain preset spending targets. Budget policy will no longer be fiscal policy, no longer be an overall decision about how much the U.S. Government should borrow from the private sector. Budget policy will be appropriations policy: how can we keep within the spending caps we've set—no matter how unrealistic, unresponsive, or irresponsible they are.

And I am concerned, Mr. President, that this amendment separates, in the minds of the American people and of the Congress, Federal spending from Federal revenue. That is exactly what President Reagan did when he told the American people that they could lower taxes and higher defense spending. He told the American people that they didn't have to pay for the benefits they received. He separated taxes and spending.

And look where that policy has brought us. We face, as David Stockman faced 10 years ago, $200 billion deficits as far as the eye can see. We face a national debt that will grow to $8 billion in the 5 years that this deficit reduction agreement covers. And, we face many more years of tough budget choices.

This is not the time to budget by separating spending from revenues. We cannot stop focusing on the bottom line—even if it will make it easier to control deficit reduction agreement. The bottom line is our primary responsibility, and because the leadership amendment ignores that, I could not support it.

Mr. President, for the information of Senators, we are nearing the end of this long road. There is one amendment that has been cleared on both sides which the managers will accept. Senator Simon from Illinois wishes 3 minutes to explain the amendment and then I believe we are ready to go to final passage.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I offer an amendment on behalf of Senator Bradley and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois (Mr. Simon), for himself and Mr. Bradley, proposes an amendment numbered 3047.

Mr. Simon. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, beginning on line 18, strike all through line 12 on page 11.

Mr. Simon. Mr. President, if I may have the attention of my colleagues, I have serious concerns about what we are doing. This amendment that I understand is going to be accepted modifies those concerns a little. Under the present procedure, it takes 60 votes to transfer between the three categories. I think that is a mistake. I think 51 Members of this body ought to be able to do that. I am concerned because of the numbers that we write in here. For the first time we are saying, for example, in Defense, function 050, budget authority for the fiscal year 1993 is going to be $292 billion, for fiscal year—the outlays are going to be $292 billion. I do not think anyone here has the foggiest idea what our needs are going to be.

After World War II, we reduced defense spending 90 percent in 3 years. We now have studies that show that that is one of the main reasons our economy took off.

I am not suggesting that we are living in a world where we can do that, but maybe former Secretary of Defense Robert McNamara was right when he suggested we could go down 10 percent a year and significantly improve the economy of our country. I think the great threat to us today is what is happening to our economy. It is not the Soviet threat. And yet these numbers do not reflect that.

Anyway, the amendment that Senator Bradley and I are offering—

Mr. MOYNIHAN. Order, Mr. President.

Mr. SIMON. I appreciate the Senator in the bow tie helping me out.

What this amendment permits is a little greater flexibility, and I appreciate the consideration of the managers.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, does the Senator yield back the time?

Mr. SASSER. I yield back the remainder of my time.
Mr. KERRY. Mr. President, all of us recognize the critical importance of reducing the budget deficit and moving as rapidly as possible toward a balanced Federal budget. We all know that doing so requires tough choices. Since I came to the Senate in 1985, I have done everything I can to move us in that direction. I was the first Democratic Senator from the Northeast to co-sponsor the Gramm-Rudman-Hollings bill as an important step in that direction. I have voted against budget resolutions, reconciliation bills, and appropriations measures over the years when I believed that they were inconsistent with achieving real deficit reduction and did not reflect the values and priorities of the people of Massachusetts. I have always been willing to make the tough choices on deficit reduction, but I have always refused to make the wrong choices for the people of Massachusetts.

In September, when after months of negotiations with the administration produced no budget summit agreement, I urged our leaders to abandon that process and to come to the floors of the House and Senate and begin to debate and decide on our priorities in the forum designed in our Constitution for this to occur. My frustration was echoed on both sides of the aisle, with the minority leader publicly suggesting that the White House negotiators appeared to be in no hurry.

Finally, with time running out, a summit agreement was reached, brought to the House floor and defeated by a majority vote of Republicans and Democrats alike. That flawed agreement led to the speedy passage of a budget resolution which, while more vague than the original proposal, still failed to meet the criteria by which I must judge any Federal budget. Therefore, I voted against it.

As I indicated at that time, I must apply three criteria to any budget in making my decision:

First, it must be fair to the working people of Massachusetts. It must not discriminate against our region of the country. It must not continue or increase the burden on the middle-class families of our State and unfairly benefit those with substantial wealth.

Second, it must be consistent with the expansion of the Massachusetts economy and recovery from the serious recession that we are currently in.

Third, it must have real, substantial multiyear reductions and abandon the recent practice of phony budgets with rosy economic assumptions and gimmicky short-term measures predominating.

Unfortunately, the budget resolution which came before the Senate failed to meet these criteria and, therefore, I voted against it.

First, the budget resolution increased taxes too much while cutting spending too little and held little prospect for reducing waste and mismanagement. More specifically, it required increased tax revenues of approximately $135 billion, with no assurance that low- and middle-class families would not be forced to pay the heaviest share of this burden. It also included spending reductions in defense that were much too small. In fact, if the resolution had accepted the Senate or House Budget Committee's recommended defense cuts, we could have reduced the proposed tax increase by from $26 billion to $62 billion. Finally, larger reductions in excessive subsidies on agriculture, to businesses conducted on public lands, and in loopholes for oil and gas and other businesses could have produced savings and reduced the need to raise taxes.

I have maintained that I would only consider tax increases as a last resort, after spending had been squeezed hard, loopholes had been plugged and mismanagement had been dramatically reduced. Obviously, this has not occurred, and the budget resolution I opposed would not move us sufficiently in that direction.

Second, the reductions required by the budget resolution in the entitlement area were very likely to produce major cuts in Medicare and in essential benefit programs for our veterans. It is simply unfair to exact an excessive share of the pain of deficit reduction from the elderly, many struggling to make ends meet on fixed incomes, and veterans who deserve our gratitude, not the budget axe.

Third, while many of the details were left to be filled in by the congressional committees, the President indicated that he would push for a final budget that closely reflected the ill-fated and ill-advised original budget agreement. Since that agreement was unfair to Massachusetts and our working families, I was highly skeptical of the final product of such a process.

The budget resolution was passed despite my opposition. It created the framework within which the Senate produced the reconciliation bill that has been presented to us today. However, as I suspected, this reconciliation bill could not rise above and overcome the fundamental flaws that afflicted the framework document, the budget resolution. It is much like building a house. If the blueprint is defective, the chances are slim that the house produced will be satisfactory, and that is the case with this reconciliation bill.

It does not reduce excessive spending in defense, on agriculture and in other areas sufficiently.

It does not close unnecessary tax loopholes adequately.

It does not reduce waste and mismanagement as it should.

It does not distribute the burden of taxation as fairly as it should by asking more of those that have great wealth and less of those who already pay a great deal when compared to their income.
It does not fairly impose the burden of reduction on all States and regions of this country. It does not adequately reflect the special needs and living requirements of the elderly and our veterans. As a result, it does not pass the test of fairness to the people of Massachusetts, their values and priorities that I must apply in reaching my decision on the reconciliation bill. I will, therefore, vote against it.

I want to reduce the deficit. I have been willing, as I indicated earlier, to make the "tough choices," but the reconciliation bill makes the "wrong choices" for Massachusetts and the Nation.

I understand how hard it is to produce a budget that we all can support.

I understand that our leaders had to fashion a proposal that they believed could pass.

I commend them for the difficult and thankless task to which they have devoted themselves so generously.

I believe that they have produced a better budget than what was produced in the budget summit. For this I am grateful.

For example, I am pleased that the Medicare costs to our elderly have been reduced somewhat.

I am pleased that some modest improvement in progressivity is included compared to the original budget agreement.

I am pleased with the expansion of the earned income tax credit.

I am pleased with the child health care package.

And I am pleased that the 2-cent tax on heating oil has been discarded.

And there are a few other provisions that are improvements. I am pleased that I am able to help change these provisions.

But, better just is not good enough.

This reconciliation bill is seriously flawed.

For example, the tax increases proposed remain excessive and regressive. Excessive reliance on the gas tax, for instance, without increasing taxes significantly on the very wealthy leaves us with a tax system that is unfair. This is a fundamental problem.

The Medicare provisions would increase the deductible from $75 to $150 in 1991 and other costs to the elderly for this health care would also increase. The veterans cuts remain excessive and unfair.

The mandating of Medicare for State and local government employees hits Massachusetts governments especially hard, as does their workers. It would cost our State and local governments $150 million each year and our workers a similar amount.

The Medicare provisions would add a significant burden to hospitals in my State already under serious financial stress and reduce resources to Massachusetts teaching hospitals by approximately $28 million.

The tax incentives provided for oil and gas production are excessive and unnecessary, particularly in the period of rapid run-ups in oil prices.

The failure of this budget to include a targeted incentive for investment in small, new ventures—the source of important new growth in this country—essential to our economic growth, and desperately needed in Massachusetts is a major failing.

I also believe that the Commerce Committee's decision to require the Coast Guard to begin to charge user fees, without the requirement for equity in the fee structure is unwise and, potentially very unfair.

And these are only a few of the litany of problems I could recite that make it impossible for me to support this measure.

I want to reduce the deficit. I have been willing, as I indicated earlier, to make the "tough choices," but the reconciliation bill makes the "wrong choices" for Massachusetts and the Nation—and desperately needed in Massachusetts is a major failing.

I also believe that the Commerce Committee's decision to require the Coast Guard to begin to charge user fees, without the requirement for equity in the fee structure is unwise and, potentially very unfair.

And these are only a few of the litany of problems I could recite that make it impossible for me to support this measure.

During our debate on this bill I have also tried to make it better. I have supported amendments to reduce regressive gasoline taxes, to reduce unfair Medicare cuts, to provide for these cuts by increasing taxes on the wealthiest of our citizens. I have voted to take Social Security off-budget to protect the integrity of the trust fund and reduce its use as a political negotiation tool, which suggests that the federal deficit is less than it really is. And I have supported several other amendments intended to make this measure more fair. But despite these efforts, this reconciliation bill simply does not meet the criteria that I must apply on behalf of the people of my State.

I hope and pray that the final product produced in conference with the House and in negotiations with the President will be a big improvement over the bill before us tonight. But, I am a realist. I know that the die was cast with passage of the budget resolution. And while I can hope for a miracle, and work for change, I am not optimistic that we will ultimately enact a budget with which I am pleased. But I intend to do everything I can to make it better. For while better may not be good enough for my support, it is preferable to the reconciliation bill which I must oppose.

Mr. PELL. Mr. President, I am opposed to the budget plan presented to us in the Senate.

Mr. DIXON. Mr. President, it is fashionable in this town to talk about crisis. In fact, crisis may be one of Washington's most overused words. Issues don't seem to count unless they are "crisis" issues. And we have gathered here today to deal with the budget crisis, the deficit crisis, and the national debt crisis.

But are we really facing a crisis? Many people do not seem to think so.

After all, our national debt has tripled in the last 10 years. We have run huge deficits, and this year's deficit will likely be the largest in history. Yet the American economy has grown steadily since 1982, and many of the catastrophic effects of ever-increasing budget deficits that were predicted have not yet come to pass. Many voters, therefore, see this as a phony crisis, and they think Congress and the President have created this artificial event without good reason.

But do we agree that crisis is probably not the word to describe our budget problems, but I also have to say that the problems are very real. It is true that the world would not end if we did not enact this bill this week. It is also true that we have to act, that we are running out of time to act, that the consequences of our past failure to act are growing, and that these consequences affect all Americans.

Our current national debt is over $2.5 trillion. Now, that is a very, very large number. It is also a number that is without any real meaning; numbers that big are just too abstract. Two comparisons, however, may help put that number into some kind of perspective.

First, think of the debt compared to American savings. Paying off the national debt today would require wiping out every checking account, every savings account, every account, every deposit, and every other account held by every single American and by every single American business at all of our nation's banks, savings and loans, and credit unions—every single dollar.
Second, think of the debt compared to the Government's income. The U.S. Government has a lot of income over $1 trillion this year. Our debt, though, is over three times our income. Now, the general rule of thumb used by mortgage lenders is that the maximum mortgage a family can get is about 2½ to 3 times their income. Our country's debt exceeds that level, which means that, if you think of the United States as a single-family home, we do not have a large enough income to be able to afford it. What makes the situation even worse is that much of our debt is not long-term mortgage-like debt. Instead, a large part of it is like credit card debt—very short-term debt.

And how are we paying this short-term debt? The answer is simple—issuing more debt. This is like a family using its mastercard to make the minimum monthly payment on the visa bill.

Americans know that if they use one credit card to make the monthly payment on another one, they are seriously financially overextended. An overextended credit card user can keep the house of cards from collapsing for a while, but eventually, the credit cards max out, and the ability to keep borrowing evaporates.

The U.S. Government is approaching that point. And while we have advantages that the ordinary American does not, the lesson that the Government should learn is: We pay the debt—the consequences facing the country are not less severe than the consequences facing individual borrowers who drown themselves in debt.

Individuals who cannot pay their debts are forced into bankruptcy. They lose the ability to borrow, and bankruptcy usually means that their standard of living declines precipitously.

Countries are somewhat different. They can go on inflating the currency—paying off debts with cheap, inflated dollars—and by offering higher and higher interest rates. Even countries, however, can eventually have trouble borrowing. A number of overextended Third World countries have lost access to the international lending community. The United States is not to that point, but it is worth noting that Japan, which has been the main foreign purchaser of United States debt over the last several years, is dramatically cutting back its lending to the United States. And while that may sound satisfying to U.S. economic nationalists, it is not good for our economy.

That leaves me to my next point, Mr. President, which is that this massive debt load has consequences that affect all Americans.

The Government's huge and growing borrowing demand has resulted in inflating the money and reducing the value of our income. Our nation's banks have been an outstanding example of what happens to an economy when the government takes over the money-lending business. The two largest spending programs under that committee's jurisdiction are mass transit and housing. In my time in the Senate, mass transit spending has been reduced generally. But Federal housing programs have been cut by roughly 80 percent. These are not cuts from some theoretical baseline that makes assumptions involving continuing program growth. These are the cuts from the actual 1980 spending levels and the cuts in billions and billions of dollars.

A second answer involves the magnitude of spending cuts involved. If, for example, we attempted to balance the budget this year by simply cutting spending, we would have to eliminate: The Department of Agriculture, including the basic price support programs, food stamps, and every other agriculture and nutrition program; The Department of Commerce, including the weather bureau; The Department of Education; The Department of Energy, including the strategic petroleum reserve; The Department of the Interior; The Department of Justice, including the FBI and all Federal prisons; The Department of Labor; The Department of Transportation, including all air traffic controllers, all highway and transit spending, and the Coast Guard; The Department of Housing and Urban Development; The Environmental Protection Agency; NASA; Customs and the Bureau of Alcohol, Tobacco and Firearms; The Small Business Administration; and

All of the so-called alphabet agencies, including the CIA, the Federal Trade Commission, the Federal Reserve, the Labor Department, the National Science Foundation, the Federal Communications Commission and numerous other agencies.

Even this group of cuts only balances the budget if there are also substantial cuts in the defense budget. And even with the Defense cuts, the budget is not balanced if social security taxes and spending are taken out of the budget, or if the cost of closing insolvent savings and loan institutions is included.

Yet a third answer is that there are some things we cannot cut and some things we should not cut. We cannot, for example, cut interest, the most rapidly growing part of our budget. We are currently spending roughly $250 billion on interest alone. If the interest paid to Social Security and the other trust funds is included. This is about 50 percent of the entire amount the Federal Government receives from income taxes.

Think of that! Half of every American's income goes to paying interest, and we don't have any choice about interest. Our only choice is to lower interest rates and thus reduce the interest that is paid to reduce Federal debt.

While we must pay interest, we must not cut Social Security. Social Security is a compact with the American people. Cutting Social Security benefits would mean breaking that compact, and that is something I know the Congress will not do. I know the Amer-
ican people would never want us to do such a thing.

Further spending cuts can be accomplished, but the truth is that, if the costs like interest that must be paid are exempted, and programs like Social Security that should be exempted are exempted, the budget cannot be balanced via spending cuts alone in any reasonable time frame without causing terrible pain to the American economy, and without terminating many programs and activities that are critically important to Americans.

The only way to reduce Federal deficits that will work, therefore, is a gradual package of spending cuts and revenue increases. That is what the budget summit tried to do. That is what the reconciliation package before the Senate now tries to do.

I know raising taxes is painful, just as I know that going to a debt councilor or a bankruptcy judge is painful. I also know, however, that its like going to the dentist—waiting makes things worse.

Though it may be painful to act now, it will be much more painful not to act. The deeper in the hole we let ourselves get, the greater the sacrifice that will eventually be required to dig ourselves out.

If any further demonstration is needed that some revenue must be part of any serious deficit reduction package, it was provided during consideration of the reconciliation bill by the House of Representatives. The House Republicans attempted to offer an amendment that basically left out any additional revenues. Their amendment was declared out of order, however, because it did not reduce deficits by the amount the President requested. Even the House Republicans could not produce a 5-year package of spending cuts alone that they thought was workable that reduces deficits by $40 billion in 1991 and $500 billion over 5 years, which is what Congress and the President have committed to do.

Therefore, Mr. President, what we have before us today is a package that contains both spending cuts and some additional revenues. There is a lot that I do not like about this package. Even its most ardent proponents recognize that it has serious flaws. I know, however, that it is the only package that has any hope of passing this body.

I will therefore vote to send this legislation to conference, in the hope that the package that emerges from the conference with the House of Representatives will be fair and equitable to working Americans and disadvantaged Americans, and that the final legislation will ensure that the middle class and well-off citizens carry their just share of the burdens required.

Let me conclude by restating what I said at the outset. While this may not be a deficit crisis yet, unless we start to act now, we will face one in the future. Our past failures to get the deficit under control have hurt every American and have damaged the American economy. Solving the problem entails hard choices and real pain. Anyone who has been living beyond his or her means by borrowing knows there is a day of reckoning, and that dealing with the debt means real financial pain.

We are rapidly approaching that day of reckoning. The only way to avoid very serious pain then is to begin to endure a little pain now. That is why enactment of a deficit reduction package is so important. That is why we must act.

We need to act in a manner that is as fair and as equitable as possible. We need to act in a way that minimizes any potential risks to our economy. But we must act. There really is no other choice.

Mr. SIMPSON. Mr. President, I feel compelled to rise and detail my opposition to this proposal—even though I know that it is undoubtedly one big political winner—because I want it known exactly what we are talking about here. On the surface, what could make more sense than something like this—"Tax the rich, they've got the money, those rotten bums. They can bail us out of our predicament. Why should any of the rest of us suffer?"

There is a very inescapable reason why the rest of us are going to have to suffer, and it is called the national debt. Has anyone missed that point? Remember that it is $3 trillion that we have to repay; $196 billion in interest is what we expect to pay in this coming fiscal year alone?

Does anyone here actually believe that the Nation's problem is solely one of insufficient taxation of the rich? I have been down here before with all of the facts and figures showing that total confiscation of all of the wealth of all of the people earning more than $100,000 would run the country for about 4½ months. Let's here make a more relevant comparison, directly pertaining to the proposal presented by the Senator from Iowa. That proposal is to apply a 10 percent surtax on taxable income over $1 million, why stop there? Why not just take it all if that is the problem?

Let's take a look at that—let's take all of the money of those evil millionaires, and multiply our surcharge intake tenfold—instead of $7.6 billion, we'll take all of that money in excess of an income of $1 million and bring in $76 billion—and that assumes, of course, that nothing changes—that even though we're going to take all of that money past $1 million, all of those people will continue to work and earn just as they are expected to now, hardly realistic! What a joke.

So how far have we then come? Have we paid off our debt? Not exactly. We would have enough revenue to
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run the Government for 21 days, 3 weeks. So hear that, that is not going to help us avoid having to make those tough choices in other parts of the budget.

If we really intend to get the deficit under control, we are going to have to face facts about where our money is going. 48 percent of our spending is now going into some form of entitlements, and that share is rising rapidly.

I want to make it clearly understood, that is where the money is and this is crucial, that spending all has increases built right into the law. Prior to the budget summit, the Federal Government planned to increase its spending on Medicare at a rate of 11.6 percent per year, the summit agreement would have trimmed that to 10 percent.

Only in Washington is a 10 percent increase in annual spending called a cut. But we do call it a cut and so the most effective way of truly affecting the victimization of the elderly and demanding that the rich pay their fair share so that that does not have to happen. But something does have to happen, that is clearly right and that is, now can have 75 percent of the Medicare payments subsidized by Joe and Josie Sixpack. Forget taxing the rich, some of that money is paying the rich. You cannot balance a budget by refusing to touch spending which is going up at twice the rate of inflation. No amount of taxation can keep up with that. You can't stay even, much less achieve deficit reduction.

Given that situation it is absolutely amazing that entitlements were sheltered to the degree that they were in the budget summit, they accounted for only 23.8 percent of the deficit reduction, despite being 48 percent of overall spending. I hope that my colleagues, would have only been a $119 billion savings from planned increases, not a cut in any honest sense.

This is what we have before us on Medicare. $157 billion in savings over 5 years and $32 billion of that is completely in the area of reductions to health care providers, not to recipients. Cuts pertaining to beneficiaries make up only $17 billion of that amount, slightly more than one-third. How would beneficiaries actually be affected? Part b premiums now stand to go up by an amount of zero in 1991; zero in 1992; $3.20 in 1993; and a total of $9.80 by 1995. Just for comparison, assume you get $5,000 a year annually from Social Security. If you received only a 3 percent cost-of-living adjustment every year for 5 years, your savings would have increased by nearly $500 by 1995. Your Medicare premiums part b, voluntary Medicare premiums, would have gone up by only $9.60.

In addition, Medicare part b deductibles would be increased from $75, where it has been since 1992, to $150. That is what is being proposed. Compare that to what our grandchildren will face if we do not cut into entitlements. We in Congress have taken away $757 billion in annual spending under Gramm-Rudman-Hollings law and we say you can't touch this, even in the event of a sequester. Well, just what are we going to touch? This amendment would remove a cut and add a tax, a tax on the rich.

I want to ask my colleagues who they think the rich are? We're down here speaking about how Donald Trump and Leona Helmsley need to pay their fair share unless, presumably, they use Medicare. At least those rich are not paid their salaries from the vaults of the Federal Treasury. On February 1, of this year, the Senate passed a salary increase that raised our annual pay to $98,400. That was up from $89,500 where we had raised it in March of 1987. Prior to that, Senate salaries were $77,400 a year—and given the pressures on the Federal budget I think that is quite a plenty. And I proved that by returning my pay increases every year to the U.S. Treasury, over $20,000 in this year alone. I write that check personally and it goes straight in the pot of expenditures that we can't touch. That big money machine which is the U.S. Government is taxing Joe Sixpack and paying out that money to someone else. Now that is in the real world do you think that is quite a plenty. And I think that is quite a plenty. And I think that is quite a plenty.

The people right here on this floor of the Senate complaining about the rich are being paid $98,400 every year by, yes, none other than Joe and Josie Sixpack. How many of those people out there in the real world do you think that is quite a plenty. Only about 2 percent of all of the individuals in the United States have incomes as high as $75,000 and that includes salary, government benefits, or any other income, only 2 percent. That sounds like a pretty good definition of the rich to me, the top 2 percent of America's salary earners, we are earning what that group was earning before our salary hikes. But we passed those through and I accept responsibility for my part in that process but I didn't take the bucks. Now that is in the pot of expenditures that we can't touch. That big money machine which is the U.S. Government is taxing Joe Sixpack and paying out that money to someone else, without regard for any demonstrated need. All of those expenses are untouchable.

It is time that they ceased to be untouchable. We made some very slight progress with this budget package in slowing the snowballing of entitlements expenses. This is not the time to now undo even that small progress. It is time, however, to stop kidding the American people, to stop pretending that our debt can be paid without reforming the entitlements system in some way. Now means-testing on COLA's or however else. I want to ask my colleagues one question, What do they think is going to happen if we have increases in medicare expenses of 11.6 percent a year forever? Similar increases in Social Security and other entitlements programs? Does anyone here on this floor really believe that we can just let that juggernaut keep rolling along forever? What is their answer to that terrible problem? Tax the rich if we can't even affect a modest deceleration of entitlements spending. I can tell you with absolute certainty that we will not, no never, solve our deficit problem, whether we raise taxes or not. What are we doing to ourselves and more importantly to the people who sent us here? That is the real and only question. I strongly oppose this amendment and I respectfully ask my colleagues to do the same.
Mr. MCCAIN. Mr. President, I rise in opposition to the 1991 Budget Reconciliation Act. This bill, just like the budget summit agreement that failed on October 5, shortsightedly contains the largest tax increase in history. I opposed the budget because, as you probably already know too well, the average American taxpayer already works until May 5 of every year to pay his or her tax bill. Never before have taxpayers had to work for the Government for such a long time, and yet the Democrats in Congress are trying to force a tax increase on us so that they can spend more.

It is discouraging and almost frightening to realize that, despite the tax increases of the 1980's—yes, tax increases—Congress has heaped $1.6 trillion on to the national debt. That is bigger than our national budget has ever been. And, yet, when Congress sits down at the bargaining table to cut the deficit, the first proposal is the easy way out—a tax increase.

That's why these summits between congressional leaders and the President never work. We have had 6 tax-increasing budget summits since 1983, but the deficit fell only in years when there was no summit and no new taxes. History shows that in deals that supposedly swap tax increases for cuts in spending, the spending cuts never materialize. Foist a heavier tax burden on the American public and Congress just uses the new taxes for new spending on programs we don't need or want.

Moreover, not since World War II have we raised taxes to over 19.6 percent of GNP—as the current package certainly will—without tipping the economy into recession. We cannot
Justify a tax increase. Annual tax collections are already a third higher now than in the 1960's and 1970's but spending has grown even faster.

As far as I am concerned, we need to end wasteful, inefficient and mismanagement before we even consider raising taxes. This package is 0 for 3, and yet the Democrats are still pushing for the largest tax increase in history? As far as I am concerned, the budget deficit is complete and never has it been more obvious.

We need a line-item veto, like the one I have introduced and have been working to enact along with over 40 public interest groups and citizens organizations. We need a balanced budget amendment and a host of other reform measures—none of which are included in this bill.

I am strongly committed to deficit reduction, and I am as worried about the parent or grandparent who will have to pay the legacy this profligacy will leave, but I do not think we have to compromise our economic well-being when there are so many programs that we can end properly.

With regard to this bill, I am also concerned that it contains proposals that result in reducing benefits for Medicare beneficiaries and dramatically increasing their out-of-pocket health-care costs. There is no question that health-care costs are rising at phenomenal rates—and have been for some number of years now. But, in my opinion, dramatically increasing seniors out-of-pocket costs and failing to do serious reforms to slow the growth of health-care costs will only ensure that we are back in their pockets looking for more again next year.

In addition, I am concerned that the urban/rural differential is growing even faster. It has grown even faster than in the 1960's and 1970's but elections are already a third higher now.

Lastly, I am concerned that this bill does not truly take Social Security off-budget and out of the budget deficit calculation. President Reagan, I have been advocating taking the reserves in the Social Security trust funds off-budget and out of the budget deficit calculations. I believe we need to be educating the American people about our Nation's budgetary situation and to protect the trust funds so that it might be there to provide benefits for both today's retirees and tomorrow's generation.

I am joined with Senator HANZWR and the other with Senator BAXTER—to improve the care for those with end stage renal disease, and make the care more readily available. One of the provisions will provide Medicare reimbursement for home use of the drugs necessary to the stability of an individual with end stage renal disease.

The second provision will restore Medicare coverage of staff-assisted home dialysis services for those who are too sick to go into a facility to get dialyzed, cannot provide the service for themselves at home, or simply are unable to physically get to a facility. I am particularly pleased that this provision was included, as last year Con-
Mr. DURENBERGER. Mr. President, it is not easy to come to the floor of the Senate and cast a vote in favor of raising taxes on the American people. Nor was it easy for the President to turn away from his campaign pledge not to raise taxes. But the President and the members of the Senate and the House were not elected to make only the easy decisions and to turn away from the difficult choices. The faith of the American people in their government, sorely tested in recent weeks, can only be preserved if we are willing to make the hard choices that the times demand. And today is one of those days when hard choices can no longer be avoided.

Mr. President, this country is facing a crisis of governance. Our ability to finance the social, economic, and defense needs of our country is being seriously undermined. For nearly a generation, we have lived on credit. Our national debt tripled in the past decade. We opted to pass on to our children and our children's children the fiscal profligacy that historians will judge us by. But the credit card economy cannot sustain itself forever. The time of paying up our bills, meeting our obligations, and getting this fiscal house in order has arrived.

Make no mistake, the tax and spending reduction package that we will shortly be voting on represents but a single step toward restoring budget solvency and sanity to the Federal Government. It is surely not the last time that we will be called upon to approve reductions in Federal spending and increases in revenues. As I interpret the numbers in this budget, it appears to me that we will need to have a budget reconciliation bill next year, and the year after, and the year after for as far as the eye can see. For there is no doubt in this Senator's mind that after accumulating more than $3 trillion in debt, we are not going to make real progress toward a balanced budget by a single stroke of a pen on a 5-year $500 billion budget bill.

Just look at the deficit targets we are aiming to reach over the next 5 years: $205 billion in 1991; $197 billion in 1992; $169 billion in 1993; $111 billion in 1994, and $63 billion in 1995. If you add up the numbers and look at the realities of this package, what you see is that the deficits that will accumulate over the next 5 years will total more than $745 billion. In other words, we will add at least three quarters of a trillion dollars in additional debt to the already staggering 1990 Federal debt of $3.2 trillion.

Mr. President, the numbers I have just quoted are the best case numbers. They take into account a set of economic assumptions that assumes that short-term Treasury rates will decline to 5.7 percent in 1992 and then fall to 4.4 percent in 1994. They assume economic growth of 5.5 percent in 1992, 4.1 percent in 1993, and 3.7 percent in 1994. I hope we achieve those results. But I certainly am not confident that that will be the outcome. Five year budget forecasts are notoriously inaccurate. They fail to account for minor adjustments in economic trends that when factored into a 5 trillion dollar economy can produce swings in the budget deficit of $100 billion to $500 billion.

Just look at this year's economic forecasting. At the beginning of the year, we were presented with a set of numbers which suggested that with some minor revenue and programmatic changes, the fiscal year 1991 budget deficit could be reduced to $50 billion. Five months later, in May, those numbers were out the window. By July, the Congressional Budget Office was projecting that the fiscal year 1990 budget deficit would be $155 billion, and the fiscal year 1991 deficit would be $250 billion. The Congressional Budget Office has indicated to my staff that the $155 billion projection made in July is, in reality, closer to $220 billion, and the fiscal year 1991 deficit could be over a quarter trillion dollars. So as far as I am concerned, the economic assumptions underlying this budget have little, if any, credibility. What this package is, is simply a down payment. Even if this package is adopted, we're not even close to being out of the woods as far as I am concerned.

Mr. President, the staggering deficit numbers I have just described tell only one-half of the story. If we really want to give an honest interpretation of the numbers in this budget, it appears to me that the deficit we need look only to the 5-year debt ceiling extension that we in the Finance Committee approved as part of this package. At the end of 5 years, if all goes well under this budget agreement, the national debt of the United States will have increased from $3.2 trillion to just over $5 trillion. And the reason for this huge increase in debt is because we continue to use "pay-as-you-go" trust fund program surpluses to mask the true size of the Federal budget deficit.

For more than 2 years, many members of this body, especially Senators MOYNIHAN and HERN, have tried to bring about a set of fiscal changes, the fiscal year 1991 deficit could be over a quarter trillion dollars. So as far as I am concerned, the economic assumptions underlying this budget have little, if any, credibility. What this package is, is simply a down payment. Even if this package is adopted, we're not even close to being out of the woods as far as I am concerned.

Mr. President, the proposed Gramm-Rudman targets exclude Social Security trust fund surpluses. Therefore, anything that we can do to bring about a sense of "Truth in Budgeting," by getting Congress to exclude the Social Security trust fund surpluses from calculating the Gramm-Rudman targets. This budget agreement takes a step in that direction, but it does not go far enough. The proposed Gramm-Rudman targets exclude Social Security tax increases, but interest accrued by the Social Security trust fund is included in the operating surpluses. As a result, interest that should be credited to the trust fund is being included in the operating budget of the Government for purposes of the Gramm-Rudman targets. This is just another example of the type of fiscal chicanery that leaves everyone in the country with a sense of cynicism about how Washington avoids honestly dealing with its fiscal responsibilities.

Moreover, Mr. President, if we excluded all Federal Government trust fund surpluses—Social Security, Medicare, and Federal Credit Trust Fund, the Airport Trust Fund—
Mr. President, the budget deficit is not simply a matter of recovering confidence in the market. It is also a matter of how many T-bills are issued each week. The budget deficit is a noose around the neck of every elected official who sees social inequities that can only be resolved by a greater financial commitment from Washington. What I am talking about is the 37 million people in this country who have no health insurance. What I am talking about is the problem of long-term care for the elderly and the disabled. What I am talking about is an infrastructure network that is crumbling throughout most regions of this country.

We were elected not to merely sift and sort through thousands of Federal programs to find creative ways to reduce the cost of Government. Mr. President, if we were elected to help provide a better quality of life to all Americans. That means financial access to health care for everyone; that means freedom from the fear of debilitating and ruinous taxes. We will take commitment, and that will take money. The budget deficit is the biggest obstacle to these important policy changes.

Mr. President, if we are to achieve real substantial reductions in the deficit and improvements in Federal programs, we must make a commitment to reviewing from top to bottom every Federal program. That includes Medicare; that includes Social Security; that includes HUD, that includes the Defense Department; that includes the Small Business Administration, and that includes all the spending we do through the Tax Code. For too long we have allowed for business as usual in this body. Every year, we extend every expiring tax break. We never debate them for more than a minute. We extend financing for all the agencies in this town, and then we find more money to create new agencies. If we are going to achieve what I would call "Perestroika on the Potomac," then I would suggest that the committees of the Congress, along with the administration make this commitment to the American public: Next year we will revisit every program that the Federal Government operates and we will eliminate, not reduce the level of growth, but eliminate unnecessary spending, and we will go to the bottom. Otherwise we will be facing budget crisis after budget crisis for the remainder of this decade until the American people finally heed the call, and will throw all of us out of our jobs.
Mr. GORTON. Mr. President, when the budget summit produced a bipartisan agreement after months of tortuous negotiations, I announced my willingness to support the compromise. Clearly, there were portions that I did not support, most particularly more taxes and drastic cuts in agriculture and Medicare. However, for all of its shortcomings, the budget summit proposal would have set in motion a process for real budget discipline. For the first time in a long time, Federal spending would not be permitted to grow uncontrollably. And, Congress finally would break itself of the tax and spend mentality that had dominated the faulty fiscal policy of its Democratic leadership.

At that time, I commended our congressional leaders for rising above partisan differences to create a truly remarkable product. Despite the rather obvious political liabilities inherent in any bipartisan compromise, I was willing to embrace it as the best possible solution under the circumstances and was willing to say so to my constituents.

After the demise of the budget summit proposal, this body passed an alternative Democratic budget resolution which allowed as much as $10 billion more in taxes and $10 billion less in spending cuts. At that time, I expressed my deep misgivings about the lack of spending discipline in that budget resolution—discipline that had been marginal even in the bipartisan budget summit agreement. I had little faith that a budget resolution, drafted by Democrats and interpreted by committees controlled by Democrats, would result in anything other than more taxes and less spending discipline.

Well, Mr. President, it turns out my fears were more than justified. When compared to the budget summit package, the reconciliation bill taxes the American people more and cuts spending less. It calls for $152 billion in new taxes, $12 billion more than the summit package. At the same time, the reconciliation bill cuts only $110 billion form mandatory spending programs, $9 billion less than the summit agreement. Moreover, many of the so-called cuts in spending are nothing more than new user fees. Although I do not specifically object to user fees, I cannot condone disguising new fees, which more appropriately should be called taxes, as spending cuts.

Mr. President, I cannot support this reconciliation bill. It is primarily new and permanent taxes coupled with week promises for mild spending restraint. It simply does not represent progress toward the goal of spending restraint and fiscal discipline. It was created by a Democratic-controlled Congress that is still fully wed to the tax and spend policies that brought us to this point of fiscal chaos. Simply put, the American people deserve better.

Mr. RIEGLE. Mr. President, after a great deal of consideration, I have decided not to support this budget package. While it is clear that major deficit reduction is long overdue, I have many concerns about the course that is charted by this particular piece of legislation.

While this package is better than the one put forward by the summiters, I am still very concerned that it will place an undue burden on middle- and low-income Americans and on our senior citizens. The increase in the Medicare deductible would be the equivalent of a 20-percent cut in the COLA for an average older person on Social Security. The increase in the gas tax hits hard at the average working person at a time when they have already seen huge increases in the amount they must pay for gasoline. It asks less of a sacrifice from those with high incomes than it does of those of more modest means. In short, it is not the direction I think we should be heading in.

I am particularly concerned about continuing efforts to jury-rig the Gramm-Rudman-Hollings approach to budgeting. This system, which has already been adjusted once, has failed to bring about a balanced budget. Instead, it has led to many successful efforts to find ways around its constraints, and to mask the true nature of the budget problems we face. The proposal we have before us creates a whole new maze of across-the-board cuts—a budgetary approach most of us said should never be implemented because it cuts good programs and bad ones indiscriminately—and provides a whole new set of incentives to find clever ways to avoid facing our budgetary problems head-on.

It is clear that we must move forward to enact a budget. The proposal advanced by the House of Representatives is a major improvement over this bill. It reduces the cost to senior citizens, cuts the gas tax, and extends a more fair share of the overall cost of reducing the deficit to those who are able to pay. I would strongly urge the conferees on this package to move toward the House package. Until we make substantial improvements, I
cannot in good faith support the package that we have in front of us today.
The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SASSER. Mr. President, I ask unanimous consent that H.R. 5835, be deemed as having been considered and amended by striking all after the enacting clause and insert in lieu thereof the language of S. 3209, as amended, to be considered as having been read for the third time and that the Senate proceed without intervening action or debate to a vote on passage.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. SYMMS. Mr. President, are the yeas and nays ordered on final passage?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. SYMMS. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 46, as follows:

(Rollcall Vote No. 292 Leg.)

YEAS—54

Bentsen  Breaux  Chafee
Bingaman  Bryan  Cochran
Bond  Bumpers  Cranston
Boren  Burdick  Danforth
Boeschutz  Byrd  Daschle
Sec. 1108. Payment of interest on certified claims.

Subtitle B—Other Agricultural Programs

Sec. 1201. Authorization levels for REA loans.

Sec. 1202. Authorization levels for FmHA loans.

Sec. 1203. APHIS inspection user fee on international passengers.

Sec. 1204. International sanctions.

Title A—Commodity Programs

Subtitle A—Base for Deficiency Payments.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") shall, pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991, base the following amendments:

So the bill (H.R. 5835), as amended, was passed, as follows:

So the bill (H.R. 5835), as amended, was passed, as follows:

(a) Minimum Percentage Reductions.—Except as provided in subsection (b), the Secretary shall announce an acreage limitation program for—

(b) Loan Levels.—For purposes of determining the loan rate for each of the 1992 through 1995 crops of wheat and feed grains, upland cotton, and rice, shall compute the amount of such payments by multiplying—

(c) Base Reduction Percentage.—For purposes of subsection (a), the base reduction percentage shall be—

(d) Reduced and Permitted Acreage.—(1) Reduced Acreage.—For purposes of this subsection (a), the quantity of reduced acreage for a crop shall be—

(e) Planting Combinations 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—

(f) Loan Eligibility.—Producers on a farm who do not receive deficiency payments under the Secretary shall be permitted to plant on permitted acreage on which the producers do not receive deficiency payments.
(5) each of the 1992 through 1995 crops of rice under which the acreage planted to rice for
food use 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 15 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 15 percent;
(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 per-
cent;
(4) in the case of rice, 16 percent.
SEC. 119. OILSEED PRICE SUPPORT.
(a) IN GENERAL.—Subject to subsection (b),
in providing price support for oilseeds (soy-
bean, sunflower, canola, rapeseed, safflower,
flaxseed, and any other oilseed the Secretary
defines), the Secretary shall provide price support for such oilseeds at a level of not less than $0.097
per bushel, and flaxseed at a level of not less than $0.097
per bushel.
(b) OTHER OILSEEDS.—In the case of corn, grain sorghum, and
barley, the Secretary shall provide price support for:
(1) at a level of not less than $5.50
per bushel;
(2) at a level of not less than $0.097
per pound.
(c) OTHER OILSEEDS.—In the case of corn, grain sorghum, and
barley, the Secretary shall provide price support for:
(1) at a level of not less than $5.50
per bushel;
(2) at a level of not less than $0.097
per pound.
(d) OTHER OILSEEDS.—In the case of corn, grain sorghum, and
barley, the Secretary shall provide price support for:
(1) at a level of not less than $5.50
per bushel;
(2) at a level of not less than $0.097
per pound.
(e) OTHER OILSEEDS.—In the case of corn, grain sorghum, and
barley, the Secretary shall provide price support for:
(1) at a level of not less than $5.50
per bushel;
(2) at a level of not less than $0.097
per pound.
(f) OTHER OILSEEDS.—In the case of corn, grain sorghum, and
barley, the Secretary shall provide price support for:
(1) at a level of not less than $5.50
per bushel;
(2) at a level of not less than $0.097
per pound.
ing 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 representation.

(1) MANAGEMENT OF GRAIN.—Whenever grain is stored under such a program, the Secretary may buy and sell at an equivalent from the Rural Electrification and Telecommunications Act of 1936 (7 U.S.C. 901 et seq.) substantial quantities of grain different locations, place the warehouseman analogous to the voluntary program under the Rural Electrification and Telecommunications Act of 1936 (7 U.S.C. 901 et seq.). The Secretary may be exchanged for commodities owned by the Secretary or warehousedman's interests in 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.

(2) USE OF COMMODITY CERTIFICATES.—Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for other commodities for which not less than $895,000,000 shall be for farm ownership loans under subtitle A of such Act.

(3) For fiscal year 1993—

(A) $1,060,000,000 for insured loans, of which not less than $661,000,000 shall be for farm ownership loans under subtitle A of such Act.

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

(c) MANDATORY LOANS.—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. 1920. APPRAISAL 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 passengers.

(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 close of the calendar quarter in which the fee is collected.

(c) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT

(A) 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.

(B) AMOUNTS IN ACCOUNT.—(1) DEPOSITS.—All fees collected under this subsection shall be deposited in the Account.

1. Authorizing Appropriations.—There are authorized to be appropriated amounts in the Account for use by the Secretary of Agriculture for quarantine or inspection services.

(C) ADJUSTMENT IN FEE AMOUNTS.—The Secretary shall adjust the amount of the fee 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 processing of agricultural quarantine inspection services, and

(3) maintaining a reasonable balance in the Account.

SEC. 1921. INTERNATIONAL SANCTIONS.

Notwithstanding any other provision of law, the Secretary shall fire and $3,283,000,000 shall be for guaranteed loans.

(3) For fiscal year 1993—

(A) $1,020,000,000 for insured loans, of which not less than $744,000,000 shall be for guaranteed loans.

(B) $3,414,000,000 for guaranteed loans, of which not less than $400,000,000 shall be for 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 guaranteed loans.

(B) $3,550,000,000 for guaranteed loans, of which not less than $100,000,000 shall be for 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 $101,000,000 shall be for guaranteed loans.

(2) Use of Funds.—The Secretary may use the funds made available 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:

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

(2) use the funds made available from the Account to ensure that the funds are available in the amounts authorized in paragraph (1) in the available amount of insured loans in each of the fiscal years to guarantee loans made under such Act.


Sec. 2002. FDIC authorized to increase assessment rates as necessary to protect insurance funds.

Sec. 2003. FDIC authorized to make mid-year adjustments in assessment rates.

Sec. 2004. FDIC authorized to set designations.
Subtitle B—FHA Mortgage Insurance Sec. 2101. FHA ceiling.
Sec. 2102. Reverse mortgage insurance.
Sec. 2103. Special 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:

"(A) From January 1, 1990, through December 31, 1990, 0.20 percent.

"(B) From January 1, 1991, through December 31, 1993, 0.23 percent.

"(C) From January 1, 1994, through December 31, 1997, 0.18 percent.

"(v) Clerical amendments reflecting $1,000 minimum assessment provisions of current law.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended—

(1) by inserting "or subparagraph (C)(iii) or (D)(ii) of subsection (b)(1)" after "subsection (c)(ii)," and

(2) in clauses (i) and (iii), by inserting the "greater of $50 or an amount" before "equal to the present value of.

SEC. 2201. FDIC AUTHORIZED TO MAKE MID-YEAR ADJUSTMENTS IN ASSESSMENT RATES.

"(a) Assessment rates prescribed.—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.

"(b) 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.

"(c) Deadline for announcing rate changes.—The Corporation shall announce any change in any assessment rate not later than the preceding November 1; and

"(d) Adjustment of operating expenses, case resolution expenditures, and income.—Notwithstanding clause (i), the assessment shall not be less than $1,000 for each member in each year.

Subsection (2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended to read as follows:

"(1) 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.

To this end, this subsection only, and

SEC. 2301. FDIC AUTHORIZED TO BORROW FROM FEDERAL FINANCING BANK.

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

(1) by striking " headed, by striking "FDIC," and

(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.—Subject to paragraph (2), in any proceeding brought by the Corporation related to any claim acquired under this section or section 1512 of the Federal Housing Act of 1934 (12 U.S.C. 1701p), 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. 13. 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:

"(2) Subject to paragraph (2), in any proceeding brought by the Corporation related to any claim acquired under this section or section 1512 of the Federal Housing Act of 1934 (12 U.S.C. 1701p), the Federal Financing Bank is authorized to purchase and sell the Corporation's obligations on terms and conditions determined by the Federal Financing Bank.

(2) Subject to paragraph (2), in any proceeding brought by the Corporation related to any claim acquired under this section or section 1512 of the Federal Housing Act of 1934 (12 U.S.C. 1701p), the Federal Financing Bank is authorized to purchase and sell the Corporation's obligations on terms and conditions determined by the Federal Financing Bank.

(b) Priorities.—The Corporation may employ any funds obtained by or providing services to an insured depository institution, 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.

"(1A) In General.—If the Corporation is notified in writing by the insured depository institution of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution, or by the Corporation is notified of a suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution, or by any other party employed by or providing services to an 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.
then the Secretary may propose through regulations and implement any adjustments to the insurance premium rates, or any other program requirements established by the Secretary, as is necessary to achieve these principles. As soon as the Secretary determines that no other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and shall observe that the proposed change shall not result in less than 90 days following such notification, unless Congress acts during such time to prevent such change to take effect.

SEC. 219. RISK-BASED PERIODIC MORTGAGE INSURANCE PREMIUM.

Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) 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 the economic net worth and 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 226(e), subsection (a) thereof, of the National Housing Act (12 U.S.C. 1715z-10). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments, and may be required (i) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 90 percent, (ii) for up to 4 years if the initial loan-to-value ratio is greater than 95 percent but equal to or greater than 90 percent, and (iii) for up to 4 years if the initial loan-to-value ratio is less than 90 percent. The Secretary may establish a periodic premium rate higher than that referred to in the preceding sentence if necessary to achieve the economic net worth ratio of 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 report annually to the Congress on the financial status of the Mutual Mortgage Insurance Fund, a study of the Mutual Mortgage Insurance Fund required under subsection (f) shows that the Mutual Mortgage Insurance Fund is not maintaining a capital ratio of at least 1.25 percent, and make any legislative recommendations that the Secretary deems appropriate.

(f) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund. In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into ac-

SEC. 214. 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:

(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 338 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 liabilities.

(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.

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

(f) If the independent actuarial study of the Mutual Mortgage Insurance Fund required under subsection (c) determines 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)(1) and (e)(1)(2), and
- (2) meeting the needs of first-time homebuyers by providing access to mortgage credit;

then the Secretary may—

(1) prescribe regulations limiting or prohibiting the use of funds for distribution to the public, including limiting or prohibiting the use of funds for distribution to mortgagors under this section, the Secretary shall take into ac-

SEC. 213. MORTGAGE 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 Act, the basic mortgage insurance program may not have a principal obligation in excess of 98 percent of the unpaid principal balance of the mortgage, provided that the amount paid at the time the mortgage is insured shall not exceed 95 percent of the unpaid principal balance of the mortgage. 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. 212. MUTUAL MORTGAGE INSURANCE FUND.

Section 206 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end thereof the following:

(a) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into ac-

SEC. 211. FUNDAMENTAL MODIFICATIONS OF INSURANCE PREMIUMS.

Section 205(b) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end thereof the following:

"(h) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund. If the independent actuarial study of the Mutual Mortgage Insurance Fund required under subsection (c) determines that the Mutual Mortgage Insurance Fund is not maintaining a capital ratio of at least 1.25 percent, and make any legislative recommendations that the Secretary deems appropriate.

(f) If the independent actuarial study of the Mutual Mortgage Insurance Fund required under subsection (c) determines 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)(1) and (e)(1)(2), and
- (2) meeting the needs of first-time homebuyers by providing access to mortgage credit;

then the Secretary may—

(1) prescribe regulations limiting or prohibiting the use of funds for distribution to the public, including limiting or prohibiting the use of funds for distribution to mortgagors under this section, the Secretary shall take into ac-
Secretary shall agree to provide a monthly interest subsidy payment from the General Fund to the holder of the original credit instrument and the mortgage securing such a credit instrument (tend to 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. Such interest subsidy payments shall be provided until the earlier of:

(1) The mortgagor has paid in full the entire mortgage loan and all interest due thereon for a period of not less than 12 months; or

(2) The mortgagor has paid in full the entire mortgage loan, interest, and all other sums due thereon.

For administrative purposes, the Secretary may also provide for the election by the mortgagor of the method of payment described in subsection (c).

(f) The Secretary shall conduct a public hearing to determine the lowest interest rate necessary to accomplish a sale of the Participation Certificates or other mortgage-backed obligations in a form acceptable to the Secretary. The Secretary shall encourage State Housing Finance Agencies to encourage the tenants of the mortgaged property to arrange the purchase and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. Such a sale price would also include the right to receive the full monthly payment described in subsection (g).

(g) A mortgagee who elects to assign his mortgage must provide the Secretary and persons bidding at the auction a description of the mortgage. 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; prepayment rights; 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 this subpart or subparagraph. The Secretary shall encourage State Housing Finance Agencies, nonprofit organizations, and organizations representing the tenants of the property with which the mortgaged property is being sold or which have been designated by the Secretary to participate in the mortgage sale.

(h) The Secretary shall require that the loans provided for assignment be auctioned with terms not less than the terms and the mortgagee participating in the plan of action described in the Emergency Low Income Housing Preservation Act of 1987 and any subsequent Act, where applicable, or

(1) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration; or

(2) The Secretary shall require that the loans provided for assignment be auctioned with terms not less than the terms of a mortgage loan made by the Secretary to coordinate this program with any other program, including the Emergency Low Income Housing Preservation Act of 1987 and any subsequent Act, or any other program the Secretary determines is the best interest of the Federal Government.

(i) To the extent practicable, the Secretary shall encourage State Housing Finance Agencies, nonprofit organizations, and organizations representing the tenants of the property in which the mortgaged property is being sold, or which have been designated by the Secretary to participate in the mortgage sale. The Secretary shall include the administrative expenses of carrying out the plan of action as described in clauses (i) and (ii).

(j) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from the date of enactment and may extend the requirement for a period of not more than 6 months, as the Secretary shall determine, to carry out the requirements imposed by this subparagraph.

(k) Nothing in this subparagraph shall diminish or impair the low income use restrictions established by the Secretary under the Emergency Low Income Housing Preservation Act of 1987 or under any subsequent Act, and the details with respect to the insurance, mortgage, and other arrangements under the Emergency Low Income Housing Preservation Act of 1987 or under any subsequent Act is a lien exercising payment rights.

(l) The Secretary shall, upon receipt of the information in subsection (i), promptly subscribe for an auction and publish such mortgage descriptions in advance of the auction. For administrative purposes, the Secretary may accept advance bids on mortgage descriptions in advance of the auction. The Secretary shall accept bids on mortgage descriptions in advance of the auction, but not under such circumstances as may indicate that the Secretary may conspire with the mortgagee to manipulate the bids.

(m) The lowest interest rate bid for each mortgage shall be accepted by the Secretary and published in the Federal Register. The Secretary shall accept the bids on mortgage descriptions in advance of the auction. If no bids are received or if the bids that are received are not acceptable to the Secretary, the mortgage shall remain in full force and effect and the Secretary shall make this determination by 6 months after the date the Secretary receives the mortgage descriptions in advance of the auction.

(n) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Fund to the holder of the original credit instrument and the mortgage securing such a credit instrument (tend to 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. Such interest subsidy payments shall be provided until the earlier of:

(1) The mortgagor has paid in full the entire mortgage loan and all interest due thereon for a period of not less than 12 months; or

(2) The mortgagor has paid in full the entire mortgage loan, interest, and all other sums due thereon.

For administrative purposes, the Secretary may also provide for the election by the mortgagor of the method of payment described in subsection (g).

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ment 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 paragraph), shall be paid to the Director. The Director, in consultation with the Secretary of the Treasury, shall establish procedures for the collection of such fees. The Secretary may prescribe such rules and regulations as may be necessary to comply with the requirements of this section.

"(d) Fees established by the Secretary under subsection (a) shall be deposited in the general fund of the Treasury as offsets against receipts of the department in which the work was done.

"(e) Subsections (a) through (d) of this section shall be effective on the first day of the first fiscal year beginning on October 1, 1990.

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

The International Travel Act of 1961 (82 U.S.C. 2121 et seq.) is amended by adding at the end thereof the following:

"(g) Fees charged for any passenger transported pursuant to document or ticket purchased prior to that date. Subsection (f) of this section shall be effective on the date of enactment of this section.

The Federal Railroad Safety Act of 1970 is amended, in part, as follows:

"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, passenger miles, revenue, other relevant factors, or an appropriate combination thereof. The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

"(2) Fees established under this section shall be assessed against each railroad on which the railroad has commerce safety activities of the Secretary under this Act, beginning on October 1, 1990. The aggregate amount of fees assessed for any fiscal year for activities to be funded by such fees shall not exceed 10 percent of the aggregate amounts collected for the fee charged for the transportation of passengers pursuant to a document or ticket purchased prior to that date.

"(3) The Secretary shall establish for each railroad, in a manner consistent with the requirements of this section, a schedule of fees to be assessed to railroads for the transportation of passengers pursuant to documents or tickets purchased prior to that date. Such schedule shall be in accordance with the requirements of this section and shall be issued by the Secretary in a manner consistent with the requirements of this section.

"(4) Fees described in subsection (a) of this section, in the aggregate, shall not exceed the appropriations made for such fiscal year for activities to be funded by such fees.

"(5) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.
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 through the national transportation system. (10) passengers pay higher fares at slot controlled airports than at other airports; (11) 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 air traffic control; (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. 312. FAA FACILITIES AND EQUIPMENT.

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

(1) in subparagraph (A), by striking "and" immediately immediately after October 1, 1989,"; and

(b) in subparagraph (B), by striking "and" immediately after the period at the end of the sentence the following: "$16,825,300,000 for fiscal years ending before October 1, 1991, and $17,625,300,000 for fiscal years ending before October 1, 1993";

SEC. 314. 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 (A), by striking "and" and inserting "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: "for fiscal year 1991, $256,000,000, and for fiscal years 1992, $280,000,000."

(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 subsection (a), by striking "and" and inserting in lieu thereof: "1990, 1991, and 1992"; and

(2) in subparagraph (B), by striking the period at the end and inserting in lieu thereof: "1990, 1991, and 1992";

(3) by adding at the end of the following new subparagraph: "for fiscal year 1991, $256,000,000, and for fiscal years 1992, $280,000,000."

(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" and inserting in lieu thereof: "1990, 1991, and 1992";

SEC. 315. FAA OPERATIONS.

For necessary expenses of the Administration for which there is no other specific authorization of appropriations, there are authorized to be appropriated—

(a) $3,680,000,000 for fiscal year 1991 and $4,142,600,000 for fiscal year 1992.

PART 3—NATIONAL AVIATION NOISE POLICY

SEC. 319. 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 from the 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. 320. NOISE AND ACCESS RESTRICTION REVIEWS.

(a) The National Aviation Noise Policy shall require the establishment of a program that shall provide public and congressional opportunities on local airport noise or access restrictions that first became effective after October 1, 1990, that were not applied to an airport on or after October 1, 1990, or where the FAA has already 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 the following:

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

(2) any limit, direct or indirect, on the number of Stage 3 aircraft operations per year, for the specific certification of such aircraft in Stage 3.

(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 provides:

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

(2) a description of alternative regulations;

(3) a description of the alternative measures considered not involving airport regulation, and the costs and benefits of such alternative measures to the costs and benefits of the proposed noise or access regulation;

(4) 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:

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

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

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

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

(e) there has been an adequate opportunity for public comment with respect to the proposed restriction;

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

(g) 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 18, 1990, and after the date on which the Federal Government approved the application for grants authorized by section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206) 30 days after the date on which the Administrator finds by substantial evidence that the project will meet the noise or access restriction that has been approved for such purposes under section 104 of the Aviation Safety and Noise Abatement Act of 1979, for the purpose of protecting us rights under section 402 of such Act, and costs of the previously approved noise or access restriction not in compliance with the criteria established under subsection (d) and that a review and recalculation of the benefits and costs of the previously approved noise regulation is therefore justified.

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

(g) The Administrator shall establish by regulation procedures under which the evaluation of the proposed financial plan of any passenger facility charge shall be accomplished. Such evaluation shall not occur less than two years after a determination under paragraph (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 laws with respect to restrictions by local authorities on operation of Stage 2 aircraft.

SEC. 122. FEDERAL LIABILITY FOR NOISE DAMAGE.

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 in accordance with the procedure of subsection (b) has been made.

(i) 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 laws with respect to restrictions by local authorities on operation of Stage 2 aircraft.

SEC. 123. LIMITATION ON AIRPORT IMPROVEMENT FUND.

(a) Except as specified in subsection (a), under no conditions shall any airport revenue be used for the construction, substantial improvement, or repair of an airport facility which is occupied or utilized for any purpose in which the airport, in whole or in part, participates as a tenant.

SEC. 124. PRIVATE RIGHT OF ACTION.

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

SEC. 125. NO COMPLIANCE.

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 shall be informed of the revenue proposals in advance of approval. Action for the resolution of such a case shall be brought solely in the United States Claims Court.

(b) Except as otherwise provided in subparagraph (c) hereof, such airport shall 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, or 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 which carriers using similar facilities at the airport which were not financed with revenues derived from collection of a fee pursuant to this section.

(d) The Secretary shall publish in the Federal Register a notice of the imposition of a passenger facility charge.

SEC. 126. NO COMPLIANCE PROGRAM.

If any airport facility charge approved under section 121(b) of this Act, or any proposed airport facility charge, is not being imposed, the Secretary shall by regulation announce the existence of such noncompliance.

SEC. 127. NONCOMPLIANCE PROGRAM.

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

(a) The airport operator seeking to impose the passenger facility charge certifies, in writing, that airport users and the general public shall be informed of the revenue proposals in advance of approval. Action for the resolution of such a case shall be brought solely in the United States Claims Court.

(b) The Secretary shall establish, by appropriate rule, the procedures under which a application for the approval of a passenger facility charge and the reasons supporting such application is received.

(c) In the event that a proposed passenger facility charge is registered with reference to a proposal 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.

(1) The Secretary shall establish, by appropriate rule, the procedures under which a application for the approval of an airport facility charge is received and an appeal heard under subsection (c).

(2) In the event that a proposed passenger facility charge is registered with reference to a proposal 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.

(3) The Secretary shall establish, by appropriate rule, the procedures under which a application for the approval of an airport facility charge is received and an appeal heard under subsection (c).

(4) In the event that a proposed passenger facility charge is registered with reference to a proposal 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.

(5) The Secretary shall establish, by appropriate rule, the procedures under which a application for the approval of an airport facility charge is received and an appeal heard under subsection (c).

(6) The Secretary shall establish, by appropriate rule, the procedures under which a application for the approval of an airport facility charge is received and an appeal heard under subsection (c).
gram revenues by section 518 of the Airport and Airway Improvement Act of 1982.

"111/ No State for political subdivision thereof, or any political subdivision thereof shall print or affix any tax on or with respect to any passenger aircraft, or any activity or service on board such flight, if such flight take off or land in such State or jurisdiction.

SEC. 3205. SPONSOR ASSURANCES INCLUDING MINORITIES AND SMALL BUSINESS PARTICIPATION.

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

SEC. 3206. PREPARATION OF CONSTRUCTION WORK INCLUDING MINIMUM RATES OF WAGES AND VETERANS PREFERENCE.

Section 515 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2214a) 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—

(a) "Administrator" means the Administrator of the Federal Aviation Administration;

(b) "Carrier" has the meaning given that term in section 101(3) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1101(3));

(c) "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;

(d) "New entrant carrier" means an air carrier, including a commuter operator, that holds fewer than 12 slots at the relevant airport;

(e) "Secretary" means the Secretary of Transportation.

(f) "Transportation authority" means the operational authority to conduct one landing or takeoff operation, under instrument flight rules, each day for 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 daybreak until 1 hour before dark and shall be available only to air carriers that—

(A) will utilize such special authorizations to conduct operations with turboprop 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—

(A) the number of daily operations does not exceed a total of 30 operations per day at Washington National Airport as provided in subpart K of part 93 of title 14, Code of Federal Regulations.

(b) Each such special authorization 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 which gives that carrier more than 12 slots and special authorizations overall at Washington National Airport.

(c) 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.

(d) 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.

(e) Such special authorizations shall be withdrawn and, if appropriate, 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.

(f) If the holder of a 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, reallocated to another air carrier as provided in this subsection.

(3) Any nonprofit institution of higher learning having an air transportation center in each of the ten Federal regions which engage in research and development related to aviation transportation shall be awarded, upon application, such special authorizations as may be necessary and appropriate.

APPENDIX—Any nonprofit institution of higher learning having an air transportation center, as defined in subsection (d), shall be awarded, upon application, such special authorizations as may be necessary and appropriate.

(4) Such authorization shall be withdrawn and, if appropriate, 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 a 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, reallocated to another air carrier as provided in this subsection.

MID-DENSITY TRAFFIC AIRPORT RULES

Sec. 3353. (a)(1) On January 1, 1992, the Administrator shall initiate a review of the provisions of subpart K and S of part 93 of title 14, Code of Federal Regulations. The review shall evaluate the impact of such provisions on the air transportation system, and the interpretation, publication, and dissemination of the regulations.

(b)(1) On January 1, 1992, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives, a report containing recommendations regarding the provisions of title 14, Code of Federal Regulations, and recommendations of the Secretary's 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 is authorized to make grants to one or more nonprofit institutions of higher learning to establish, or reallocate, an air transportation center in each of the ten Federal regions which engage in research and development related to aviation transportation.

(2) RESPONSIBILITIES—The responsibilities of the university air transportation centers shall include, but not be limited to, the conduct of research concerning air transportation services and facilities.
The demonstrated research and extension resources available to the applicant for carrying out his responsibilities.
(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.
(b) The extent to which the applicant has an established air transportation program.
(b) The demonstrated ability of the applicant to use the results of air transportation research and educational programs through a statewide or regionwide continuing education program.
(6) mailing projects which the applicant proposes to carry out under the grant.
(5) MAINTENANCE OF REPORT.—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 appropriate expenditures from all other sources for establishing and operating a university air transportation center and related research activities at or above the average participating universities in prior fiscal years preceding the date of enactment of this Act.
(6) FEDERAL SHARE.—The Federal share of a grant made under this section shall be not less than 50 percent of the costs of establishing and operating the university air transportation center and related research activities carried out by the grantee recipient.
(7) RESEARCH ADVISORY COMMITTEE.—(A) Section 313(f)(2) of the Federal Aviation Act of 1958 (49 U.S.C. App. 2204(d)) 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 Secretary shall coordinate the research, training, and testing to be carried out by the university air transportation centers established under this section with the Airport Capital Act of 1980, 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 313(f)(3) of the Federal Aviation Act of 1958 (49 U.S.C. App. 2204(d)) is amended by striking "20" and inserting in lieu thereof "30"; and by striking the last sentence and inserting in lieu thereof the following: "In the case of a Part 139 airport designated for participation in the program established under subsection (d)(5) and this subsection for fiscal years following the period under paragraph (1), the Administrator shall report to Congress with the plan and schedule for implementation of this section.

(c) Section 505 of the Federal Aviation Act of 1958 (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 the funds made available under section 505 in each fiscal year 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (j) 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 it is necessary to redistribute 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 508 of this title.

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

(1) DESIGNATION OF FORMER MILITARY AIRPORTS.—(A) In general.—The Secretary shall designate not more than 5 current or former military airports for participation in the 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 Act, the Administrator shall submit to Congress with the plan and schedule for implementation of this section.

(b) 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 investigations conducted pursuant to this section.

(c) IMPLEMENTATION OF MODIFICATIONS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the July 1990.

SEC. 314. AUXILIARY FLIGHT SERVICE STATION.
(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 and the existing manned auxiliary flight service stations. 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 Administrator shall report to Congress with the plan and schedule for implementation of this section.

SEC. 315. MILITARY AIRPORT PROGRAM.
(a) Declaration of Policy.—Section 521(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 inserting at the end of such section the following:

"(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification of locations for 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 the funds made available under section 508 in each fiscal year 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (j) of this section for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

(c) Reconciliation.—If the Secretary determines that it is necessary to redistribute 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 508 of this title.

(d) Designation of Former Military Airports.—Section 508 of such Act is further amended by adding at the end the following new subsection:

(1) Designation of Former Military Airports.—(A) In general.—The Secretary shall designate not more than 5 current or former military airports for participation in the program established under subsection (d)(5) and this subsection. Not less than one-half of the funds made available under section 508 in each fiscal year 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (j) of this section for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

(b) Reallocation.—If the Secretary determines that it is necessary to redistribute 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 508 of this title.

(c) Designation of Former Military Airports.—Section 508 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 the funds made available under section 508 in each fiscal year 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (j) of this section for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

(d) Reallocation.—If the Secretary determines that it is necessary to redistribute 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 508 of this title.

(e) Designation of Former Military Airports.—Section 508 of such Act is further amended by adding at the end the following new subsection:

(1) Designation of Former Military Airports.—(A) In general.—The Secretary shall designate not more than 5 current or former military airports for participation in the program established under subsection (d)(5) and this subsection. Not less than one-half of the funds made available under section 508 in each fiscal year 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (j) of this section for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

(b) Reallocation.—If the Secretary determines that it is necessary to redistribute 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 508 of this title.

(f) Designation of Former Military Airports.—Section 508 of such Act is further amended by adding at the end the following new subsection:

(1) Designation of Former Military Airports.—(A) In general.—The Secretary shall designate not more than 5 current or former military airports for participation in the 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 Act, the Administrator shall submit to Congress with the plan and schedule for implementation of this section.

(b) Designation of Former Military Airports.—Section 508 of such Act is further amended by adding at the end the following new subsection:

(1) Designation of Former Military Airports.—(A) In general.—The Secretary shall designate not more than 5 current or former military airports for participation in the 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 Act, the Administrator shall submit to Congress with the plan and schedule for implementation of this section.

(b) Designation of Former Military Airports.—Section 508 of such Act is further amended by adding at the end the following new subsection:

(1) Designation of Former Military Airports.—(A) In general.—The Secretary shall designate not more than 5 current or former military airports for participation in the 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 Act, the Administrator shall submit to Congress with the plan and schedule for implementation of this section.

(b) Designation of Former Military Airports.—Section 508 of such Act is further amended by adding at the end the following new subsection:

(1) Designation of Former Military Airports.—(A) In general.—The Secretary shall designate not more than 5 current or former military airports for participation in the 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 Act, the Administrator shall submit to Congress with the plan and schedule for implementation of this section.
Title IX—Committee on Energy and Natural Resources

Subtitle A—Timber Reform

Section 4001. Short Title and Definition—
This subtitle may be cited as the "Tongass Timber Reform Act."

Section 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 referred to in this subtitle, referred to as "ANILCA") is hereby amended by deleting section 705(a) (116 Stat. 533) (a) in its entire and inserting in lieu thereof the following:

"Section 705. (a) Subject to appropriations, other applicable laws, and the requirements of the National Forest Management Act of 1976 (Public Law 94-581), 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. 1615) of 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

Section 4110. Short Title—This subtitle may be cited as the "Uranium Enrichment Act of 1990."

Section 4111. Delegation of Section 161—Subsection 161 of the Atomic Energy Act of 1946, as amended, is deleted and the remaining subsections are relettered accordingly.

Section 4112. Redirection of the Uranium Enrichment Enterprise of the United States—The Atomic Energy Act of 1946, as amended (42 U.S.C. 2111-2296) is further amended by—

a. inserting at the commencement thereof the words "ATOMIC ENERGY ACT OF 1946";

"TITLE I—ATOMIC ENERGY;"

and

b. adding at the end thereof the following:

"TITLE II—UNIFIED UNITED STATES ENRICHMENT CORPORATION

CHAPTER 21. FINDINGS

"Sec. 1101. Findings.—The Congress of the United States finds that:

"1. The atomic energy program of the United States is essential to the national security and energy security of the United States.

"2. 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.

"3. A strong United States enrichment enterprise promotes United States nonproliferation policies and contributes to the availability for United States enriched uranium.

"4. The operation of uranium enrichment facilities must meet high standards for environment and safety.

"5. The operation and management of a uranium enrichment enterprise requires a comprehensive management and personnel program to ensure that the uranium enrichment services are provided efficiently and effectively

"6. The optimal level of expenditures for the uranium enrichment enterprise fluctuate according to the best available economic forecasts.

"SEC. 4114. Corporations.—The Corporation is hereby created a body corporate to be known as the United States Enrichment Corporation.

"a. The Corporation shall be an agency and instrumentality of the Government and subject to the general supervision and direction of the Secretary of Energy and shall be a Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), as otherwise provided herein.

"b. The term 'decommissioning and decontamination' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 4115. Establishment of the Corporation.—There is hereby created a body corporate to be known as the "United States Enrichment Corporation."

"b. The Corporation shall be the Government corporation established prior to the enactment of this Act as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), as otherwise provided herein.

"c. The Corporation Board of Directors shall be appointed by the President pursuant to section 15879 of this title.

"d. 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.

"e. The term 'uranium enrichment' has the same meaning as defined in section 1201(b) of the Comprehensive Environmental Response, Compensation and Liability Act."

"SEC. 1103. Purpose.—The Corporation is created for the following purposes—

"1. To acquire feed material for uranium enrichment, enriched uranium, the Department of Energy separates, or the Department, in connection with 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;

"4. To conduct research and development as required to meet corporate objectives for uranium enrichment operations to a competitive marketplace.

"5. Flexibility is essential to adapt business operations to a competitive marketplace.

"6. 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.

"7. 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.

"8. 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.

"9. 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.
(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 investment in the United States Government.

(6) to conduct the business as a self-sustaining 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 enrichment system for uranium enrichment and related services at facilities in such other place or places as it determines to be in the public interest.

(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 non-proliferation of atomic weapons and other nonpeaceful uses of atomic energy; and

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

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 or at such other place as it deems necessary for the purposes of venue in civil actions, to be a resident of the Corporation. 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.—(a) a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; b. may execute 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 for facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

(2) a. Except as provided elsewhere in this title, as otherwise authorized by law;

(b) shall have perpetual succession unless otherwise authorized by law; and

(c) may acquire or distribute enriched uranium, seed material for uranium enrichment or depleted uranium in transactions with—

(i) individuals persons under sections 53, 63, 103, or 104 of title I in accordance with the liabilities incurred by such persons;

(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 120 of title I;

(iii) as otherwise authorized by law;

(d) may—

(i) enter into contracts with persons licensed under sections 53, 63, 103, or 104 of title I for such periods of time as the Corporation deems necessary for the performance of contracts for uranium enrichment and related services; and

(ii) enter into contracts to provide uranium enrichment or depleted uranium enrichment or related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 120 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 1525 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services, or property, as the Corporation determines from time to time are required; (i) for the Department to carry out Presidential direction and authorizations pursuant to section 123 of title I; and (f) for the conduct of other Department programs;

(f) may grant licenses, both exclusive and nonexclusive, for the use of patent and other intellectual property owned by the Corporation in furtherance of the official purposes of title I; and

(g) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the performance of its functions. The Board may make such rules, and regulations governing the manner in which its business may be conducted and the performance of its functions. The Board may make such rules, and regulations governing the manner in which its business may be conducted and the performance of its functions. The Board may make such rules, and regulations governing the manner in which its business may be conducted and the performance of its functions.
operation of law unless otherwise specifically provided in this title.

"c. 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 Corporation, States, with regard to any claim seeking to impose such liability, section 1402 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT"

"Sec. 1581. 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 expiration of the term of an Administrator or upon the occurrence of any event pursuant to the call of the Chairman, the President shall appoint an existing officer or employee of the United States to act as Administrator until the appointment of a successor, if any.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the general 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; and

"(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; and

"(4) shall have compensation determined by the President based upon the recommendations of the Corporate Board as provided in section 1503(c), except that in the absence of such determination, such compensation shall be set at Executive Level I, as prescribed in section 5311 of title 5, United States Code; and

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

"(6) shall be 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 by the President only and only for neglect of duty or maladministration, and 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 regard to the activities of the Corporation involving—

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

"(B) the 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 5104(a)(4) of title 5, United States Code, including the setting of the appropriate amount of, and paying, any dividends under section 1506(c) and all other fiscal matters.

"Sec. 1582. 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. 1583. CORPORATE BOARD.—There is hereby established a Corporate Board appointed by the President consisting of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity and 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 and approve 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 the removal of the Administrator. If, 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 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 represent the Corporation at an 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. The President, 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 the full five-year term; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve only for the unexpired term of the office of the member of the Corporate Board to which he was appointed.

"e. Upon expiration of the initial terms, each Corporate Board member appointed thereafter shall serve a term of five years. On the expiration of the term of the President, 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 qualified, whichever is sooner.

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

"g. The Corporate Board shall meet at least quarterly to the call of the Chairman and shall hold any number of meetings with less than twenty members and any other meetings as the Board finds appropriate.

"h. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5114 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporation. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement of reasonable expenses incurred while attending official meetings of the Corporation.

"i. (1) The Corporate Board shall report to the President, in writing, annually to the Congress concerning 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.

"(2) A copy of any report under this subsection shall be transmitted promptly to the President, the Energy and Natural Resources Committee of the Senate, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"Sec. 1504. EMPLOYEES OF THE CORPORATION.—All 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 purposes of this title without regard to any administration of the personnel limitations in paragraph 2, United States Codc Provided, That the Administrator shall fix compensation of the comparable pay provisions of section 5301 of title 5, United States Code, with compensations provided in section 1503(c) and approval by the President, upon recommendation by the Corporate Board, shall be subject to the comparable pay provisions of section 5313 of title 5, United States Code, as defined in section 5313 of title 5, United States Code.

"b. The Administrator shall assign key responsibilities for the Corporation.

"(1) The Secretary may, upon recommendation by the Corporate Board, and within the limits provided in section 1503(c) and approval by the President, appoint up to ten officers of the Corporation who may represent the Corporation at an Executive Level II, as defined in section 5313 of title 5, United States Code, and shall be subject to the comparable pay provisions of section 5301 of title 5, United States Code.
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 United States Code governing appointments, promotions 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 Employee 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 Federal Employees' Retirement System the amount specified in chapter 18 of title 5, United States Code. Employment by the Corporation without a break in coverage shall be considered as employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee transferring to the Corporation who was not subject to 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). Employment by the Corporation shall withhold pay and make such payments as are required under that retirement system.

(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) The capital stock of the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law, including that severance pay shall not be payable to an employee who does not accept an offer of employment by the Corporation and who leaves 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 affiliations, marital status, or handicapped conditions.

d. Officers and employees of the Corporation shall be governed by chapter 73 of title 5, United States Code, relating to suitability, security eligibility, and dependents.

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, or 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 TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in the Corporation under this title, the President is authorized to transfer to the Corporation all of the assets of the Department that are specified in section 1507 of this title, whether such transfer would otherwise be prohibited by the Department of Energy Organization Act, the Federal Civil Service Retirement System, or the Federal Employees' Retirement System.

b. 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 functions, any Inventories, records, documents, or information which the Secretary determines that the Corporation needs to perform its functions under this title.

c. The Secretary is authorized and directed to transfer to the Corporation without charge, all of the rights and privileges of the Department held by the Department under this title, whether such transfer would otherwise be prohibited by the Atomic Energy Act of 1954, as amended, or by any other law.

d. 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 functions, any Inventories, records, documents, or information which the Secretary determines that the Corporation needs to perform its functions under this title. 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.
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 Corporation shall be audited by an independent public accounting firm, the Comptroller General in accordance with the provisions of section 758c of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted in payment of any indebtedness, charitable, 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 or any other person or agency having authority over or control of any such fiduciary trust, or public funds, may at any time sell any other property or real or personal estate acquired by them under this section. Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"Sec. 1507. Borrowing:

"a. (1) The Corporation is authorized to issue its 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 time, and to use funds in accordance with the provisions of this title in order to make advances to the Corporation, to purchase or sell bonds, and to enter into contracts of claim on the Corporation's revenues, but excluding repayment of the Initial Debt, recover, costs of decontamination, decommissioning, and remedial action, 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.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of such bonds, for the 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 may pledge and use its revenues for payment of the principal of such bonds, for the 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.

"(4) Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as sufficient security for any indebtedness, charitable, trust, and public funds, the investment of which shall be under the authority or control of any officer or agency of the United States or any other person or agency having authority over or control of any such fiduciary trust, or public funds, which may at any time sell any other property or real or personal estate acquired by them under this section. Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank."

"Sec. 1508. Sale of Bonds and Other Obligations:

"(1) The Corporation shall establish prices for low assay enrichment services on a cost basis, decontamination, decommissioning, and remedial action, 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.

"(2) In order to meet the objective defined in paragraph (1), the Corporation 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. 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 sell the property transferred to 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 1990 shall recover, in whole or in part, from the Department in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to cover its costs for decontamination and decommissioning action for the various property of the Corporation, including property transferred under section 1507, and any other property to which the Corporation may be entitled to such property.

"(2) In order to meet the objective defined in paragraph (1), the Corporation 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. 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 sell the property transferred to the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.
The fiscal year of the Corporation shall conform to the fiscal year of the United States Government. The Corporation and the House of Representatives, the Senate, and the appropriate committees of both houses of Congress, the Corporation shall concurrently transmit a copy of the Corporation's annual report to the President, the Secretary of the Treasury, the Secretaries of the appropriate departments of the executive branch of the Government, the Director of the Office of Management and Budget, any audit, legislative, or budgetary recommendations made by the President, 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 the end of the fiscal year and shall accurately reflect the financial position of the Corporation for the fiscal year end, inclusive of any impairment of capital or equity. They shall be submitted to the Corporation to comply with the provisions of this title.

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

The term "Commission" shall be deemed to include the Corporation whenever such term appears in section 153, subsections (1), (2), (3), or (4), of title I, and shall include any other provision of law.

The Corporation shall not be liable or responsible for any damages or financial responsibility with respect to any action of the Corporation or contractors or prospective contractors, and no information concerning the same given without authority of the superior or owner unless necessary to carry out the provisions of any Act of Congress.

The Corporation shall have no power to transfer or authorize the transfer of any asset to any other person who is not properly qualified or licensed under the provisions of this Act.

The Corporation shall not be liable for damages or financial responsibility with respect to any action of the Corporation or contractors or prospective contractors, and no information concerning the same given without authority of the superior or owner unless necessary to carry out the provisions of any Act of Congress.

The Corporation shall not be liable for damages or financial responsibility with respect to any action of the Corporation or contractors or prospective contractors, and no information concerning the same given without authority of the superior or owner unless necessary to carry out the provisions of any Act of Congress.
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 such 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 include income received by such organizations for their own accounts and such income shall not be exempt from taxation.

"In making such determinations, the Corporation shall base the amounts determined by the Corporation to manage, operate, and maintain facilities and engaged in similar activities at the same location: Provided, however, That there shall be excluded any amount that would be accounted for on net income basis.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and valuation of industrial property or any other 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 the taxes paid by similar facilities and engaged in similar activities.

"(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 in 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 transfer of such property, and maintenance of the Department's uranium enrichment facilities, applicable to the same period.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to such taxing authority are due and payable. The payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1996.

"d. The determination of 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', in sections 1 through 11, inclusive, of title 161, shall apply to the Corporation.

"b. The Corporation shall have the discretion to determine how and by whom the facilities in question shall be operated.

"The Corporation shall be 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 reasonable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of the facilities 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 ANTI-TRUST 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:


"(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


"SEC. 1604. NUCLEAR HAZARD INDUCMATION.—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 1. Except that with respect to any licenses issued to the Corporation by the Commission, the Corporation 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 purpose of the Corporation to discharge its responsibilities under this title by providing it with adequate authority and administrative flexibility to adopt the procedures and policies necessary 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 1, 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 fulfillment 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 Congress a final report setting forth the views and recommendations of the Administrator with respect to the maintenance of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator determines that the implementation of 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 required under subsection (a), the President shall transmit to Congress his recommendations regarding the final report, and implementation, and disposition of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers."
"(4) As soon as practicable following enactment of this title, the Corporation shall establish procedures for the collection and payment of taxes imposed under section 1701c. Such fees shall be paid by lessees on a quarterly basis during each fiscal year and upon receipt by the Corporation shall be deposited in the Base Fund.

Section 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 decommissioning and decontamination of the United States Enrichment Corporation's facilities as determined by the Corporation in its prices and charges established in accordance with section 1508 of this Act.

Section 1703. Performance and Disbursements.—(a) When the Corporation determines that particular property should be decommissioned or decontaminated and such property is leased or otherwise owned by the United States Enrichment 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 are appropriated to it out of the Base Fund.

Section 1711. Treatment of the Corporation and the Programs for Which It Is Organized as the U.S. Enrichment Corporation. § 425Z. FINDINGS AND PURPOSES

This subtitle may be cited as the "Atomic Energy Act of 1954, as amended by this Act and previous Acts."

Chapter I—Short Title, FINDINGS AND PURPOSES

This subtitle may be cited as the "Uranium Security and Tailings Reclamation Act of 1990.

FINDINGS AND PURPOSE

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

(1) the United States uranium industry has been recognized as title to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 80 percent reduction in employment, closure of almost all mines and mills, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 percent of United States electricity is expected to be produced from uranium fueled powerplants owned by the 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 development and deployment 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 to be a non-viable industry 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) ensure that the domestic supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls;

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

(D) the Uranium Mill Tailings Radiation Control Act of 1978 (29 U.S.C. 1701-1718);

(E) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings and aid in the Nation's balance-of-trade payments through foreign sales;

(F) the owners of licenses 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 owned by the United States Enrichment Corporation other than payments in lieu of taxes and intragovernmental transfers made to the United States Energy 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 the Occupational Safety and Health Act 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 is 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; and

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

Section 1721. Effectiveness.—Except as otherwise provided, all provisions of this subtitle shall take effect on the date following the enactment of this Act.

Sec. 4121. 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 $323,000,000 and the Corporation shall pay into miscellaneous receipts of the United States Energy and Security and Tailings Reclamation Act of 1990, Public Law 100-222, is repealed.
(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 3—URANIUM REVITALIZATION

SEC. 411. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of Fiscal year 1993, a voluntary overfeeding program which shall include requirements and enforcement by 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 service customer. Any 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 procure additional fuel, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customers 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 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 before the enactment of this Act and held by it without any previous segregation for any government purposes or as a government contractor's stockpile of enrichment tails. The resulting dollar savings shall be determined by the Secretary in accordance with the power requirements of the enrichment services customer providing the uranium. Within fifteen days of the date of enactment of this Act the Secretary shall develop recommendations and implement programs to promote the export of domestic uranium.

SEC. 412. 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 for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium 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 providing the uranium.

(b) The Secretary shall issue appropriate regulations to implement the purposes of this section.

CHAPTER 3—REMEDIAL ACTION FOR ACTIVE URANIUM AND THORIUM PROCESSING SITES

SEC. 413. REMEDIAL ACTION PROGRAM.

(a) In general.—Except as provided in subsection (b), the costs of decontamination, decommissioning, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 82 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) REMUNERATION.—

(1) The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for portion of the decontamination, decommissioning and other remedial action costs described in such subsection as—

(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) The amount of such reimbursement shall be determined by the Secretary in accordance with paragraphs (3) and (4) of this subsection.

(3) The Secretary shall determine to be attributable to tailings generated as an incident of sales to the United States shall be increased annually.

(4) To individual active site uranium licensees.—The amount of reimbursement provided under paragraph (3) for any active site uranium or thorium processing site 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 provided as a result of such remedial action at the site.
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brought upon an inflation index. The Secretary shall determine the appropriate index to apply.

SEC. 601. ADDITIONAL REIMBURSEMENT.—Provided however, that the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 222, 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 reclamations, 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. 4211. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 4220. A person or permit holder shall be entitled to reimbursement under section 4220 based upon an adjustment index. The Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis based upon an inflation index. The Secretary shall determine the appropriate index to apply.

SEC. 601. 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.

The second sentence of section 210 of the Energy Act of 1978 (Public Law 95-620, as amended), is amended by inserting at the end the following new item.

"Sec. 210. Amendment to Atomic Energy Act.—Sec. 19 of the Atomic Energy Act of 1954 (42 U.S.C. 1921 et seq.) is amended by adding at the end the following new section.

"Sec. 19a. User fees and annual charges.

"(a) Amount.—Except as provided in subparagraph (2), the Nuclear Regulatory Commission has power to assess an annual charge on each of its licensees or other persons subject to a regulatory fee or charge assessed by the Nuclear Regulatory Commission pursuant to section 19a or 19b for the purpose of recovering the costs of providing services and activities performed pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 1801 et seq.), and such charges are deemed to be collected from such licensees or other persons subject to a regulatory fee or charge assessed by the Nuclear Regulatory Commission by the amount that approximates 100 percent of the budget authority for the Commission's Salaries and Expenses as appropriated for the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

"(b) 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.

"(c) Last Assessment.—The last assessment of annual charges as described in subsection (a) 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.

"(d) APPROPRIATION.—The amounts appropriated to the Commission's Salaries and Expenses budget authority for fiscal year 1991, shall be based on the Commission's Salaries and Expenses budget authority for fiscal year 1991.

"(e) Reimbursement.—The amounts collected under subsection (a) shall be in addition to the sums provided in section 402 of the Federal Water Pollution Control Act (42 U.S.C. 1342), or any other statute administered by the Agency pursuant to section 210 of the Energy Act of 1978 (Public Law 95-620, as amended), or other statutes administered by the Agency from which such charges are collected.

"(f) 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 (1) among the licensees described in paragraph (1), which shall be based on the practical ability of the nuclear energy production industry to recover the costs associated with the activities described in paragraph (1) in proportion to the amount of nuclear energy production by the licensees described in paragraph (1).

"(g) Definition.—As used in this section, the term 'Nuclear Waste Fund' means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10321(c)).

"(h) Repeal.—Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272, as amended), is amended by deleting the next to the last sentence in section 731(c)."
Sec. 6276. Prohibition on waiving reasonable and adequate payment.

Sec. 6201. Customs user fees.

Sec. 6301. Child care and development block grant.

Sec. 6501. Child care and development block grant.

Subtitle A—Income Security

PART I—CHILD SUPPORT ENFORCEMENT

SEC. 6001. IRS INTERCEPT FOR NON-ADC FAMILIES.

(a) AUTHORITY OF STATES TO REQUEST WITHHOLDING OF FEDERAL TAX REFUNDS FROM PERSONS OWING PAST DUE CHILD SUPPORT—Section 6441(a)(2)(B) (42 U.S.C. 6441(a)(2)(B)) is amended by striking ";", and before January 1, 1991, or before the date of the enactment of this Act.

(b) WITHHOLDING OF FEDERAL TAX REFUNDS AND COLLECTION OF PAST DUE CHILD SUPPORT OF ATTACHMENT ON PERSONS OWING PAST DUE CHILD SUPPORT AND OF SPousAL SUPPORT INCLUDED IN ANY CHILD SUPPORT ORDER.—Section 6441(c) (42 U.S.C. 6441(c)) is amended—

(1) by striking "minor child," and inserting "qualified child for 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) whose who, while a minor, was determined to be disabled under title II or XVI-D;

(c) for whom an order of support is in force.

(3) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on January 1, 1991.

SEC. 6002. COMMISSION ON INTERSTATE CHILD SUPPORT.

Section 128 of the Family Support Act of 1988 (Public Law 100-485) is amended—

(1) in subsection (a), by striking "September 1, 1991" and inserting "January 1, 1991"; and

(2) by striking "September 1, 1991" in paragraph (2) and inserting "May 1, 1991";

(b) by striking "May 1, 1991" in paragraph (2) and inserting "May 1, 1992" and making conforming amendments in section 3(e), by adding at the end thereof the following new paragraph:

"(5)(A) Individuals may be appointed to serve on 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 such additional personnel (including 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, 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 title 5 except upon appointment by the President of the United States, or for a temporary period specific classification and General Schedule pay rates.

"(C) On the request of the Chairman of the Commission, the head of any Federal department or agency may, 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 (1)(A), by striking "July 1, 1991" and inserting "July 1, 1992".

PART II—SUPPLEMENTAL SECURITY INCOME.

SEC. 6010. CONTINUATION OF MEDICAID ELIGIBILITY UNDER SECTION 1119(b) PAST AGE 65.

(a) In General.—Paragraph (1) of section 1119(b) (42 U.S.C. 1382a(b)(1)) is amended in the main paragraph (1)(i) subparagraph (A) by striking "under age 65".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services provided for periods 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)(6)(B) (42 U.S.C. 1382c(b)(B)) is amended by striking "(B) in paragraphs (1) and (2) of subsection (b), by inserting "(2) in subparagraph (C), by striking "(1)" before the period "", and after the date of the enactment of this Act and shall be effective on the date of the enactment of this Act, 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. 6013. 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); and

(B) by striking the period at the end of paragraph (18) and inserting a semicolon;

and

(C) by inserting after paragraph (18) the following:

"(15) the amount of 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 dollar claimant;

(D) medical care;

(E) transportation;

(F) educational services (including college, adult education, and continuing 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

SEC. 6020. CONCURRENT SSI AND FOOD STAMP AID.

(a) In General.—(1) Section 1631(m) (42 U.S.C. 1382w(m)) is amended by striking the second sentence of subsection (a) 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 pursuant to section 2 of Public Law 97-77 (12 U.S.C. 1901 et seq.)."

SEC. 6021. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CONSECUTIVE MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) In General.—(1) Section 1612(d) (42 U.S.C. 1382a(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, and whose or her eligibility for such benefits for consecutive months of ineligibility after the initial month of such eligibility;"

(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. 6101. EFFECTIVE DATE.—The amendments made by this Act 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.
"(H) services or equipment related to the quality and livability of the individual's shelter and which are not for the purposes of rent, mortgage, or other related costs of the shelter, such services being heating or cooling of the shelter, or fuel, or other energy costs, or repairs to the shelter, or collection and sewerage services, water, heating fuel, electricity, or gas; but permissible contributions include—
"(i) payment for repairs to shelter;
"(ii) payment for repairs or replacement of heating source in shelter; and
"(iii) the application, 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)11 RULES GOVERNING CIRCUMSTANCES UNDER WHICH CONTRIBUTION OF A SHELTER IS TO BE COUNTED AS INCOME.—Section 1613(a)(12) (42 U.S.C. 1382c(a)(12)) is amended—

(a) in subparagraph (E), by striking "" and inserting "";
(b) in subparagraph (F), by striking the period and inserting ""; and
(c) by inserting at the end 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:

(1) 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 be income in the month of receipt;"

(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.

SEC. 6013. CIRCUMSTANCES UNDER WHICH TRUST ACCOUNTS FOR THE BENEFIT OF AN INELIGIBLE PERSON MAY NOT BE CONSIDERED IN-DIRECT INCOME.

(a) In general.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended—

(1) by striking paragraph (7); and
(2) by inserting after paragraph (8) the following:

""(9) any amount set aside in a trust or amended—
""(a) by striking "and" at the end of paragraph (17); and
""(b) by striking the period at the end of the paragraph (17) added by section 6016a(1)(C) of this Act and inserting "";

(c) by inserting after the paragraph (17) added by section 6016a(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 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. 6014. NOTIFICATION OF CERTAIN INELIGIBLE PERSONS TO RECEIVE RETROACTIVE BENEFITS.

In notifying individuals of their eligibility to receive benefits under Subtitle V, Zebley, 110 S. Ct. 2659 (1990), the Secretary shall include written notice, in language that is easily understandable, explaining—

(1) the 6-month limitation on the exclusions from resources under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1397a(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—
(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. 6015. OPTIONAL MONTHLY REPORTING AND RETROSPECTIVE BUDGETING.

(a) OPTIONAL MONTHLY REPORTING.—Section 406(a)(14) (42 U.S.C. 602(a)(14)) is amended—

(1) by striking "with respect to" and all that follows through "satisfactory", inserting "provide, at the option of the State with respect to such category or categories as the State may select and identify in 42 U.S.C. 671(a)(13)"); and
(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) RETROSPECTIVE BUDGETING.—Section 406(a)(13) (42 U.S.C. 602(a)(13)) is amended by striking all that precedes subparagraph (A) and inserting the following:

""(A) at the option of the State, provide that—
""(B) 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 Oct 1990.

SEC. 6016. CHILDREN RECEIVING FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS NOT TREATED AS INCOME 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—

(1) by inserting after section 408 the following new section:
""SEC. 409. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A CHILD WITH RESPECT TO WHOM FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE UNDER PART E OR UNDER STATE OR LOCAL LAW SHALT 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 THE BENEFITS UNDER THIS PART, AND THE INCOME AND RESOURCES OF SUCH FAMILY 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 MADE, SUCH EXCLUSION WOULD CAUSE THE BENEFITS OF THE FAMILY UNDER THIS PART.

(b) CONFORMING REPEALED.—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. 6017. 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. 6018. 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) of the State agency may have;"

(b) CONFORMING AMENDMENTS.—Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended—

(1) by striking paragraph (9) and inserting in its stead—
""(9) any amount set aside in a trust or amended—
""(A) by striking "with respect to" and all that follows through "satisfactory", inserting "provide, at the option of the State with respect to such category or categories as the State may select and identify in 42 U.S.C. 602(a)(13)"); and
""(B) by striking "(with the prior approval of the Secretary in recent work history and earned income cases)" and
""(C) by striking "upon a determination" and all that follows through "paragraph.

SEC. 6019. CONFORMING RECIPIENTS OF FOSTER CARE OR ADOPTION ASSISTANCE.

(a) In general.—Section 471(a)(19) (42 U.S.C. 671(a)(19)) is amended to read as follows:

""(19) any amount set aside in a trust or amended—
""(A) by striking the prior approval of the Secretary in recent work history and earned income cases; and
""(B) by striking upon a determination" and all that follows through "paragraph.

SEC. 6020. CREATION OF TRUST NOT TO BE COUNTED AS INCOME IN MONTH OF CREATION; LATER PLACEMENT OF FUNDS OR PROPERTY IN THE TRUST ACCOUNT, OR IN-SUMPTION OF INCOME.—Section 1612(b) (42 U.S.C. 1382c(b)) is amended—

(a) by striking "and" at the end of the paragraph (17) added by section 6016a(1)(C) of this Act and inserting ";
(b) by inserting after the paragraph (17) added by section 6016a(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 placed in the trust after its creation.

(c) by inserting after paragraph (17) added by section 6016a(1)(C) of this Act the following:
""(19) 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 be treated as income either at the time of creation of the trust or placed in the trust after its creation."

(d) 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 Oct 1990.
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 any group or category of information which the agency may have;

(2) CONFORMING AMENDMENTS.—Section 471(a)(8) (42 U.S.C. 671(a)(8)) is amended—

in subparagraph (C), by striking "and"; and

in subparagraph (D), by inserting ", and (E) reporting and providing information pursuant to paragraph (3) to appropriate authorities in respect to known or suspected child abuse or neglect" before the 1st semicolon.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 602A. 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—

in paragraph (1), by striking "or E";

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 602B. REPATRIATION.—Section 1113 of the Social Security Act (42 U.S.C. 1313), as amended by section 140 of the Customs and Trade Act of 1980 (Public Law 101-162) is amended—

in subsection (a), by striking "or on or after October 1, 1989" and inserting "after September 30, 1991"; and

in subsection (b), by striking "and adding at the end thereof the following new subsection:

"(e)(1) The Secretary may accept on behalf of the United States gifts in the form of cash shall be credited to the appropriate appropriation account from which this program is funded, in addition to amounts otherwise appropriated, and shall remain available until expended.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for fiscal years beginning after September 30, 1991.

SEC. 602C. GOOD CAUSE EXCUSE TO REQUIRED COOPERATION FOR TRANSITIONAL CHILD CARE BENEFITS.

(a) IN GENERAL.—Section 402(a)(11)(A)(i) (42 U.S.C. 602(a)(11)(A)(i)) 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. 607. TECHNICAL CORRECTION REGARDING PENALTY FOR FAILURE TO PARTICIPATE IN JOBS PROGRAM.

(a) IN GENERAL.—Section 482(1)(I)(B)(i) (42 U.S.C. 682(1)(I)(B)(i)) is amended—

in paragraph (d), by striking "before the 1st semicolon.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 608. TECHNICAL AMENDMENTS TO NATIONAL COMMISSION ON CHILDREN.

Section 1139(d) (42 U.S.C. 1320b-9(d)) is amended—

in paragraph (1) of subsection (b), by striking "on or after March 31, 1991, and a final report no later than September 30, 1990" and inserting "on or after March 31, 1991, and a final report no later than September 30, 1990, and a final report no later than March 31, 1991";

SEC. 609. FAMILY SUPPORT ACT DEMONSTRATION PROGRAMS.

Section 505 of the Family Support Act of 1978 is amended—

in paragraph (1) of subsection (b), by striking "an interim report no later than March 31, 1991, and a final report no later than September 30, 1990, and inserting "a final report no later than September 30, 1990, and a final report no later than March 31, 1991";

in subsection (c), by striking "before "shall"; and

in subsection (d), by striking "September 30, 1989" and inserting "September 30 of the fiscal year specified in the agreement described in subsection (a)");

in subsection (e), by inserting "as determined by the State agency in accordance with 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 be effective for fiscal years beginning after September 30, 1991.

SEC. 601. 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 therefor in this section referred to as "JOBS programs" completed by tribes and Alaska 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—

(1) identify any problems associated with the implementation of section 482(i) of the Social Security Act; and

(2) assess to the extent practicable the effectiveness of JOBS programs conducted by Indian tribes and Alaska Native organizations.

(c) REPORT.—Upon completion of the study described in subsection (a), the Comptroller shall submit a report to the appropriate committees of Congress that includes—

(1) a summary of the findings of the study; and

(2) recommendations with respect to proposed legislation and regulations to improve the effectiveness of JOBS programs conducted pursuant to section 482(i) of the Social Security Act.

SEC. 602. PROVISIONS RELATING TO RESTITUTION AND AFDC SPENTIAL NEEDS REGULATIONS.

Subsection (c) of section 805 of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1990" and inserting "1991".

PART IV—CHILD WELFARE AND FOSTER CARE

SEC. 604. CLARIFICATION OF TERMINOLOGY RELATING TO ADMINISTRATIVE PENALTIES.

(a) IN GENERAL.—Paragraph (1) of section 474(a) (42 U.S.C. 674(a)(1)) is amended by inserting "and facilities and for and facilities and for such child as such parent" 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. 605. TECHNICAL AMENDMENTS REGARDING AID-TO-FAMILY-UNIT ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Section 407(d)(1) (42 U.S.C. 607(d)(1)) is amended—

(1) by striking "(a) a calendar quarter" (A) and inserting "(A) a calendar quarter";

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

(3) by striking "(b) reporting and providing information pursuant to paragraph (3) to appropriate authorities in respect to known or suspected child abuse or neglect" before the 1st semicolon.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 606. AMENDMENTS TO SECTION 10040 OF OBRA 1988.—Section 10040 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 672 note) is amended—

(1) by striking "1991" and inserting "1992";

(2) by striking "1990" and inserting "1991"; and

(3) by inserting "and" before the section heading, by striking "1990" and inserting "1991".

(b) CONFORMING AMENDMENT.—The item relating to section 10040 in the table of contents appearing immediately after section 10000 of such Act is amended by striking "1990" and inserting "1991".

SEC. 607. INDEPENDENT LIVING INITIATIVES.

(a) AMENDMENTS TO SECTION 474a(2) (42 U.S.C. 674a(2)) is amended—

(1) by inserting "who has not attained age 21" after "may at the option of the State also include any child";

(2) by striking "but such child" and all that follows through "care";

(3) by inserting "and" before the 1st semicolon.

(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. 608. 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:

"(1) Each State agency may, to the extent that it determines that resources are available and provide such care in accordance with paragraph (2) to any income family that the State determines is not eligible for aid under the State plan approved by the Secretary of Health and Human Services, 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) arranging such care directly; and

(B) arranging such care through providers by use of purchase of service contracts or vouchers;

and

by providing cash or vouchers in advance to the caretaker relative in the family.

(3) By reimbursing the caretaker relative in the family for—

(A) adopting such other arrangements as the agency deems appropriate.

(B) any manner of child care provided under paragraph (1) that results in the performance of such care in accordance with a sliding scale formula established by the State agency based on the family's ability to pay; and

(C) the actual cost of such care; and

(D) all the applicable local market rate for care determined by the State in accordance with regulations issued by the Secretary.

SEC. 609. CLARIFICATION OF TERMINOLOGY RELATING TO ADMINISTRATIVE PENALTIES.

(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 effec-
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"(4) The value of any child care provided
"(B) the amount determined under paraor órranged (or any amount received as pay- graph (2) with respect to the State for the
ment for such care or reimbursement for fiscal year.

costs incurred for the care) under this sub-

"(2)(A) The limitation determined under
section—
this paragraph with respect to a State for
?A) shall not be treated as income or as a any fiscal year i.e the amount that bears the
deductible expense for purposes af any other same ratio to The amount specified in sub.
Federal or federally assisted program that parizgraph (B) for such fiscal year as the
bases eligibility for or amount of benefits number of children resl4ing in the State in
upon need, and

the second preceding fiscal year bears to the

S 15893

(A) by redesignating paragraphs (1) and

(2) a, subparagraphs (A) and (B), respectively;

(B) by striking "(d) If any person—" and
in3erting "(d)(1) This subsection applies
with respect to any perSon whe—'
(C) in subparagraph (A) (as redesignated),

by striMng "as required" and all that follows through "but not entitled" and inserting "being then not entiUed'

"(B) may not be claimed as an employ- number of children residing in the United
(D) in subparagraph (B) (as redesignated),
ment-related expense for purposes of the States in the second preceding fiscal year.
by strUcing the comma at the end and insert
credit under section 21 of the Internal Reve"(B) The amount specified in this sub- ing a perlod, and
paragraph is—
(E) by striking "such person shaU" and all
"(5) Amounts expended by flue State
"(i) $65,000,000 for fiscal year 1991;
that foUows and inserting the fouowing new
"(ii) $65,000,000 for fiscal year 1992;
apency for child care under paragraph (1)
paragraph:
"(iii) $65,000,000 for fiscal year 1993;
shall be treated as amounts for which pay"(2) For purposes of title XIX, each person
"(iv) $65,000,000 for fiscal year 1994; and with respect to whom this subsection apment may be made to a State under section
"(v) $65,000,000 for fiscal year 1995, and plies—
403(n) only to the exteni that—
"(A) such amounts are, subject to para- for each fiscal year thereafter.
"(A) shall be deemed to be a recipient of

o Gi ro

(c) INcP.AsE AND ExIINSI0N
graph (3)(B), within such limits as the State
aupplemental security income benefits
STATES TO IMPROVE CHILD C4RE LICENSING
may prescribe,
under this title if such person received such
"(B) the care involved meets applicable A?JD REGIS TP.A 170N REQUIRZMENTh, AND To a benefit for the month before the month in
MONITOR Cwnz Cw.z PRO VIDED To CHILDREN
atandards of State and local law; and
which such person began to receive a benefit
?C) the entity providing the care allows RECEIVING AFDC.—Section 402(g)(6)(D) (42 described in paragraph (1)(A), and
U.S.C. 602(g)(6)(D)) is amended by inserting
parental access.
"(B) shall be deemed to be a recipient of
"(6)(i) Each State sha'l prepare reports an- ", and $35,000,000 for each of fiscal years State supplementary payments of the type
in section 1616(a) of this Act (or
(e) CoolwmArzoN WPrH OThER PROGRAMS referred to of
the activities of the State carried out with
the type described in section
OR CrnUREN.—Section 402(g)(7) (42 U.S.C. payments
funds made available under section 403(n).
212(a) of Public Law 93-66) which are paid
°(ii) The State shall ma/ce copies of each 602(g)(7)) is amended by inserting "and sub- by the Secretary under an agreement rereport required by this paragraph available section (i)" after "this subsection'
to in such section 1616(a) (or in sec(f) EmcnvE DAm.—Except as otherwise ferred212(b)
for public inspection within the State, shall
of Public Law 93-66) if such
transmit a copy of each such report to the expressly provided, the amendments made tion
person received such a payment for the
Secretary, and shall provide a copy of each by this section shall take effect on October 1, month before the month in which such
such report, on request, to any interested 1990.
person began to receive a benefit described
public agency.
PART V—OLD-AGE, SURVIVORS, AND
in paragraph (1)(A),
"(iii) The Secretary shaU annually comDISABILITY INSURANCE
so long as such person (i) would be eligipile the StaLe reports transmitted to the Sec- SEC U5& CONTINUA flON OF DISABILITY BENEFI7S for
ble for such supplemental security income
retary pursuant to clause (ii), and submit
DURING APPEAL
benefits, or such State supplementary paysuch annual compilat ion to the Congress.
Subsection (g) of section 223 (42 U.S.C. ments, in the absence of benefits described
"(B) Each report prepared and transmit- 423(g)) Ia amended—
in paragraph (1)(A), and (ii) is not entitled
ted by a State under subparagraph (A) shall
(1) in paragraph (1)(i), in the matter folhospital insurance benefits under part A
set forth with respect to child care services lowing subparagraph (C), by inserting "or" to
of title XVIII. "
funded under section 403(n)—
after "hearing, ' and by strUcng pending,
(2) INCLUSION OF MONThS OF SSI EJJGIBIL ITY

?i) showing separately for center-based or (iii) June 1991." and inserting "pend- Wfl7IIN 5-MONTH DISABILrFY WAiTING PERIOD
child care sen,icej, group home child care ing. "; and
AND 24MoNTH MEDICARZ WAiTING PERIOD.—
services, family child care services, and rela(2) by striking paragraph (3).
(A) WIDOw'S BENZFITS BASED ON DISABILtive care services the number of chUdren SEC $O$L REPEAL OF SPECIAL DISABILITY STAND- rry.—Section
202(e)(5) (42 U.S.C. 402(e)(5))
who received such services, and the average
ARD FOR WIDOWS AND WIDOWERS
Ia amended—
cost of such services;
(a) IN Gzi.pj...—Section 223(d)(2) (42
(i) in subparagraph (B), by strtking "(i)"
"(ii) the criteria applied in determining U.S.C. 423(d)(2)) Ia amended—
and "(ii)" and inserting "(I)" and "(II)", reeligibility or pnority for receiving services,
(1) in subparagraph (A), by striking spectively;
and sliding fee schedu'es;
"(except a widow, surviving divorced wife,
(ii) by redesignating subparagraphs (A)
"(iii) the child care licensing and regula- widower, or surviving divorced husband for
and (B) as clauses (i) and (ii), respectively;
tonj (including registration) requirements purposes of section 202(e) or (f))'
(iii) by inserting "(A)" after "(5)' and
in effect in the State with respect to each
(2) by strtktng subparagraph (B); and
(iv) by adding at the end the fouowing
type of service specified in clause (i); and
(3).by redesignating subparagraph (C) as new
subparagraph:
"(iv) the enforcement polzciea and prac- subparagraph (B).
"(B) For purposes of paragraph (1)(F)(i),
tices in effect in the State which apply to li(b) CONFORMING Aziimriwrs.—
censed and regujated chüd care providers
(1) The third senteiwe of section 216(i)(1) each month in the period commencing with
(including providers required to register).

(42 U.S.C. 416(i)(1)) is amended by striking

"(C) Within 12 months after the date of "(2)(C)" and inserting "(2)(B)'
the enactment of this subsection, the Secre(2) Section
223(f)(1)(B) (42 U.S.C.
tars, thafl establish uniform reporting t- 423(f)(1)(B)) is amended to read as follows:
quirements for use by the States in prepar"(B) the individuo.l is now able to engage
ing the informaUon required by this para- in substantial painful activity; or'
graph, and make auch other provszon a
(3) Section 223(f)(2)(A)(ii) of such Act (42
may be neceuanj or appropriate to ensure U.S.C. 423(f)(2)(A)(ii)) is amended to read as
that compliance with this subsection will follows:
not be unduly burdensome on the States.
"(ii) the individual is now able to engage
?D) The Secretary thafl sssue an interim in substantial gainful activity, or'
report on the matters described in aubpara(4) Section 223(f)(3) of such Act (42 U.S.C.
graphs (A) and (B) with respect to fiscal 423(f)(3)) is amended by strUcing "therewear 1992, based on information made avail- fore—" and all that foUows and inserting
able by the Statea. '

(b) PAYMErr To STAms.—Section 403 (42

U.S.C. 603) ti amended by o4ding at the end
the foUowing:

"therefore the indivlduo..l is able to engage in

substantial gainful activity; or'
(5) Section 223(f) of such Act is further

the first month for which such w4ow or surviving divorced wife Ia first eligible for sup-

plemental security income benefits under
title XVI, or State supplementary payments
of the type referred to in section 1616(a) (or

payments of tIe type described n 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), shaU be includ-

ed as one of the months of such waiting
period for which the requirements of subparagraph (A) have been meL'

(B) WIDOWER'S BENEFITS 8.4SED OF' DISAIL

rri.—Section 202(f)(6) (42 U.S.C. 402(f)(6)) is
amended—

(i) in subparagraph (B), by strlkrng W"

amended, in the matter foUowing paragraph and "(iii' and inserting "(I)" and "(II)' re-

"(n)(1) In addition to any payment under (4), by striking "(or gainful activity in the spectively;
(ii) by redesignating subparagra,hs (A)
case of a widow, surviving divorced wife,
lied to payment from the Secretary of an widower, or surviving divorced husband)" and (B) as clauses (i) and (ii), respectively;
(iii) by inserting "(A)" after "(6)' and
amount equal to the lesser of—
each place it appears.
"(A) the FederaZ medical a.ssistance per(iv) by adding at the end the following
(c) TRANSITIONAL RUIJS RL.4 rING To
new subparagraph:
centage (as defined In aection 1905(b)) of the IC4JD AND MEDICARE EUGIBIz.rrl.—
expenditurea by the State in providing child
(1) DETIRMINATION OF MFbICAiD ZLIGIBIL"(B) For purposes of paragraph (1)(Fi(1).
care pursuant to 3ection 402(i) for anycal rry.—Section 1634(d) (42 U.S.C. 1383c(d)) *3 each month in the period commencing with
year; and
the first month for which such widower or
amended—

subsection (a) or (1), each State shaU be enti-


serving divorced husband is first eligible for supplemental security income benefits under title XVI or, if State supplementary payments of the type referred to in section 1616(a) for payments of the type described in section 221(a) of Public Law 93-66, which are paid by the Secretary under an agreement referred to in section 1616(a) for or in section 221(b) of Public Law 93-66, shall be included as one of the months of such period as the requirements of subparagraph (A) have been met.

(B) MEDICARE BENEFITS.—Section 226(e)(1)(C)(ii) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(i)" after "(ii)" and "(j)" after the end of the following new subparagraph:

"(B) FOR purposes of subsection (b)(2)(A)(ii), 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 for payments of the type described in section 221(a) of Public Law 93-66, which are paid by the Secretary under an agreement referred to in section 1616(a) for or in section 221(b) of Public Law 93-66, shall be included as one of the 24 months for which such individual has been entitled to widow's or widow'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 ONSSI 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:

"(B) 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) of this Act for payments of the type described in section 221(a) of Public Law 93-66, which are paid by the Secretary under an agreement referred to in section 1616(a) for or in section 221(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(1) (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(B) 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) of this Act for payments of the type described in section 221(a) of Public Law 93-66, which are paid by the Secretary under an agreement referred to in section 1616(a) for or in section 221(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.

SEC. 663. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SUBSEQUENTLY MARRIED PERSON.—

(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 living in such individual's household";

(2) by striking "; and" and inserting "; or"; and

(3) by striking ", except as".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective for benefits payable after December 1990.
an application for benefits under this title or title XVI.

(III) determine whether such person has been convicted of a violation of section 206 or 1632, and

(IV) determine whether certification of payment of benefits to such person has been requested and, in subsection (a)(2)(A)(ii) the selection of a representative payee to such person has been terminated pursuant to section 1631(a)(2)(A)(i) by reason of misuse of funds paid as benefit under this title or title XVI.

(iii) 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

(1) a list of the names and social security account numbers for employer identification numbers of all persons who have been convicted of violation of section 206, 1107(a), 1128B, or 1632.

(2) Benefits of an individual may not be paid to any other person pursuant to this subsection if

(a) such person has previously been convicted of the procedure described in subparagraph (B)(ii)(IV) of subsection (a)(2)(A)(ii) by reason of misuse of funds paid as benefits under this title or title XVI.

(b) a list of the names and social security account numbers of employer identification numbers of all persons who have been convicted of violation of section 206, 1107(a), 1128B, or 1632.

(c) Benefits of an individual may not be paid to any other person pursuant to this subsection if

(a) such person has previously been convicted of the procedure described in subparagraph (B)(ii)(IV) of subsection (a)(2)(A)(ii) by reason of misuse of funds paid as benefits under this title or title XVI.

(1) except as provided in clause (ii), certifica tion of payment of benefits to such person under this subsection has previously been revoked or as described in subparagraph (B)(ii)(IV), or payment of benefits to such person under section 1631(a)(2)(A)(ii) has previously been revoked or as described in subparagraph (A)(ii)(IV) or

(2) except as provided in clause (iii), such person is a creditor of such individual or such a care facility under the law of a State or any political subdivision of a State, the State or such political subdivision having determined that direct payment of the benefits to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of an entitlement) or suspend (in the case of an existing entitlement) direct payment of such benefits to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

(ii) Except as provided in subsection (iii), 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.

(2) Subclause (i) shall not apply in any case in which the individual is, as of the date of filing the application for benefits, legally incompetent or under the age of 15.

(3) 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 deems best for the best interests of the individual entitled to such benefits.

(4) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefits to a representative payee under paragraph (1) or with the designation of a particular representative payee by the Secretary may seek a determination, to the extent practicable, in advance of the certification of payment of such benefit to the individual, 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

(a) is under the age of 15,

(b) is an emancipated minor under the age of 18, or

(c) is legally incompetent, then such notice shall be directed solely to the legal guardian or legal representative of such individual.

Any such notice shall be written in a manner which is 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-

(1) to request a hearing before such individual's legal guardian or legal representative,

(2) to appeal the determination that a representative payee is necessary for such individual,

(3) to appeal the designation of a particular representative payee to serve as the representative payee of such individual, and

(4) to review the evidence upon which such designation is based and submit additional evidence.

(5) Subject to clause (ii), the Secretary shall report to Congress annually for fiscal years beginning after fiscal year 1990 on the number of applications referred to the Secretary under this subsection, the number of applications approved by the Secretary under this subsection, and the number of applications disapproved by the Secretary under this subsection.

(6) As a condition of a determination under this subsection, the Secretary shall provide written notice to each state of each determination made under this subsection.

(7) As provided in clauses (ii)(III) and (iv), the Secretary shall provide written notice to such state of each determination made under this subsection.

(8) As provided in clauses (ii)(III) and (iv), the Secretary shall make available to such state any documentation or other evidence the Secretary determines, with respect to any such determination, as necessary for such state to investigate any such determination.

(9) In determining the extent to which the procedures referred to in clause (ii) are followed, the Secretary shall consider such factors as the Secretary determines to be appropriate.

(PA) Section 1631(a)(2)(A)(ii) is amended to read as follows:

"(ii) Any person being investigated under this paragraph (A)(ii) by reason of misuse of funds paid as benefits under title II or title XVI shall be notified in writing of such action at least 30 days prior to the date of such action, except as provided in clause (iv), unless such notification would be in the interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to paragraph (3)(C).

(II) Section 205(j) is amended to read as follows:

"(J) The procedures referred to in subsection (A)(ii) by reason of misuse of funds paid as benefits under title II or title XVI shall be conducted before such payment, and shall, to the extent practicable, be in the interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to paragraph (3)(C).

(III) The Secretary shall be required to maintain a 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

(a) a list of the names and social security account numbers who have been convicted of violation of section 206, 1107(a), 1128B, or 1632.

(b) Benefits of an individual may not be paid to any other person pursuant to this subsection if

(a) such person has previously been convicted of the procedure described in subparagraph (B)(ii)(IV) of subsection (a)(2)(A)(ii) by reason of misuse of funds paid as benefits under this title or title XVI.

(1) except as provided in clause (ii), certifica tion of payment of benefits to such person under this subsection has previously been revoked or as described in subparagraph (B)(ii)(IV), or payment of benefits to such person under section 1631(a)(2)(A)(ii) has previously been revoked or as described in subparagraph (A)(ii)(IV) or

(2) except as provided in clause (iii), such person is a creditor of such individual or such a care facility under the law of a State or any political subdivision of a State, the State or such political subdivision having determined that direct payment of the benefits to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of an entitlement) or suspend (in the case of an existing entitlement) direct payment of such benefits to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

(III) Except as provided in subsection (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 filing the application for benefits, legally incompetent or under the age of 15.

(II) 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 deems best for the best interests of the individual entitled to such benefits.

(II) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefits to a representative payee under paragraph (1) or with the designation of a particular representative payee by the Secretary may seek a determination, to the extent practicable, in advance of the certification of payment of such benefit to the individual, 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

(a) is under the age of 15,

(b) is an emancipated minor under the age of 18, or

(c) is legally incompetent, then such notice shall be directed solely to the legal guardian or legal representative of such individual.

Any such notice shall be written in a manner which is 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-

(II) to request a hearing before such individual's legal guardian or legal representative,

(II) to appeal the determination that a representative payee is necessary for such individual,

(II) to appeal the designation of a particular representative payee to serve as the representative payee of such individual, and

(II) to review the evidence upon which such designation is based and submit additional evidence.

(II) The procedures referred to in subsection (A)(ii) by reason of misuse of funds paid as benefits under title II or title XVI shall be conducted before such payment, and shall, to the extent practicable, be in the interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to paragraph (3)(C).

(II) Any determination made under this subsection shall be made only after good faith efforts have been made by the state, the Social Security Administration, or the local social services office of the Social Security Administration, or the local social services office of the Social Security Administration, as appropriate, to locate the individual or a representative payee to whom such certification of payment of benefits would serve the best interests of such individual.

(II) Such notice shall be given only to such individual or a representative payee to whom such certification of payment of benefits would serve the best interests of such individual.

(II) Such notice shall be given only to such individual or a representative payee to whom such certification of payment of benefits would serve the best interests of such individual.
ings and under procedures which the Secreta-

ry shall prescribe by regulation, to be ac-
ceptable to serve as a representative payee.

"(ii) The individual shall be determined to be
acceptable to serve as a representative payee by the
Secretary under subparagraph (A)(ii) as of the date

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.

"(vii) Subject to clause (viii), if the Secreta-
ry makes a determination described in
subparagraph (A)(ii) with respect to any in-

dividual's benefit and determines that direct
payment of the benefit to the individual
would cause substantial harm to the indi-

vidual, 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.

"(vi) Except as provided in clause (I), any
deferral or suspension of direct pay-

ment of the benefit described in clause (v)
shall be for a period of not more than 1
month.

"(II) Clause (I) shall not apply in any case
in which the individual is shown to be
mentally ill or otherwise incompetent, as
defined in subsection (c).

"(V) Any individual who is dissatisfied
with a determination described in
subparagraph (A)(ii) to pay such indivi-
dual's benefits upon such selection of a
representative payee shall be made

"(ii) to the representative payee upon such
selection; and

"(i) 10 percent of the monthly benefit in-

volved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess
of the amount permitted under this subpara-

graph shall be void and shall be treated as
misuse by such organization of such indi-


dividual'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 is in existence on October 1, 1988.

"(ii) Any qualified organization which

knowingly charges or collects, directly or in-
directly, 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, shall be fined in accordance with title
18, United States Code.

"(IV)(A) A qualified organization may col-
lect from an individual a monthly fee for ex-

penses (including overhead) incurred by
such organization in providing services per-
formed 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 in-

volved, or

"(ii) $25.00 per month.

Records.—As soon as practicable after the
date of the enactment of this Act, the Secre-

tary of Health and Human Services, in con-

formity with applicable regulations of the

Secretary of the Treasury, shall establish a

system for the collection of fees collected
under this subsection. Such records shall

be clearly written in language that is eas-

ily understandable to the reader, identify

the person selected to be the represent-

ative payee of the individual, and explain
to the reader the right under clause (2)
of the individual or the legal guardian or le-

gal representative of such individual.

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 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 is in existence on October 1, 1988.

"(iv) This subparagraph shall cease to be

effective on January 1, 1994.

"(B) STUDIES AND REPORTS.—

(1) 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 Com-

mittees of the Senate setting forth the num-

ber and types of qualified organizations which

have collected fees for such service pursuant

and have made payments to such service, to

the Committee on Ways and Means of the House

and the Committee on Finance of the Senate.

"(C) Any agreement providing for a fee in excess
of the amount permitted under this para-

graph shall be void and shall be treated as

misuse by such organization of such indi-

vidual's benefits.

Any agreement providing for a fee in excess
of the amount permitted under this para-

graph shall be void and shall be treated as

misuse by such organization of such indi-

vidual's benefits.

"(D) This paragraph shall cease to be

effective on January 1, 1994.

(1) Title XVI—Section 1631(a)(12) (42 U.S.C.
1383(a)(12)) is amended—

"(1) by redesignating subparagraph (D) as

subparagraph (E); and

"(2) by inserting after subparagraph (C) the

following:

"(D) A qualified organization may col-
lect from an individual a monthly fee for ex-

penses (including overhead) incurred by
such organization in providing services per-
formed 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 in-

volved, 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 such organization of such individual's
benefits.

"(I) The term ‘qualified organization’ means any

community-based nonprofit social service
agency which—

"(ii) is bonded or licensed in each State in

which it serves as a representative
payee, or

"(iii) was in existence on October 1, 1988.

"(ii) Any qualified organization which

knowingly charges or collects, directly or in-
directly, any fee in excess of the maximum
fee prescribed under clause (I), directly or
indirectly, to charge or collect any fee in excess of such
maximum, shall be fined in accordance with title
18, United States Code.

(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 Secre-
tary of Health and Human Services shall

conduct a study of the feasibility of deter-

mining the type of representative payee ap-

propriate for any individual who has a

prior criminal conviction. The results of

such study shall be reported to the Com-

mittees of the Senate and the House of

Representatives.

(5) EFFECTIVE DATES.—

(A) USE AND SELECTION OF REPRESENTATIVE
PAYEES.—The amendments made by para-

graphs (1) and (2) shall take effect July 1,
1991, and shall apply only with respect to

(c) certifications of payment of benefits;

and

(d) provisions for payment of benefits

under title VIII of such Act to representative
payees made on or after such date;

and

(e) provisions for payment of benefits

under title XVI of such Act to representative
payees made on or after such date.

(S) RECORDS.—As soon as practicable after the
date of the enactment of this Act, the Secre-
tary of Health and Human Services, in con-
formity with applicable regulations of the
Secretary of the Treasury, shall establish a
system for the collection of fees collected
under this subsection. Such records shall

be clearly written in language that is eas-

ily understandable to the reader, identify

the person selected to be the represent-

ative payee of the individual, and explain
to the reader the right under clause (2)
of the individual or the legal guardian or le-

gal representative of such individual.
(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 make such regulations as are necessary to carry out such amendments not later than such date.

(4) RECORDKEEPING AND ADMISSING REQUIREMENTS.—

(1) IMPROVED ACCESS TO CERTAIN INFORMATION.—

(A) IN GENERAL.—Section 205(i)(3) (42 U.S.C. 405(i)(3)) is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (C), (D), and (E), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), (C), and (D)";

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

"(D) SPECIAL PROCEEDINGS.—In such study, subcommittees of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate shall consult the Secretary of Health and Human Services after the date of the enactment of this Act, and the Secretary of Health and Human Services shall take such actions as it deems necessary to effectuate such amendments not later than such date.

(B) REPRESENTATION.—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 conducted under this paragraph, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing 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 had been a misuse of funds;

(iii) 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.
"(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) a description of the procedures for payment under this subsection for travel by a representative to or from a geographic area where the representative is stationed that is not contiguous with the geographic area where the claimant resides or is under the jurisdiction over such travel and the amount available for payment under this subsection for such travel originating within the geographic area where the representative is stationed or having jurisdiction over such travel.

"(B) 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 demonstration purposes so that they would be operated in conjunction with the service technology most recently employed by the Social Security Administration, for which such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall be in operation for at least 1 year and not more than 3 years.

"(II) 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 as determined by an administrative law judge or other person conducting the review, or the Federal Register.

"(II) $4,000, and

"(III) the person representing the claimant submits a written request to the Secretary to reduce the maximum fee.

"(IV) The person representing the claimant submits a written request to the Secretary to the maximum fee on only the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest or on the basis that the fee is clearly excessive for services rendered.

"(B)(i) In the case of a request for review under subparagraph (A), the review shall be conducted by the administrative law judge or other person designated by the Secretary for such purposes.

"(ii) In the case of a request for review under subparagraph (A), the review shall be conducted by the administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

"(III) 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 that the fee is clearly excessive for services rendered.

"(IV) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any advertisement published before, on, or after January 1, 1991, and to reimbursement for travel expenses incurred on or after January 1, 1991.

"(SEC. 606) 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 demonstration purposes so that they would be operated in conjunction with the service technology most recently employed by the Social Security Administration, for which such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall be in operation for at least 1 year and not more than 3 years.

"(b) ACCOUNTABILITY PROCEDURES.—

"(I) IN GENERAL.—During the period of each demonstration project, the Secretary shall be selected for demonstration purposes so that they would be operated in conjunction with the service technology most recently employed by the Social Security Administration, for which such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall be in operation for at least 1 year and not more than 3 years.

"(II) Upon completion of the review, the administrative law judge or other person conducting the review 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 payment under this title of choosing to reapply in lieu of requesting review of the determination.

"(III) The provisions of section 206(a) (other than paragraph (4)(B) and (4)(D)) shall apply to this subsection and 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)) to such attorney and in so applying such provisions an attorney's fee shall be requested under paragraph (1), the Secretary shall provide for the payment of 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)) and the dollar amount of the maximum fee which may be charged or recovered as designated by the Secretary for such pur-
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(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 name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must, if the Secretary promptly provides 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 administrative action taken as a result of the communication by an individual representing the Social Security Administration.

(B) Such person must be notified during the course of the telephone conversation that, if adequate identifying information is provided to the Administration, a receipt describing the conversation must be provided to such person. A copy of any receipt required to be provided to any person under subparagraph (A) must be included in the file maintained by the Social Security Administration relating to such conversation.

(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 benefits.

(iii) Notwithstanding the preceding sentence 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 name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must, if the Secretary promptly provides 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 administrative action taken as a result of the communication by an individual representing the Social Security Administration.

(C) 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—

(i) 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;

(ii) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to other administrative functions;

(iii) includes the following new subparagraph:

(A) by striking paragraph (a) and inserting the following new subparagraph:

(A) the amount which would have been transferred to such Trust Fund on the first day of such month.

(iv) includes a description of the information or administrative action taken as a result of the communication by an individual representing the Social Security Administration.

(3) IN GENERAL.—The Secretary of Health and Human Services shall annually 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 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.

(4) SPECIAL MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall—

(A) assess the costs and benefits of the accountability procedures;

(B) identify any problems, difficulties, or weaknesses 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 determines to be 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 that office has direct telephone access, the Secretary shall ensure that any and all relevant utilities in such locality.

(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 that office has direct telephone access.

(C) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1992.

SEC. 6064. 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 element 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 been diagnosed after such element month, as determined by the Secretary of Health and Human Services.

SEC. 6061. LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGI-TI PAYMENTS.

(A) IN GENERAL.—Section 2261(a)(2) (42 U.S.C. 4261(a)(2)) is amended by striking "(B)" and inserting "(B)(ii) attained such age after 1967 and before 1972, and (ii)".

(B) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to benefits payable on the basis of applications filed after the date of the enactment of this Act.

SEC. 6062. ELIMINATION OF ADVANCED CREDITING FOR THE PURPOSE OF THE 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 (6), by striking “monthly on the first day of each calendar month” and inserting “from time to time”;

(2) by striking “to be paid to or deposited into the Treasury during such month” and in inserting “paid to or deposited into the Treasury”; and

(3) 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 are insufficient 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 otherwise be 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.
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SEC. 6063. ELIMINATION OF ELIGIBILITY FOR RETIRED PAYMENTS TO CERTAIN VETERANS ELIGIBLE FOR REDUCED BENEFITS.

(a) In General.—Section 223(a)(14) of 12 U.S.C. 408(c)(14) is amended—

(i) by striking "15900" and inserting "the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and"

(ii) by striking "15900" and inserting "the provisions of section 215(d) as in effect prior to the enactment of the Social Security Act Amendments of 1950, and"

(iii) by striking "15900" and inserting "the provisions of section 215(d) as in effect prior to the enactment of the Social Security Act Amendments of 1950, and"

(iv) by striking "15900" and inserting "the provisions of section 215(d) as in effect prior to the enactment of the Social Security Act Amendments of 1950, and"

(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.—In General.—Section 215(a)(5) of 42 U.S.C. 415(a)(5) is amended—

(i) by striking "Subject to subparagraph (B)," and inserting "(A) Subject to subparagraphs (B),"

(ii) by striking "(ii)," and inserting "(i),"

(iii) by inserting "and (iv) as clauses (i), (ii), (iii), and (iv), 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. 6065. AMENDMENTS TO TITLE II.

(a) In General.—Section 203(a)(8) of 42 U.S.C. 403(a)(8) is amended by striking paragraph (2)(C) and inserting paragraph (2)(A).

(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. 6066. AMENDMENTS TO TITLE II.

(a) In General.—Section 203(a)(8) of 42 U.S.C. 403(a)(8) is amended by striking paragraph (2)(C) and inserting paragraph (2)(A).

(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. 6067. AMENDMENTS TO TITLE II.

(a) In General.—Section 203(a)(8) of 42 U.S.C. 403(a)(8) is amended by striking paragraph (2)(C) and inserting paragraph (2)(A).

(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. 6068. AMENDMENTS TO TITLE II.

(a) In General.—Section 203(a)(8) of 42 U.S.C. 403(a)(8) is amended by striking paragraph (2)(C) and inserting paragraph (2)(A).

(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. 6069. AMENDMENTS TO TITLE II.

(a) In General.—Section 203(a)(8) of 42 U.S.C. 403(a)(8) is amended by striking paragraph (2)(C) and inserting paragraph (2)(A).

(b) Effective Date.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.
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 1866(d) (42 U.S.C. 1395ww(d)) based on the primary insurance amount of such individual for the month preceding the month in which such application is made.

(3) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—Section 213(c) (42 U.S.C. 413(c)) is amended—

(1) by inserting “and 215(c)” after “214(c)”;

and

(C) 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 NUMBER OF ELAPSED YEARS.—Section 213(c) (42 U.S.C. 413(c)) is amended—

(A) by inserting “and 215(c)” after “214(c)”;

and

(C) 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) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals to whom application is made—

(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. 196A. SUSPENSION OF BENEFITS WHERE THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) In General.—Section 322(c) (42 U.S.C. 623(c)) is amended by—

(1) by inserting “(1)” after “(6);” and

and

(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 I—PROVISIONS RELATING ONLY TO PART A

SEC. 4101. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES.

(a) In General.—Section 1886(g)(1)(A)(i) (42 U.S.C. 1395ww(g)(1)(A)(i)) is amended by striking “September 30, 1990” and inserting “September 30, 1991, and by 10 percent for payments attributable to a portion of cost reporting periods or discharges (as the case may be) occurring during the period beginning October 1, 1991 and ending September 30, 1992.”

(b) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1886(g)(1)(B) (42 U.S.C. 1395ww(g)(1)(B)) is amended by striking “1886(g)(1)(B)(i)(I), (ii), and (iii)” and inserting “1886(g)(1)(B)(i)(I), (ii), and (iii)” or a rural primary care hospital (as defined in subsection (m)(2)(C)) in any area and inserting “(1) by inserting the end of paragraph (A) the following: “Payment under such system shall be determined in a manner that assures that the expected aggregate payment for such capital-related costs for discharges occurring in fiscal year 1992 are greater or less than those that would have been made for portions of fiscal year 1991 reporting periods or discharges during fiscal year 1992, taking into account the reductions specified in paragraph (3)(A)(i),” and

(2) by inserting after subparagraph (B)(i)(I) the following clause: “Notwithstanding clause (i), such system shall provide for continuation of payment for fixed capital on a reasonable cost basis, subject to reductions in paragraph (3)(B)”;

SEC. 4102. PROSPECTIVE PAYMENT HOSPITALS.

(a) CHANGES IN HOSPITAL UPDATE FACTORS.—

(I) In General.—Section 1886(d)(1)(B)(i) (42 U.S.C. 1395ww(d)(1)(B)(i)) is amended—

(1) by striking “(1)” after “(e)” and

and

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1991.

(c) PHASE-IN OF SEPARATE AVERAGE STANDARDED AMOUNTS.—

(I) In General.—Section 1886(d)(1)(B)(ii) (42 U.S.C. 1395ww(d)(1)(B)(ii)), as amended by subsection (c)(1)(B) is further amended—

(A) by striking “(1)” after “(e)” and

and

(2) 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, 1991.

(d) PHASE-IN OF AREA WAGE INDEX UPDATE FOR FISCAL YEAR 1991.—

(I) AREA WAGE INDEX.—Subject to the last sentence of section 1886(d)(1)(B)(ii) (42 U.S.C. 1395ww(d)(1)(B)(ii)), the wage index of the area wage index, for hospitals located in such area, for payment for services occurring in the fiscal year beginning on or after October 1, 1991, shall be determined—

(A) for discharges occurring during fiscal year 1991, apply a combined area wage index based on—

(1) 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 hospitals located in such area, for payment for services occurring during such fiscal year, and

(B) for discharges occurring during fiscal year 1992 and fiscal year 1993, apply the area wage index otherwise applicable to hospitals located in such area, for payment for services occurring during such fiscal year.

(2) STUDY OF HOSPITAL OCCUPATIONAL MIX AND WAGE INDEX COMPUTATION.—The Prospective Payment Assessment Commission (here-
insofar referred to as the "Commission") shall examine State level and other available data and take into account variation in occupational mix resulting from differences in State codes and requirements.

SEC. 619. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED.-(1) Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended—

(A) by striking "1.18" and inserting in lieu thereof "1.15"; and

(B) in subsection (I), by striking "1.18" and inserting in lieu thereof "1.15".

(2) in subsection (II), by striking "1.54" and inserting in lieu thereof "1.53".

(3) Section 1886(d)(5)(B)(i)(II) (42 U.S.C. 1395ww(d)(5)(B)(i)(II)) is amended—

(A) in subsection (I), by striking "1.15" and inserting in lieu thereof "1.14".

(B) in subsection (II), by striking "1.43" and inserting in lieu thereof "1.42".

(C) in subsection (III), by striking "1.54" and inserting in lieu thereof "1.53".


(A) in subsection (I), by striking "1.06" and inserting in lieu thereof "1.05".

(B) in subsection (II), by striking "1.02" and inserting in lieu thereof "1.01".

(C) in subsection (III), by striking "1.15" and inserting in lieu thereof "1.14".

(5) except to the extent that subsection (d) does not apply to the calculation of the area wage index (as computed under section 1866(d)(4) of the Social Security Act, Based on the findings of this paragraph the Secretary shall take into account variation in occupational mix resulting from differences in State codes and requirements.

SEC. 620. PPS EXEMPT HOSPITALS.

(a) FINDINGS FOR REIMBURSEMENT AND DECISION.—(1) Section 1812(f)(42 U.S.C. 1395f(f)) is amended—

(A) by striking "1985" and inserting in lieu thereof "1986";

(B) by striking "1986" and inserting in lieu thereof "1987";

and

(C) in subsection (5)(A), by striking "1987" and inserting "1990".

(2) The amendments made by this section shall apply to payments for discharges occurring on or after January 1, 1991.

SEC. 621. PPS EXEMPT HOSPITALS.

(a) FINDINGS FOR REIMBURSEMENT AND DECISION.—(1) Section 1812(f)(42 U.S.C. 1395f(f)) is amended—

(A) by striking "1985" and inserting in lieu thereof "1986";

(B) by striking "1986" and inserting in lieu thereof "1987".

and

(C) by striking "1987" and inserting "1990".

(2) The standards and criteria established under paragraph (1) shall include—

(A) with respect to claims for services furnished by a provider described in section 1866(b)(4)(B) to a hospital that is not a subsection (d) hospital, the extent to which such agency or organization is able to process 75 percent of reconsiderations within 60 days, except in the case of fiscal year 1989, 60 percent of reconsiderations within 60 days, and, in the case of fiscal year 1990, 50 percent of reconsiderations within 60 days.

(B) with respect to applications for a reconsideration of a determination applicable to a subsection (d) hospital, the extent to which such agency or organization is able to process such application not later than 60 days after the applicable date.

and

(C) with respect to applications for a reconsideration of a determination applicable to a subsection (d) hospital, the extent to which such agency or organization is able to process such application not later than 60 days after the applicable date.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.
tary's grounds for not following the Corn-
FACILITY.—Section 1819(j)(2)(A)(i)(III) (42 U.S.C. 1395i-3(j)(2)(A)(i)(III)) is amended by striking "such," and inserting "the facility,
(A) DEEMED ADDITIONS TO THE INCLUDED ON RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1819(c)(1)(A)(I)(ii) (42 U.S.C. 1395i-
(A) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1819(c)(1)(A)(I)(ii) (42 U.S.C. 1395i-
(B) NURSE AIDE REGISTRY.—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 any such individuals who have reason to believe is from a State other than the State in which the facility is located such a facility shall not use such individual 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 individual as a nurse aide unless the facility has incurred concerning such individual of the State registry established under subsection (e)(2) (A) of the Social Security Act, it is not reasonable for the facility to believe that such individual was employed or under contract to work at such a facility:"
(C) 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 (i), (ii), (v), and (v) of section 1819(b)(4)(A) of the Social Security Act, are comparable or more strict in terms of protection of such services were prior to the enactment of the Omnibus Budget Reconciliation Act of 1989.
(C) STUDY.—The Secretary shall conduct a study on the hiring and dismissal practices of nursing facilities with respect to social workers, dietarians, nurse aides, physicians, 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 such staffing changes on patient care.
In determining the reasonabe 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.

In applying this clause with respect to the professional component of a service, 80 percent of the fee 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.

(iii) Maximum Reduction—The conversion factor to be applied to a locality under this subparagraph to the professional or technical component of the service shall not be reduced by more than 8 percent below the conversion factor applied in the locality under subparagraph (C) to such component.

(iv) 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 with respect to 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 amounts specified in section 1842(b)(1)(A)(i)(iv) for such act with respect to such services.

(2) Exception.—(Paraphrase 1 shall not apply to radiology services which are subject to section 1848(b)(2)(F) 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

(b) by striking all after "Act" the second place it appears and inserting ", shall be substituted for the fee schedule otherwise applicable a fee schedule based on 90 percent of the fee schedule computed under such section (without regard to this subsection) and 10 percent of the 1988 prevailing charge for such services.

(2) Adjusted Historical Payment Basis.—

Section 1848(b)(2)(D) (42 U.S.C. 1395c-5(b)(2)(D)) is amended by inserting "and (i)(v)", and (A) in clause (ii) by inserting "i", and (ii) by striking all after "Act" the second place it appears and inserting ", shall be substituted for the fee schedule otherwise applicable, a fee schedule based on 90 percent of the 1988 prevailing charge for such services.

(3) 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, the Secretary shall adjust the prevailing charge for such services furnished in a locality to the extent that the prevailing charge for such services furnished in the locality in 1988.

(b) Determination of Reasonable Charge.

(i) In General.—The reasonable charge for a service furnished in a locality shall be determined as follows:

(A) 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 practice cost index value specified in section 1842(b)(1)(C)(iv) for the locality.

(ii) 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.

(iii) 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 with respect to the conversion factors for the professional and technical components of the service computed separately.

(c) Establishment of Floor.

(1) Establishment.—If the Secretary finds that an out-of-pocket cost or co-payment required of an individual as a result of a service furnished in a locality under this subsection shall be substituted for the weighted national average the amount provided under such section.

(2) Adjustment.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(3) Limitation on Adjustments.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(d) Extension of Split Billing Rule for Services Furnished in a Locali

(e) Limitation on Adjustments.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(f) Establishment of Floor.

(1) Establishment.—If the Secretary finds that an out-of-pocket cost or co-payment required of an individual as a result of a service furnished in a locality under this subsection shall be substituted for the weighted national average the amount provided under such section.

(2) Adjustment.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(3) Limitation on Adjustments.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(g) Establishment of Floor.

(1) Establishment.—If the Secretary finds that an out-of-pocket cost or co-payment required of an individual as a result of a service furnished in a locality under this subsection shall be substituted for the weighted national average the amount provided under such section.

(2) Adjustment.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(3) Limitation on Adjustments.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(h) Establishment of Floor.

(1) Establishment.—If the Secretary finds that an out-of-pocket cost or co-payment required of an individual as a result of a service furnished in a locality under this subsection shall be substituted for the weighted national average the amount provided under such section.

(2) Adjustment.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(3) Limitation on Adjustments.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(i) Establishment of Floor.

(1) Establishment.—If the Secretary finds that an out-of-pocket cost or co-payment required of an individual as a result of a service furnished in a locality under this subsection shall be substituted for the weighted national average the amount provided under such section.

(2) Adjustment.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

(3) Limitation on Adjustments.—For purposes of determining the "fee schedule amount" under section 1848(b)(1)(B) and inserting "section 1848(b)(6), but excluding nuclear medicine services.

Sec. 411. Anesthesiology Services.

(a) Reduction in Fee Schedule.—Section 1842(q)(1) (42 U.S.C. 1395w(q)(1)) is amended—

(1) by inserting "(i)" after "having", and 

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

(i) 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, the Secretary shall adjust the prevailing charge for such services furnished in a locality to the extent that the prevailing charge for such services furnished in the locality in 1988.
"(111) For purposes of determining the national average conversion factor under subsection (a), in the Secrety of Health and Human Services shall adjust the conversion factor for each locality by the adjustment factor (specified in clause (ii)) that was determined under paragraph (1) for the professional component of such service when furnished by a hospital-based physician before the end of the calendar year during which the service is furnished.

(111) The national weighted average estimated under clause (i) shall be reduced by 4 percent.

(111) The Secretary is subject to clause (ii), the conversion factor to be applied in a locality is the sum of—

(111) 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 practice cost index value for the locality (as determined as specified in section 1842(b)(14)(C)(i)(4) for the locality. In applying this clause, 70 percent of the conversion factor shall be considered to be attributable to physician work.

(111) 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 1st.

(a) EXTENSION OF REDUCTION FOR SURVIVAL OF CONCURRENT SERVICES.—Subparagraphs (A) and (B) of section 1842(b)(13) (42 U.S.C. 1395u-b(13)) are each amended by striking "1990" and inserting "1991".

(b) ESTABLISHMENT OF FLOOR.—Section 1842(b)(13), as amended by subsection (a), is further amended by adding at the end the following:

"(i1) For purposes of determining payments for physician anesthesia services furnished under this paragraph (A) and (B) of section 1842(b)(13) (42 U.S.C. 1395u-b(13)) are each amended by striking "1990" and inserting "1991".

(c) ESTABLISHMENT OF FLOOR.—Section 1842(b)(13), as amended by subsection (a), is further amended by adding at the end the following:

"(i1) For purposes of determining payments for physician anesthesia services furnished under this paragraph (A) and (B) of section 1842(b)(13) (42 U.S.C. 1395u-b(13)) are each amended by striking "1990" and inserting "1991".

"(i) The conversion factor used under this subparagraph for services furnished in a locality during 1991 (and the adjusted historical payment basis used under section 1848(a)) may not be less than the floor established under clause (i) for the locality.

8652. PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (2), in the Secrety shall adjust the conversion factor for each pathology laboratory in the same locality. For purposes of the preceding sentence, an independent laboratory is a laboratory that is independent of a hospital or the attending or consulting physician's office.

(2) LIMITATION.—The reduction in payments for pathology services for the professional component of any pathology services furnished by a physician before the end of the calendar year during which the service is furnished in a locality during 1991 shall be the sum of—

(1) the portion of the reduction provided under clause (i), and (2) the portion of the reduction provided under clause (i) for the professional component of such service when furnished by a hospital-based physician before the end of the calendar year during which the service is furnished.

(b) REPEAL OF PATHOLOGY FEE SCHEDULE.—

(1) Subsection (c) of section 1844 (42 U.S.C. 1395w-4(c)) is amended by striking "(a) In determining the reasonable charge for the professional component of such service when furnished by a hospital-based physician, the Secrety shall—" and inserting "(a) In determining the reasonable charge for the professional component of such service when furnished by a hospital-based physician, the Secrety shall—"

(2) Section 1833(a)(1)(J) (42 U.S.C. 1395j(a)(1)(J)) is amended by striking "or physician pathology services" and by striking or section (a) and inserting "the geographic practice cost index value for the locality "

(c) REPEAL OF SECTION 4050 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.—

"(I) In determining the reasonable charge for the professional component of such service when furnished by a hospital-based physician, the Secrety shall—"

(2) SUBCLAUSE (1) OF PARAGRAPH (1) OF THE REPEALED PROVISION IS INSEAD—

"(I) In determining the reasonable charge for the professional component of such service when furnished by a hospital-based physician, the Secrety shall—"

SEC. 181. UPDATE FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991 AND CURRENT AND PREVAILING CHARGES DURING 1991.—

(1) IN GENERAL.—Section 1842(b)(4)(E) (42 U.S.C. 1395w-4(b)(4)(E)) is amended by adding at the end the following:

"(iv) In determining the reasonable charge under paragraph (3) for physicians' services (other than primary care services and anesthesia services furnished in a hospital) that are ordered by a physician before the end of the calendar year during which the service is furnished, the Secrety shall determine what portion of the charge at a level no higher than 90 and 95 percent, as appropriate, attributable to physician work.

(b) LIMITING UPDATE IN CUSTOMARY CHARGES.—Section 1842(b)(4)(B) (42 U.S.C. 1395w-4(b)(4)(B)) is amended by adding at the end the following:

"(ii) the Secrety's estimate of the per- centage increase for each succeeding fiscal year shall not exceed 16 percent of the amount made by this section.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 181. ASSISTANTS AT SURGERY.

(a) PHYSICIANS AS ASSISTANTS AT SURGERY.—Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following:

"(2) By inserting after subsection (a) the following:

"(B) IN GENERAL.—Section 1842 (42 U.S.C. 1395w-4) is amended by making the following:

"(i) For purposes of this paragraph, the term "university hospital" means a hospital that is independent of a hospital and sep- arate from the attending or consulting physi- cian's office.

(b) INCREASE DETERMINATIONS BY CARRIERS.—

(1) IN GENERAL.—Subject to subparagraph (B), the Secrety shall establish, for the purposes of determining the reasonable charges under section 1842(a), a separate for services furnished in a rural area.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) (and (b)) shall apply with respect to services furnished on or after January 1, 1991.

SEC. 184. VOLUME PERFORMANCE STANDARDS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395w-4) is amended by inserting after subparagraph (B) the following:

"(C)(i) For purposes of determining the reasonable charge for a category of physicians' services furnished by a hospital, the Secrety shall—"

(2) INCREASE DETERMINATIONS BY CARRIERS.—

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395w-4) is amended by adding after subsection (b) the following:

"(I) The Secretary shall—"
(d) in subparagraph (C)(ii), by striking “The ‘percent change’ specified in this clause, for a physician’s services specified in subparagraph (C) or (D) of such Act (42 U.S.C. 1395u(b)(4)(C)), means the percentage change for the service in table #2 in the Joint Explanatory Statement” and inserting “the ‘percent change’ specified in this clause, for a physicians’ services specified in subparagraph (C) or (D) of such Act (42 U.S.C. 1395u(b)(4)(C)), means the percentage change for the service in the list”;

and

(e) in subparagraph (C)(iv), by striking “In paragraph based on the formula described in subparagraph (A)” and inserting “In paragraph based on the formula described in subparagraph (A), the percentage change specified in this clause, for a physicians’ service specified in subparagraph (C) or (D)”;

(b) IN GEneral.—Notwithstanding section 1842(b)(13)(B) of such Act (42 U.S.C. 1395u(b)(13)(B)), the Secretary shall have the authority to establish 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 during the period from January 1, 1992 are greater or less than total payments for such services would have been but for such treatment.

(c) BUDGET NEUTRALITY.—Notwithstanding section 1842(b)(13)(B) of such Act (42 U.S.C. 1395u(b)(13)(B)), the Secretary shall provide for treatment of memorandum or separate schedule area (as described in subsection (a) in a manner that ensures that total payments for physicians’ services (as so defined) furnished by physicians during the period from January 1, 1992 are greater or less than total payments for such services would have been but for such treatment.

(d) COMPARABILITY.—Nothing in this section shall be construed to limit the availability to the Secretary, the appropriate agency, or an organization with a contract under subsection (a) of the Social Security Act (42 U.S.C. 1395u(b)(2)) of otherwise applicable administrative procedures for modifying the fee schedule area or areawide implementation of subsection (a) with respect to the State.

SEC. 6211. TECHNICAL CORRECTIONS RELATING TO PHYSICIAN PAYMENT.

(a) COMPATIBILITY AND INHERENT REASONABLENESS ADJUSTMENTS.—

(1) Section 1842(b)(13)(B) (42 U.S.C. 1395u(b)(13)(B), as added by inserting “subject to section 1842(b)(13)(B),” after “such charge will be reasonable and’.”

(2) Section 1842(b)(13)(B) is amended by adding at the end the following new subparagraph:

“‘(3) Where, in the case of evaluations and management of services provided by an entity, has so informed the physician about the services furnished or ordered by the physician, or

(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. 6212. LIMITATION ON BENEFICIARY LIABILITY.

Section 1848(i)(2)(A) (42 U.S.C. 1395u-6(i)(2)(A)) is amended by adding at the end thereof the following:

“A change in the case of evaluations and management of services (as so defined) furnished by an entity has so informed the physician about the services furnished or ordered by the physician, or

SEC. 6213. STATEWIDE FFS SCHEDULE AREAS FOR ALASKA.

(a) IN GENERAL.—Notwithstanding section 1848(i)(2) of the Social Security Act (42 U.S.C. 1395u-6(i)(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(b)(11)(B)(i)(IV)(h)(i)(V) of such Act (42 U.S.C. 1395u-6(b)(11)(B)(i)(IV)(h)(i)(V))); and

(2) the fee schedule amount (as so defined in section 1848(b) of such Act (42 U.S.C. 1395u-6(b)));

for physicians’ services (as so defined in section 1848(b)(3) of such Act (42 U.S.C. 1395u-6(b)(3))) furnished on or after January 1, 1992.

(b) REQUIREMENTS.—The requirements specified in this subsection are that on or before April 1, 1991, the Secretary of Health and Human Services (Secretary) shall treat the State as a single fee schedule area (a budget-neutral basis) for purposes of determining—

(1) each member of the congressional delegation from the State, and

(2) the associations representing urban and rural physicians in the State.
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 (I)— (I) by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "the services involved"; and (II) by striking "all such physicians'" and inserting "such category of physicians'"; and (iv) in the last sentence by striking "proportion of Individuals who are enrolled for the services involved" after "section 1842(b)(3)"; (B)(G) in subsection (f)(1)— (i) in subparagraph (A), by striking "each "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category"; (ii) in clause (I), by inserting "more than" after "decreased payments for"; and (III) in subsection (j)(1), by striking "more than"; (G) in subsection (f)(1)— (i) in clause (I), by striking "services for"; and (II) by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category"; (ii) in subsection (j)(1)(A), by striking "each category" and inserting "each category and group"; (iii) in subparagraph (C) by striking "all physicians' services and for"; and (iv) in subparagraph (D)(i) by striking "calendar year" and inserting "portions of calendar year"; (H) in subsection (f)(1)— (i) in the matter preceding clause (I)— (1) 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 (j)(2)(A)(I) and (II) by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category"; (iv) in subsection (j)(2)(A)(II) by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category"; (v) in subsection (j)(4)— (I) in subparagraph (A)— (1) by striking "paragraph (B)" and inserting "paragraph (B)"; and (II) by striking "after" and all that follows through "January 1, 1989"; and (vi) in subparagraph (B) by striking "congress specifically approves the plan" and inserting "specifically approved by law"; (vii) in subparagraphs (A) and (B) of subsection (g)(1), by inserting "other than radiologist services subject to section 1834(b), subsection (c), subparagraph (I) and (J), and after "during 1992, respectively": (X) in subsection (N)(1)(A) by striking "historical payment basis (as defined in subsection (f)(5)(A))", and inserting "adjusted historical payment basis (as defined in subsection (a)(2)(D)(II)") and "and other physician billings", and (Y) in subsection (O)(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)." (C) Effective as if included in the Omnibus Budget Reconciliation Act of 1988, section 1842(b)(3)(G) is amended by striking "rate determined after" before "prevailing wage.

(S) Effective January 1, 1991, section 1842(b)(3)(G) is amended by striking "subsection (f)(5)(A)" and inserting "section 1848(g)(2)".

(C) Section 1842(b)(12)(A)(III)(I) is amended by striking ", as the case may be"; (D) Section 1833(a)(11)(A) is amended by striking ", as the case may be"; (E) Section 1833 of the Omnibus Budget Reconciliation Act of 1988 is amended by inserting "of Health and Human Services after "Secretary." (F) 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.

(F) In section 4049(b)(1) of such Act a provision is added by striking "and" and shall report" and all that follows up to the period at the end.

(G) Section 4058(1)(I) of such Act, as redesignated by section 411(f)(16) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

(H) Section 4058(b)(12) of such Act is amended by striking "March 1, 1989"; and (I) by striking "April 1, 1989." (G) In section 4059(b)(1) of such Act is amended by striking "January 1, 1989" and inserting "April 1, 1989."

(H) In section 4059(b)(2) of such Act is amended by striking "January 1, 1989," and inserting "April 1, 1989."
porting periods during the period beginning
and inserting the following:

"(1834(a) (42 U.S.C. 1395m(a)(9)) is amended—
(A) in subparagraph (c)(i) 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)(i) for 1992; and
(iii) in 1993 and each subsequent year is
the national limited payment amount for
the item or device computed under subpara-
graph (C)(i) 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—

(ii) for each item specified in sub-
paragraph (B)(i) for 1990 increased by the
covered item increase for 1991, and
(iii) for 1992, the amount determined
under this clause for the preceding year is
increased by the covered item increase for
1991; and
(iv) in 1993 and each subsequent year is
the national limited payment amount for
such item and, for all subsequent years,
the amount determined under this clause
for the preceding year increased by the
covered item increase for such subsequent
year.

(ii) for 1991, the local payment amount
determined under clause (i) for such item or
device for that year, except that such
national limited payment amount may not exceed 100 percent of the national
limited payment amount for the item or
device computed under subparagraph
(C)(i) for 1991, and
(iii) for each subsequent year is
the national limited payment amount
for the item or device computed under sub-
paragraph (C)(i) for that year.

(iii) in 1991, equal to the local purchase
price computed under this clause for the
preceding year increased by the covered item
increase for 1991, and decreased by the per-
centage by which the average of the pur-
chase prices on claim submitted for all
items described in paragraph (6) exceeds
110 percent of the average of the reasonable
charges on claims paid for the items during
the 6-month period ending with December
1988; or,

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

"(D) by striking "capital-related" and in-
serting °subclauses (I) and (II)”, and
(B) by striking "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)(2)(B) (42 U.S.C. 1395h(2)(B)) is amended—
(1) by striking "and" at the end of sub-
clause (I); and

(2) by adding at the end of paragraph:

"(iv) in clause (iii)—

(4) DEFINITION.—Section 1834(a)(42 U.S.C.
1395m(a)(4)) is amended—

(b) by striking "subparagraph (B)(i) and
inserting "national limited monthly pay-
ment rate" each place it appears and inserting
"national limited monthly payment rate".

(iv) in clause (iii), by striking "50" and
inserting "67" and "subparagraph
(B)(i)"; and

(v) in clause (iv), by striking "25" and inserting "33".

EXCEPTED MEDICAL EQUIPMENT AND ITEMS
REQUIRING NATIONAL LIMITED RENTAL AMOUNTS.—
Section 1834(a)(42 U.S.C. 1395m(a)(12)) is
amended—
(A) by striking "and" at the end of sub-
clause (I); and

(B) by adding at the end the following new

subparagraph:

"(D) by striking subparagraph (D).

(5) CONFORMING AMENDMENT.—Section
1834(a)(121) (42 U.S.C. 1395m(a)(121)) is
amended by striking "as defined for purposes of paragraphs (B)(i) and (B)(ii)".

(6) LIMITATION ON MONTHLY RECOGNIZED
RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—
Section 1834(a)(111) (42 U.S.C.
1395m(a)(111)) is amended—

(A) by striking "subparagraph (B)(ii)
and inserting "subparagraph
(B)(i)"; and

(B) by striking subparagraph (D).

(7) OXYGEN AND OXYGEN EQUIPMENT.—Sec-
tion 1834(a)(42 U.S.C. 1395m(a)(9)) is
amended—
(A) in subsection (a)(1), by striking "the
percentage increase" and all that fol-
lows through the period and inserting "the
covered item increase for the year.

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

"(B) COMPUTATION OF NATIONAL LIMITED
MONTHLY PAYMENT RATE.—With respect to the

filing of an item in a year, the Secre-

tary shall compute a national limited
monthly payment rate equal to—

(i) for 1991, the local monthly payment
rate computed under subparagraph
(A)(III) for the item, except that such
national limited payment rate may not exceed 100 percent of the weighted
average of all local monthly pay-
ment 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.

(8) DURABLE MEDICAL EQUIPMENT.—Sec-
tion 1834(a)(9) (42 U.S.C.
1395m(a)(9)) is amended—
(A) in subsection (a)(2), by striking "as defined for purposes of paragraphs
(B)(i) and (B)(ii)".

(9) CLINICAL LABORATORY SERVICES.—Sec-
tion 1833(h)(3)(B) (42 U.S.C.
1395h(3)(B)) is amended—
(1) by striking "subparagraph (I)" and
inserting °subparagraphs (I) and (II)”, and
(B) by adding at the end the following new

subparagraph:

"(III) the local payment amount for an item or device for a year is equal to—

(i) for 1991, the local payment amount
determined under this clause for the pre-
ceding year increased by the covered item
increase for such subsequent year.

(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.

(iii) in 1991, equal to the local purchase
price computed under this clause for the
preceding year increased by the covered item
increase for 1991, and decreased by the per-
centage by which the average of the pur-
chase prices on claim submitted for all
items described in paragraph (6) exceeds
110 percent of the average of the reasonable
charges on claims paid for the items during
the 6-month period ending with December
1988; or,

(iv) by adding at the end the following new

subparagraph:

"(D) by striking subparagraph (D).

(10) OTHER COVERED ITEMS.—Section
1834(a)(9) (42 U.S.C.
1395m(a)(9)) is amended—
(A) in subsection (a)(2), by striking "as defined for purposes of paragraphs
(B)(i) and (B)(ii)".

(11) DURABLE MEDICAL EQUIPMENT.—Sec-
tion 1834(a)(9) (42 U.S.C.
1395m(a)(9)) is amended—
(A) in subsection (a)(2), by striking "as defined for purposes of paragraphs
(B)(i) and (B)(ii)".

(12) CLINICAL LABORATORY SERVICES.—Sec-
tion 1833(h)(3)(B) (42 U.S.C.
1395h(3)(B)) is amended—
(1) by striking "subparagraph (I)" and
inserting °subparagraphs (I) and (II)”, and
(B) by adding at the end the following new

subparagraph:

"(III) the local payment amount for an item or device for a year is equal to—

(i) for 1991, the local payment amount
determined under this clause for the pre-
ceding year increased by the covered item
increase for such subsequent year.

(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.

(iii) in 1991, equal to the local purchase
price computed under this clause for the
preceding year increased by the covered item
increase for 1991, and decreased by the per-
centage by which the average of the pur-
chase prices on claim submitted for all
items described in paragraph (6) exceeds
110 percent of the average of the reasonable
charges on claims paid for the items during
the 6-month period ending with December
1988; or,

(iv) by adding at the end the following new

subparagraph:

"(D) by striking subparagraph (D).

(13) OXYGEN AND OXYGEN EQUIPMENT.—Sec-
ction 1834(a)(42 U.S.C. 1395m(a)(9)) is
amended—
(A) in subsection (a)(1), by striking "the
percentage increase" and all that fol-
lows through the period and inserting "the
covered item increase for the year.

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

"(B) COMPUTATION OF NATIONAL LIMITED
MONTHLY PAYMENT RATE.—With respect to the

filing of an item in a year, the Secre-

tary shall compute a national limited
monthly payment rate equal to—

(i) for 1991, the local monthly payment
rate computed under subparagraph
(A)(III) for the item, except that such
national limited payment rate may not exceed 100 percent of the weighted
average of all local monthly pay-
ment 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.

(14) COVERED ITEM INCREASE.—In this sub-
section, the term "covered item increase
" is amended by striking "the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending in June of the preceding year.

(15) CONFORMING AMENDMENT.—Section
1834(a)(121) (42 U.S.C. 1395m(a)(121)) is
amended by striking "as defined for purposes of paragraphs (B)(i) and (B)(ii)".

(16) LIMITATION ON MONTHLY RECOGNIZED
RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—
Section 1834(a)(111) (42 U.S.C.
1395m(a)(111)) is amended—
(1) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and
(2) by deleting 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) Exclusive Payment Rule.—This subsection shall constitute the exclusive provision relating to durable medical equipment—

(1) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and
(2) by deleting the semicolon at the end and inserting the following: "and for each of the remaining months of such period is 7.5 percent of such purchase price.

(2) The amendments made by subsection (a) shall apply to prosthetic devices, orthotics, and prosthetics in the same manner as such provisions apply to covered items under such subsection.

(d) By striking subparagraph (A) and inserting the following:

"(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)(8), except that such term does not include parenteral and enteral nutrition nutrients, supplies, and equipment; and

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

"(3) prosthesis devices and orthotics and prosthetics (as described in section 1834(h)(4)) furnished by a provider of services or by others under arrangements with them made by a Medicare beneficiary, and the amounts paid shall be the amounts described in section 1834(h)(1), and ("N")

(3) by inserting "and" at the end of paragraph (5); and

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

"(6) by striking "or prosthetic and orthotic devices and prosthetics described in subsection 1834(h)(4) furnished by a provider of services or by others under arrangements with them made by a Medicare beneficiary, and the amounts paid shall be the amounts described in section 1834(h)(1), and ("N")

Sec. 411. Orthotics and Prosthetics.
(a) Maintaining Current Payment Methodology.—Section 1834 (42 U.S.C. 1395m) is amended—

(1) by striking "(b)" and (C) and inserting "(B), (C), and (E)"; and

(2) 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 section 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) Exception.—Except as provided in subparagraph (C), the payment basis described in this subparagraph is the lesser of—

(i)(I) the actual charge for the item; or

(ii) the amount recognized under paragraph (2) as the purchase price for the item.

(2) 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 the item is—

(A) the regional purchase price for prosthetic devices, orthotics, and prosthetics (described in paragraph (h)) for 1991, 0 percent, and

(B) 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.

(3) Exception.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

(A) in 1991, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase price recognized under such subparagraph for all the carrier service areas in the United States in that year,

(B) in a subsequent year, may not exceed 120 percent, and may not be lower than 90 percent, of the average of the purchase price recognized under such subparagraph for all the carrier service areas in the United States in that year,

(C) by inserting "and the amounts described in section 1834(h)(1), and ("N")" after ("O") and

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

"(6) by striking "or prosthetic and orthotic devices and prosthetics described in subsection 1834(h)(4) furnished by a provider of services or by others under arrangements with them made by a Medicare beneficiary, and the amounts paid shall be the amounts described in section 1834(h)(1), and ("N")

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

"(7) by striking "or prosthetic devices and orthotics and prosthetics described in subsection 1834(h)(4) furnished by a provider of services or by others under arrangements with them made by a Medicare beneficiary, and the amounts paid shall be the amounts described in section 1834(h)(1), and ("N")

(4) by striking (A) and inserting the following:

"(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.

(5) by striking subparagraph (A) and inserting the following:

"(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.

(6) by striking subparagraph (A) and inserting the following:

"(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.

(7) by striking subparagraph (A) and inserting the following:

"(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.

(8) by striking subparagraph (A) and inserting the following:

"(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.

(9) by striking subparagraph (A) and inserting the following:

"(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.
nished by a home health agency under section 1862(a)(21)."

(11) *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 (other than eyeglasses described in section 1861(g)) with respect to partial hospitalization services provided on or after April 1, 1991."


(B) *by inserting "and" at the end of subparagraph (B); and

(C) by adding the following new subparagraph:

"""In the case of a marriage and family therapist (as defined in paragraph (3)) on-site at a community mental health center (as defined in subsection (l)), and such services that are necessarily furnished off-site (other than at an off-site office of such therapist, nurse, or agency) with respect to the furnishing of services furnished in a home health agency under section 1861(s)(1)(A) for an individual on or after January 1, 1991, by a certified registered nurse anesthetist who is not medically qualified to perform a similar professional title; or"

(14) *In the case of a marriage and family therapist, such individual shall be deemed to be a registered nurse, as defined in section 1861(s)(1)(A) of the Social Security Act, following cataract surgery with respect to the furnishing of partial hospitalization services (as described in section 1861(i)(2)(B)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or through the operation of paragraph (9), or through the furnishing of outpatient occupational therapy services; and"

(15) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(16) *Effective Date.—The amendments made by this subsection shall apply with respect to partial hospitalization services provided on or after January 1, 1991.


(A) by striking "and" at the end of subparagraph (B); and

(B) by adding the following new subparagraph:

"(D) The term 'qualified mental health professional services' means such services and such supplies and services furnished as an incident to services furnished by a marriage and family therapist (as defined in paragraph (1)), or a psychiatric nurse (as defined in paragraph (2)), or a licensed practical nurse (as defined in paragraph (3)); and

(C) by adding the following new subparagraph:

"""The term 'qualified mental health professional services' means such services and such supplies and services furnished as an incident to services furnished by a marriage and family therapist (as defined in paragraph (1)), or a psychiatric nurse (as defined in paragraph (2)), or a licensed practical nurse (as defined in paragraph (3)); and

(D) for services furnished on or after January 1, 1991, by a registered nurse anesthetist who is not medically qualified to perform a similar professional title; or"

(18) *In the case of a marriage and family therapist, such individual shall be deemed to be a registered nurse, as defined in section 1861(s)(1)(A) of the Social Security Act, following cataract surgery with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(19) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or through the operation of paragraph (9), or through the furnishing of outpatient occupational therapy services; and"

(20) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(21) *Effective Date.—The amendments made by this subsection shall apply with respect to partial hospitalization services provided on or after January 1, 1991.


(A) by inserting "and" at the end of subparagraph (B); and

(B) by adding the following new subparagraph:

"(C) for services furnished on or after January 1, 1991, by a registered nurse anesthetist who is not medically qualified to perform a similar professional title; or"

(23) *In the case of a marriage and family therapist, such individual shall be deemed to be a registered nurse, as defined in section 1861(s)(1)(A) of the Social Security Act, following cataract surgery with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(24) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or through the operation of paragraph (9), or through the furnishing of outpatient occupational therapy services; and"

(25) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(26) *Effective Date.—The amendments made by this subsection shall apply with respect to partial hospitalization services provided on or after January 1, 1991.


(A) by inserting "and" at the end of subparagraph (B); and

(B) by adding the following new subparagraph:

"(D) The term 'qualified mental health professional services' means such services and such supplies and supplies furnished as an incident to services furnished by a marriage and family therapist (as defined in paragraph (1)), or a psychiatric nurse (as defined in paragraph (2)), or a licensed practical nurse (as defined in paragraph (3)); and

(C) by adding the following new subparagraph:

"""The term 'qualified mental health professional services' means such services and such supplies and supplies furnished as an incident to services furnished by a marriage and family therapist (as defined in paragraph (1)), or a psychiatric nurse (as defined in paragraph (2)), or a licensed practical nurse (as defined in paragraph (3)); and

(D) for services furnished on or after January 1, 1991, by a registered nurse anesthetist who is not medically qualified to perform a similar professional title; or"

(28) *In the case of a marriage and family therapist, such individual shall be deemed to be a registered nurse, as defined in section 1861(s)(1)(A) of the Social Security Act, following cataract surgery with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(29) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or through the operation of paragraph (9), or through the furnishing of outpatient occupational therapy services; and"

(30) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(31) *Effective Date.—The amendments made by this subsection shall apply with respect to partial hospitalization services provided on or after January 1, 1991.


(A) by inserting "and" at the end of subparagraph (B); and

(B) by adding the following new subparagraph:

"(C) for services furnished on or after January 1, 1991, by a registered nurse anesthetist who is not medically qualified to perform a similar professional title; or"

(33) *In the case of a marriage and family therapist, such individual shall be deemed to be a registered nurse, as defined in section 1861(s)(1)(A) of the Social Security Act, following cataract surgery with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(34) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or through the operation of paragraph (9), or through the furnishing of outpatient occupational therapy services; and"

(35) *"Community mental health center" (as defined in section 1861(f)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(g));

(36) *Effective Date.—The amendments made by this subsection shall apply with respect to partial hospitalization services provided on or after January 1, 1991.
mended under section 1848(d)(1)(D) for physician anesthesia services for that year;

(2) In the case of services furnished after 1991, the geographic work index value and the geographic practice cost index value used for determining the amount paid for 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 1991 and thereafter being the same as is applied under section 1848).

(III) Except as provided in clause (ii) and subparagraphs (B) and (C), the amount paid under the fee schedule for services furnished on or after January 1, 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, a occupational therapist, or a physical therapist, shall be the greater of—

(a) the fee schedule amount determined by the Secretary for services provided by a physician assistant, nurse practitioner, or certified registered nurse anesthetist;

(b) the amount determined under section 1848(d)(3) for physician anesthesia services for that year for services furnished in the area or locality for which payments are made under section 1848 for services furnished in 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist, or

(c) the amount determined under section 1848(d)(3) for physician anesthesia services for that year for services furnished in the area or locality for which payments are made under section 1848 for services furnished in 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist.

(iv) 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 the amount paid for anesthesia 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 1991 and thereafter being the same as is applied under section 1848).

(v) Except as provided in clause (iv) and subparagraphs (B) and (C), the amount paid under the fee schedule for services furnished on or after January 1, 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist, shall be the greater of—

(a) the fee schedule amount determined by the Secretary for services provided by a physician assistant, nurse practitioner, or certified registered nurse anesthetist;

(b) the amount determined under section 1848(d)(3) for physician anesthesia services for that year for services furnished in the area or locality for which payments are made under section 1848 for services furnished in 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist, or

(c) the amount determined under section 1848(d)(3) for physician anesthesia services for that year for services furnished in the area or locality for which payments are made under section 1848 for services furnished in 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist.

(6) 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 the amount paid for anesthesia 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 1991 and thereafter being the same as is applied under section 1848).

(7) Except as provided in clause (vi) and subparagraphs (B) and (C), the amount paid under the fee schedule for services furnished on or after January 1, 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist, shall be the greater of—

(a) the fee schedule amount determined by the Secretary for services provided by a physician assistant, nurse practitioner, or certified registered nurse anesthetist;

(b) the amount determined under section 1848(d)(3) for physician anesthesia services for that year for services furnished in the area or locality for which payments are made under section 1848 for services furnished in 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist, or

(c) the amount determined under section 1848(d)(3) for physician anesthesia services for that year for services furnished in the area or locality for which payments are made under section 1848 for services furnished in 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist.

(8) 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 the amount paid for anesthesia 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 1991 and thereafter being the same as is applied under section 1848).

(9) Except as provided in clause (vii) and subparagraphs (B) and (C), the amount paid under the fee schedule for services furnished on or after January 1, 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist, shall be the greater of—

(a) the fee schedule amount determined by the Secretary for services provided by a physician assistant, nurse practitioner, or certified registered nurse anesthetist;

(b) the amount determined under section 1848(d)(3) for physician anesthesia services for that year for services furnished in the area or locality for which payments are made under section 1848 for services furnished in 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist, or

(c) the amount determined under section 1848(d)(3) for physician anesthesia services for that year for services furnished in the area or locality for which payments are made under section 1848 for services furnished in 1991, by a certificated registered nurse anesthetist, a nurse-midwife, a certified nurse-midwife, a psychologist, a speech-language pathologist, an occupational therapist, or a physical therapist.
for a 60-day comment period on the notice outside a metropolitan statistical area (as defined in the Professional Nurses Association). Nurse practitioner or clinical nurse specialist services, including facility characteristics, such as age, diagnosis, case mix, and pediatric services, are included as a dialysis facility in an amount specified by the Secretary of the Treasury, in the annual report. The Secretary shall consider comments made by the Commission in making such recommendations. The report shall be made only on an assignment-related basis.

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. 456. END STAGE RENAL DISEASE SERVICES.

(a) MAINTENANCE OF CURRENT RATES THROUGH 1992—Section 1881(a)(1) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 6203(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended—

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

(1)(B) by adding "and" at the end of subparagraph (B).

(2) by adding "and" at the end of subparagraph (B); and

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

"(iv) nurse practitioner or clinical nurse specialist services;".

(b) SERVICES DEFINED.—Section 1881 (42 U.S.C. 1395z-2) is amended by inserting after subparagraph (a) the following new subparagraph:

"NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES

"(1) The term 'nurse practitioner or clinical nurse specialist services' means professional services provided by a nurse practitioner or clinical nurse specialist (as defined in subparagraph (2)) in a rural area (as defined in paragraph (1)) that are not included in other services provided by a provider of services.

"(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) holds a master's degree in nursing or a related field from an accredited educational institution, or

(C) is certified as a nurse practitioner or clinical nurse specialist by a duly recognized professional association.

"(3) The term 'rural area' means any area outside the metropolitan statistical area (as defined by the Office of Management and Budget).

"(c) DIRECT PAYMENT FOR SERVICES—Section 1881(a)(2) of 42 U.S.C. 1395z-2(b) is amended—

(1) by striking "and" at the end of clause (i); and

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

"(iv) nurse practitioner or clinical nurse specialist services;"

"(d) ADJUSTMENT FOR RURAL NURSING INCENTIVES—Section 1881(a)(11) of 42 U.S.C. 1395z-2(a) is amended—

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

(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 nurse specialist services under section 1881(a)(11)(P), the amount determined under paragraph (1) shall be an amount equal to 100 percent of the prevailing charge for, in the case of services furnished after 1991, the amount determined under section 1881(a)(11)(P) in an 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.
(III) by adding at the end the following new clause:—

"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 facility described in section (h) shall be determined in the same manner as the amount payable to a renal dialysis facility for such item."

EFFECIVE DATE.—The amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 1991.

SEC. 15914. STAFF-ASSISTED HOME DIALYSIS.

In General.—Section 1881(b)(2)(F) (42 U.S.C. 1395rr(h)(2)(F)) is amended by striking "self-care" and all that follows through "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) by redesignating subparagraphs (A), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(B) by inserting "(A)" after "paragraph" in clause (i); and

(C) in paragraph (i)—

(i) by inserting "(A)" after "paragraph" in clause (i); and

(ii) by amending clause (iv) to read as follows—

"(iv) the services of a trained 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)."

(2) Establishing Payment Rate.—Section 1881(b)(2)(F) of such Act (42 U.S.C. 1395rr(h)(2)(F)) is amended—

(A) by redesignating subparagraphs (A), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(B) by inserting "(A)" after "paragraph" in clause (i); and

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

"(B) The Secretary shall provide by regulation for the determining prospectively the amount of payment to be made for home hemodialysis staff assistance furnished to a provider of services or a renal dialysis facility with respect to a maintenance dialysis episode."

(3) Amount of payment determined with respect to a renal dialysis facility.—(a) In general.—The amount determined under subparagraph (A) on the basis of a rate based on a single composite rate determined for each category of services furnished under section 1881(b)(7) (as described in such subparagraph referred to as the "composite rate") shall be determined by subtracting—

"(i) the national median hourly wage for the 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).

(iv) For purposes of clause (vi):—

(II) the national median hourly wage for a home hemodialysis staff assistant shall be the sum of the national median hourly wage for a licensed practical nurse and 35 percent of the national median hourly wage for a registered nurse.

The Secretary may make payments to such provider for services furnished by a provider of services or a renal dialysis facility, 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.

(III) by adding at the following new subsection:

"(h)(1) For purposes of this title, the term 'home hemodialysis staff assistance' means assistance, furnished 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, with respect to a maintenance dialysis episode, in providing—

(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 patient's safety and health;

(C) for purposes of this title, an 'eligible patient' means those individuals who—

(i) a physician certifies as being confined to a bed or wheelchair and who cannot transfer themselves from a bed to a chair, or the national median average time expended for home hemodialysis staff assistant services shall be determined on a nationwide basis or at specific sites.

The demonstration project established under subparagraph (A) may not exceed 550 during any month, except that such services were furnished under the project.

(E) 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.

(F) Any individual participating in the demonstration project under subparagraph (A) shall be eligible for home hemodialysis staff assistance, the demonstration project under subparagraph (A) shall terminate as of December 31, 1993.

(2) Extension of Transfer of Data.—Section 1881(b)(5)(C)(i) of such Act (42 U.S.C. 1395rr(b)(5)(C)(i)) is amended—

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

(B) in clause (ii), by striking "1993" and inserting "1995".

(3) Extension of Transfer of Data.—Section 1881(b)(5)(C)(ii) of such Act (42 U.S.C. 1395rr(b)(5)(C)(ii)) is amended—

(A) by striking "30, 1995" and inserting "30, 1995"; and

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

(4) Extension of Transfer of Data.—Section 1881(b)(5)(C)(iii) of such Act (42 U.S.C. 1395rr(b)(5)(C)(iii)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".
(b) EXTENSION OF APPLICATION TO DISABLED Beneficiaries.—Section 1862(b)(1)(B)(i) of 42 U.S.C. 1395y(b)(1)(B)(i) is amended to read as follows:

"(B) The Comptroller General shall submit a proposal to the Secretary of Health and Human Services (in this section referred to as the "Secretary") for a new payment methodology that meets the requirements of paragraph (1), effective for contract years beginning on or after January 1, 1993, and a final report not later than January 1, 1995."

(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.

(d) TEMPORARY EXTENSION OF PROVISIONS.—

(1) IN GENERAL.—Section 1862(b)(1)(C) of 42 U.S.C. 1395y(b)(1)(C) is amended to read as follows:

"(1) The amendments made by subsection (d) shall be effective—

(ii) on January 1, 1993, with respect to individuals covered by group health plans and to or sponsored by employers with 100 or more employees; and

(iii) on January 1, 1994, with respect to all other individuals."
(2) DURATION OF WAIVER.—A waiver under this subsection shall expire 2 years after the date of enactment of this Act. (3) The study shall be based on contracts specified in such notice, and shall end 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 subsection, such period may not exceed 90 days.

(2) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to contracts beginning on or after January 1, 1993, and the amendments made by paragraph (3) shall take effect on the date of the enactment of this Act.

(1) Waiver of Certain HMO Requirements.—(A) In general.—With respect to managed care organizations, 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 all financial risk for provision of hospital and physician services for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f) of the Social Security Act) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The organization provides the Secretary with descriptive information regarding the plan to which the Secretary must determine whether the plan is in compliance with the requirements of this subparagraph.

(2) 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.

(3) Repeal of Provision.—Section 1128A(b)(1)(A) (42 U.S.C. 1395mmi(a)/1(A)(1)) is amended—

(a) by striking "(A)" after "subparagraph (B),";

(b) by redesignating subparagraph (C) as subparagraph (A), and

(c) by inserting at the end thereof "(B)", and

(d) by inserting at the end thereof "(B)", and

(e) by inserting "(A)" after "(1)".

(2) Waiver of Certain HMO Requirements.—(A) In general.—Section 1877(f)(1) (42 U.S.C. 1395mmi(a)/1(1)) is amended—

(i) by striking "(B)" and inserting "(C)", and

(ii) by inserting at the end thereof "(D)".

(3) Authority.—The amendments made by paragraphs (1) and (2) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The study shall be based on contracts specified in such notice, and shall end 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 subsection, such period may not exceed 90 days.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The amendments made by paragraphs (1) and (2) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The study shall be based on contracts specified in such notice, and shall end 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 subsection, such period may not exceed 90 days.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The amendments made by paragraphs (1) and (2) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The study shall be based on contracts specified in such notice, and shall end 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 subsection, such period may not exceed 90 days.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The amendments made by paragraphs (1) and (2) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The study shall be based on contracts specified in such notice, and shall end 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 subsection, such period may not exceed 90 days.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The amendments made by paragraphs (1) and (2) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The study shall be based on contracts specified in such notice, and shall end 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 subsection, such period may not exceed 90 days.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The amendments made by paragraphs (1) and (2) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.

(1) The study shall be based on contracts specified in such notice, and shall end 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 subsection, such period may not exceed 90 days.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to contracts beginning on or after January 1, 1993, and the provisions of such contracts shall be considered for purposes of meeting the risk contracting requirement that at least one-half of the enrollees of an eligible organization (as defined in section 1877(f)(1) (of the Social Security Act)) must be covered by such organization until such time as the Secretary finds that such organization has an internal quality assurance program that addresses issues of underutilization.
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later than January 1, 1993. The report shall include information on the impact of the provisions with respect to any legislative and regulatory changes that the Secretary determines are necessary to ensure access to such services.

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SPECIAL REVIEW CONSIDERATION

(a) STANDARDS FOR IMPOSING SANCTIONS.—Section 1156(b)(1) (42 U.S.C. 1320c-6(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 submitted the 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 acting thereunder" after "practitioner"; and

(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 PODIATRIC MEDICINE.—Section 1154 (42 U.S.C. 1320c-3) is amended—

(1) in subsection (a)(7)(A) 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 contracts entered into 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.

SEC. 4155. 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); and

(B) by striking the period at the end of paragraph (4) and inserting "; and";

(3) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of subsection (a) and (2); and

(3) adding at the end the following new subsections:

(3) The requirements of this subsection are as follows:

(1) Each medicare supplemental policy shall provide for coverage of a group of benefits such as other than the core group of basic benefits identified under this subparagraph (3) shall be covered under the policy, all of 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 included in the policies under paragraph (2). If the issuer of the policy, under policies under this subparagraph (3), the average ratio of benefits provided to premiums collected for the most recent 3-year period in which the policy is in effect, or, in the case of policies in effect for less than 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 issuer shall disclose to any potential buyer the premium and the maximum payout of the benefit.

(b)(1) Each medicare supplemental policy shall be guaranteed renewable.

(b)(2) 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 of the group medicare supplemental policy which (at the option of the certificateholder)—

(1) provides for continuation of the benefits contained in the group policy, or

(2) provides for continuation of the benefits contained in the group policy, or

(3) provides for continuation of the benefits contained in the group policy, or

(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 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

(iv) 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

(3) The limitations on benefits under this subsection shall, to the extent possible—

(1) provide for benefits that offer consumers the ability to purchase the benefits available in the market on the date of the enactment of this subsection, and

(2) balance the objectives of (i) simplifying the market to facilitate direct comparison of benefits and prices among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, and (iv) promoting market stability.

(4) The transitional requirements of this subsection 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.
"(6)(A) Except as provided in subparagraph (B), this subsection shall not be construed to require a State to restrict under subparagraph (A) the offering of a Medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B).

(B) A State with a regulatory program applicable to Medicare supplemental policies may restrict under subparagraph (A) the offering of a Medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B), if such restriction is consistent with the requirements of section 1882(d)(5) as amended by subsection (a), is further amended

(2) in subsection (c), by amending paragraph (1)(B) to read as follows:

"(2) meets the requirements of subsection (q)(1);

(3) by striking the sentence following subsection (q)(1); and

(4) 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 may be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of 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 received necessary to assure that the ratio of aggregate benefits provided to the aggregate premiums collected will be on average at least 85 percent 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 for the policy, in accordance with paragraph (4) and the amount of premiums received necessary to assure that the ratio of aggregate benefits provided to the aggregate premiums collected will be on average at least 85 percent in the case of group policies and at least 65 percent in the case of individual policies; and

(2) in effecting the policy a State must follow the rule of paragraph (1) in effecting the policy.

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.

(3)(A) Paragraph (1)(B) shall be applied with respect to each type of policy by policy number. Paragraph (1)(B) shall not apply to any policy to which in effect it is in effect. The Comptroller General, in consultation with the National Association of Insurance Commissioners, shall make 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 such 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 refund at a rate as specified by the Secretary for this purpose from time to time which is not less than the market 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.

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)(A).
and shall report the results of such audits to the State involved and to the Secretary—

(4)_monitoring by State—Section 1882(b)(1)(C) (42 U.S.C. 1395ss(b)(1)(C)) is amended by inserting 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), the network offers sufficient access to such items and services furnished through a network of entities which have entered into contracts with the issuer and into amendment 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 enrollees 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;"

(5) 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)(D) (42 U.S.C. 1395ss(b)(1)(D)) 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 paragraph:

"(F) provides for a process for approving or disapproving proposed premium increases with respect to such policies, and if the process is held, holds such hearings prior to approval of a premium increase;"

(f) MEDICARE SELECT POLICIES—Section 1882 (42 U.S.C. 1395ss) as amended by subsection (d), is further amended by adding at the end the following:

"(3) in subsection (b)(1), by striking the matter following subparagraph (I) and inserting the following:

"(F) in subsection (b)(1), by striking "(except as otherwise provided by subsection (r))" before the matter following subparagraph (I);"

(f) 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:

"(I) cause to be prominently displayed in such amounts as the Secretary may determine, taking into account estimated savings or increased costs, and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(D), and paragraph (3)(E) of section 1882(b) shall apply to the entity.

(2) The first sentence of section 1154(a)(14)(B) (42 U.S.C. 1320e-3(a)(14)(B)) is amended by inserting "(or for subject to review under section 1821(e))" after "section 1876;"

(2) by inserting the following before the period the following: "nor any such policy or plan under a contract with an entity whose policy has been amended by adding at the end the following:

"(G) in the case of 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;"

(1) by inserting "and" at the end of paragraph (B), by striking the following: "(B) by striking "and" at the end of subparagraph (I) and inserting the following:

"(B) in subsection (b)(1), by adding at the end thereof the following:

"(F) provides for a process for approving and disapproving proposed premium increases with respect to such policies, and if the process is held, holds such hearings prior to approval of a premium increase;"

(f) MEDICARE SELECT POLICIES—Section 1882 (42 U.S.C. 1395ss) as amended by subsection (d), is further amended by adding at the end thereof the following paragraph:

"(F) in subsection (b)(1), by striking the following: "(except as otherwise provided by subsection (r))" before the paragraph (E) and inserting the following:

"(E) in the case of a policy that 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;"

(f) ADOPTION OF NEW STANDARDS—Section 1882 (42 U.S.C. 1395ss), as amended by subsection (f), is further amended by adding at the end thereof the following:

"(I) cause to be prominently displayed in such amounts as the Secretary may determine, taking into account estimated savings or increased costs, and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(D), and paragraph (3)(E) of section 1882(b) shall apply to the entity.

(2) The first sentence of section 1154(a)(14)(B) (42 U.S.C. 1320e-3(a)(14)(B)) is amended by inserting "(or for subject to review under section 1821(e))" after "section 1876;"

(2) by inserting the following before the period the following: "nor any such policy or plan under a contract with an entity whose policy has been amended by adding at the end the following:

"(G) in the case of 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;"

(f) ADOPTION OF NEW STANDARDS—Section 1882 (42 U.S.C. 1395ss), as amended by subsection (f), is further amended by adding at the end thereof the following:

"(I) cause to be prominently displayed in such amounts as the Secretary may determine, taking into account estimated savings or increased costs, and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(D), and paragraph (3)(E) of section 1882(b) shall apply to the entity.

(2) The first sentence of section 1154(a)(14)(B) (42 U.S.C. 1320e-3(a)(14)(B)) is amended by inserting "(or for subject to review under section 1821(e))" after "section 1876;"

(2) by inserting the following before the period the following: "nor any such policy or plan under a contract with an entity whose policy has been amended by adding at the end the following:

"(G) in the case of 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;"

(f) ADOPTION OF NEW STANDARDS—Section 1882 (42 U.S.C. 1395ss), as amended by subsection (f), is further amended by adding at the end thereof the following:

"(I) cause to be prominently displayed in such amounts as the Secretary may determine, taking into account estimated savings or increased costs, and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(D), and paragraph (3)(E) of section 1882(b) shall apply to the entity.

(2) The first sentence of section 1154(a)(14)(B) (42 U.S.C. 1320e-3(a)(14)(B)) is amended by inserting "(or for subject to review under section 1821(e))" after "section 1876;"

(2) by inserting the following before the period the following: "nor any such policy or plan under a contract with an entity whose policy has been amended by adding at the end the following:

"(G) in the case of 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;"
medicare supplemental policies to meet the NAIC or Federal simplification standards.

(11) 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, 1981. 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.

(12) 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)(11), the Association shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, Medicare patients, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among such interested groups.

(4)(A) Every 3 years the Secretary shall, in consultation with the NAIC, evaluate the appropriateness of new or innovative benefits approved for medicare supplemental policies to meet the simplification standards and requirements of this subsection; 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 a level of cooperation demonstrated—

then the Secretary may make the modifications to such standards, except that, in the case of a State that the Secretary Identifies, in consultation with the Association, as having made the modifications to such standards, the Secretary shall not make such modifications unless the modifications—

(i) are made for a reason other than appropriating funds; and

(ii) are required in order for medicare supplemental policies to meet the modified NAIC or Federal simplification standards.

(5) having a legislature which is not scheduled to meet within the 1-year period after the date the Association or the 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 closure of the last 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.

(6) If benefits under this title are approved by the Secretary, and the Secretary determines, in consultation with the Association, that changes in the standards or requirements of this subsection are needed to reflect such changes in benefits, the provisions of the modification of simplification standards outlined in paragraph (4)(A) shall be applied to such standards and requirements in the same manner as applicable to the other standards and requirements of this subsection.
and appropriate health care coverage, (ii) the establishment of toll-free telephone numbers for providing information on Medicare benefits, Medicare supplemental policies available in the State, and benefits under the Medicaid program.

SEC. 184A. TECHNICAL AND MISCELLANEOUS PROVISIONS RELATING TO PARTS A AND B.

(b) 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 enactment of this Act, any final regulation, notice, 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.

(c) Waiver of liability for home health agencies.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1985 is amended by inserting after section "December 31, 1995." after the act of enactment of this Act, any final regulation, notice, 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.

SEC. 185B. INCOME RELATING TO THE MEDICARE AND MEDICAID PROGRAMS.

(a) Exclusions of expenses._-The term "Medicare and Medicaid programs" means Medicare and Medicaid programs, as the term is defined in section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)).

Sec. 1889. The Secretary shall provide, in a fiscal year 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 educational program and which are incurred for clinical training or by an educational institution related to the hospital by common ownership or common control, shall be considered to be incurred for costs associated with activities for purposes of section 1886(a)(1) of the Social Security Act (42 U.S.C. 1395ww(a)(1)). Subject to subparagraphs (A) and (B), costs related to clinical training at a hospital on a reasonable cost basis 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) 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(u) 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 of Public Health, or the hospital's costs for the academic period covered by the hospital's cost report and the denominator of which is the total allowable costs for inpatient 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.

(c) If the hospital is providing the support for the training 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, the hospital shall be considered to be a hospital supported education program for purposes of section 1886(a)(1) of the Social Security Act (42 U.S.C. 1395ww(a)(1)). Subject to subparagraphs (A) and (B), costs related to clinical training at a hospital on a reasonable cost basis 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.

(d) [Reserved]

(e) [Reserved]
that each hospital has appropriately reported its level of support during such period.

(3) PROHIBITION ON RECEIPT OF CERTAIN NURSING AND ALLIED EDUCATIONAL COSTS.—(A) The Secretary—(i) may not include in costs under section 425 of the Medicare Act of 1965 any amount paid or payable to a hospital or agency for the provision of educational services, or for the training or instruction of individuals in any field of study, except under paragraphs (1) and (2) of this subsection; and (ii) may not receive or make any payment for such costs under section 425 of the Medicare Act of 1965 or under section 703 of the Social Security Act to hospitals with respect to claims by a hospital for its costs in the project was in effect under section 425 of MCCA. In determining the 2-year dual reporting periods, the Secretary shall not consider a hospital supported education programs on the grounds that the costs of such programs were not allowable costs or were included in the definition of "costs for costs of patient services" pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under that section.

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 1990 is amended by striking "(a)" and the subsection heading.

(B) Section 6205(b) of such Act is hereby repealed.

(c) ROLE OF CONSTRUCTION.—Nothing in this subsection shall be construed as requiring the Secretary of Health and Human Services to modify those existing regulations of such departments with respect to the determination of reasonable costs for a hospital-operated educational program.

(C) 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 assume the 3 case management demonstration projects described in paragraph (2) and approved under section 2555 of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA").

(2) PROJECT DESIGNS.—The demonstration projects referred to in paragraph (1) are—

(A) the project proposed to be conducted by Providence Hospital for case management purposes of the National Health and Human Services Act of 1989; and

(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-93359/4-01; and

(C) the project proposed to be conducted by the Indiana Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-93359/4-01; and

(D) 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-93359/4-01; and

(E) TREATMENT OF CERTAIN HOSPITALS WITH RESPECT TO PAYMENTS.—(A) General.—Section 1886(h)(2) (42 U.S.C. 1395ww(h)(2)) is amended—

(1) by inserting "(i)" after "(l)"; and

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

"(ii) In the case of a hospital which did not have an approved medical residency training program for the period beginning during fiscal year 1984, but which made a commitment to substantially expand its program that was not fully reflected in payment during reporting periods beginning in such fiscal year, such hospital may request the use of an alternative cost reporting period other than the fiscal year 1984 cost reporting period for purposes of determining the average amount recognized as reasonable medical education costs of the hospital for each full-time equivalent resident resident during such period. 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 described in 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) 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."

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

"(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 those subject to opposite sex classification, and preference in the competitive service) to serve as HCFA Service Fellows for a period of not to exceed 2 years in such capacity, may, in individual cases under exceptional circumstances, be extended for up to 2 additional years.

(2) Individuals appointed as HCFA Service Fellows shall 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 $50,000 annually on the costs of the HCFA Service Fellows Program (including the costs of salaries under the program).

(G) STATUTORY TECHNICAL.—(1) Section 1877(b) (42 U.S.C. 1335b(b)) is amended by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (3) the following new paragraph:

"(4) SERVICES RELATED TO INVESTMENT INTEREST OR COMPENSATION ARRANGEMENT.—In the case of clinical laboratory services furnished by a physician who has a financial relationship with the hospital that does not involve the provision of services, the Secretary may not pay to such hospital a payment under section 1877 (relating to maintaining written policies and procedures respecting advance directives)."

(2) OTHER PREPAID ORGANIZATIONS.—Section 1886(h)(2) (42 U.S.C. 1395ww(h)(2)) is amended by adding at the end the following new subparagraph

"(b) The Secretary may not provide for payment under subsection (a)/11 (4) with respect to an organization unless the organization provides assurances satisfactory to the Secretary (relating to maintaining written policies and procedures respecting advance directives)."

(1) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking "(a)" and

(1) by striking "(and)" at the end of subparagraph (O), and

(4) by striking the period at the end of subparagraph (P) and inserting "; and"

(5) by striking paragraph (Q) of the preceding new subparagraph.

(2) In the case of hospitals, skilled nursing facilities, home health agencies, and hospice programs, to comply with the require-ments of section 1866(f), (relating to maintaining written policies and procedures respecting advance directives); and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(I) For purposes of subsection (a)(1) and sections 1819(c)(16), 1833(r), 1871(c)(16), 1871(d)(16), and 1891(a)(6), the requirement of this subsection is satisfied when the provider or organization—

(A) provides written information to each 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 health care related research, studies, and investigations within the Health Care Financing Administra-

(ii) a contract under this section shall provide that the hospital may use the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

(B) the policies of the provider or organization respecting the implementation of such rights—

(i) in the case of a hospital (or a family member) whether the individual has executed an advance directive and document in the individual's medical record (or through the provider or organization—

(C) not to condition the provision of care otherwise discriminate against an individ-

(D) to ensure compliance with require-

(E) to provide (individually or with others) for education for staff on issues concerning individual's rights under State law and relating to the provision of health care when the individual is incapacitated.

"(2) application to prepaid organi-

(A) ELIGIBLE ORGANIZATIONS.—Section 1876(c) (42 U.S.C. 1395cc(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 not compulsorily, including when the individual is incapacitated.

(2) application to prepaid organiza-

(A) ELIGIBLE ORGANIZATIONS.—Section 1876(c) (42 U.S.C. 1395cc(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 not compulsorily, including when the individual is incapacitated.

(2) application to prepaid organi-
(4) CONFORMING AMENDMENTS.—

(A) Section 1919(c)(1) (42 U.S.C. 1395f-3(c)(1)) is amended by adding at the end the following new subparagraph:

"(ii) by striking the period at the end of paragraph (5), and

(B) by adding a new section to subsection (a) as follows:

"(5) FUNDING.—The amendments made by paragraph (2) shall apply to contracts under section 1876 of the Social Security Act and payments under section 1833(b) of such Act which are made after the date of enactment of this Act.

(b) MEDICAID STATE PLAN REQUIREMENTS.—

(1) Section 1903(m)(1)(A) (42 U.S.C. 1396m(b)(1)(A)) is amended—

"(i) by striking "(1), (2), and (3)" and inserting "(1), (2), and (3)";

"(ii) by striking "and" at the end of paragraph (2), and

"(iii) by striking "(A)" and inserting "(A), (B), and (C)";

(2) Section 1903(m)(1)(B) (42 U.S.C. 1396m(b)(1)(B)) is amended—

"(i) by removing the period at the end of paragraph (1), (2), and (3), and

"(ii) by inserting "and after the date of the enactment of this Act." before "and after the date of the enactment of this Act.".

(c) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall, not later than 6 months after the date of enactment of this Act, prepare a report to Congress concerning the implementation of the requirements of this section.

(2) REPORT.—The report required by paragraph (1) shall be submitted not later than 1 year after the date of the enactment of this Act.

(d) PUBLIC EDUCATION CAMPAIGN.—

(1) IN GENERAL.—The Secretary, not later than 6 months after the date of enactment of this section, shall develop and implement a national campaign to inform the public of medical assistance admission and the right to formulate advance directives.

(2) DEVELOPMENT AND DISTRIBUTION OF INFORMATION.—The Secretary shall develop and distribute to the public information on the implementation of the requirements of this section.

(e) PROHIBITION OF STATE PLAN DRAFT ACCESS LIMITATIONS FOR DRUGS COVERED UNDER A REIMBURSEMENT ARRANGEMENT.—

"(A) in subparagraph (B) of section 1902(a)(5) of such Act (42 U.S.C. 1396l(a)(5))—

"(i) by striking "or" and inserting "or";

"(ii) by inserting "and" at the end of paragraph (2), and

"(iii) by striking "and" at the end of paragraph (3), and

(B) in subparagraph (B) of section 1902(a)(6) of such Act (42 U.S.C. 1396l(a)(6))—

"(i) by striking "and" at the end of paragraph (2), and

"(ii) by inserting "and" at the end of paragraph (3).
SEC. 1227. (a) Requirement for Rebate Agreement.—

(1) IN GENERAL.—In order for payment to be available under section 1903(a) for covered outpatient drugs, a manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of the State, that—

(A) authorizes the State to enter directly into agreements with manufacturers, if a manufacturer has not entered into such an agreement, and, 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 section on or after January 1, 1991.

(3) EFFECT ON EXISTING AGREEMENTS.—In the case of a rebate agreement in effect before 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 the 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 rebate 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.

(4) EFFECT OF EXISTING AGREEMENTS.—In the case of a rebate agreement in effect before 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 the 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 rebate 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.

(5) TERMINATION.—

(A) IN GENERAL.—Any rebate agreement with a manufacturer entered into under this section shall be in effect for an initial period of no less than one 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 this section 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 for any reason. Such termination shall not be effective until such period after the date of the notice of such termination, the Secretary finds good cause for an earlier reinstatement of such agreement.

(C) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

(D) DELAY BEFORE TERMINATION.—In the case of any rebate agreement with a manufacturer entered into under this section which is terminated, another such agreement with the manufacturer for a successor manufacturer may not begin until such period after the date of the first quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such agreement.

(E) AMOUNT OF REBATE.—

(i) 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 covered outpatient drugs of the manufacturer shall be increased by $10,000 for each day in each such period of 1 day that such information has not been provided, and, if such information is not reported within 30 days of the deadline imposed, the agreement shall be suspended for the remainder of the period in which such information is not reported.

(ii) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer with an agreement under this section that fails to provide information required under subsection (a) on a timely basis, the amount of the rebate required under the agreement shall be increased by $10,000 for each day in each such period of 1 day that such information has not been provided, and, if such information is not reported within 30 days of the deadline imposed, the agreement shall be suspended for the remainder of the period in which such information is not reported.

(iii) FALSE INFORMATION.—Any manufacturer or other entity with an agreement under this section that knowingly provides false information about the 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 provided in the law, information disclosed by manufacturer(s) or wholesalers under this paragraph is confidential and shall not be disclosed by the Secretary or any other Federal or State official (except to the Secretary thereof) in a form which discloses the identity of a specific manufacturer or wholesaler, except as the Secretary determines to be necessary to carry out the purposes of this section and to permit the Comptroller General to review the information provided.

(iv) LENGTH OF AGREEMENT.—

(A) IN GENERAL.—Any agreement shall be effective for an initial period of no less than one year and shall be automatically renewed for a period of no less than one year unless terminated under paragraph (B).

(B) TERMINATION.—

(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of this section 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 for any reason. Such termination shall not be effective until such period after the date of the notice of such termination, the Secretary finds good cause for an earlier reinstatement of such agreement.

(C) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

(D) DELAY BEFORE TERMINATION.—In the case of any rebate agreement with a manufacturer entered into under this section which is terminated, another such agreement with the manufacturer for a successor manufacturer may not begin until such period after the date of the first quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such agreement.

(E) AMOUNT OF REBATE.—

(i) 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 covered outpatient drugs of the manufacturer shall be increased by $10,000 for each day in each such period of 1 day that such information has not been provided, and, if such information is not reported within 30 days of the deadline imposed, the agreement shall be suspended for the remainder of the period in which such information is not reported.

(ii) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer with an agreement under this section that fails to provide information required under subsection (a) on a timely basis, the amount of the rebate required under the agreement shall be increased by $10,000 for each day in each such period of 1 day that such information has not been provided, and, if such information is not reported within 30 days of the deadline imposed, the agreement shall be suspended for the remainder of the period in which such information is not reported.

(iii) FALSE INFORMATION.—Any manufacturer or other entity with an agreement under this section that knowingly provides false information about the 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 provided in the law, information disclosed by manufacturer(s) or wholesalers under this paragraph is confidential and shall not be disclosed by the Secretary or any other Federal or State official (except to the Secretary thereof) in a form which discloses the identity of a specific manufacturer or wholesaler, except as the Secretary determines to be necessary to carry out the purposes of this section and to permit the Comptroller General to review the information provided.

(iv) LENGTH OF AGREEMENT.—

(A) IN GENERAL.—Any agreement shall be effective for an initial period of no less than one year and shall be automatically renewed for a period of no less than one year unless terminated under paragraph (B).

(B) TERMINATION.—

(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of this section 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 for any reason. Such termination shall not be effective until such period after the date of the notice of such termination, the Secretary finds good cause for an earlier reinstatement of such agreement.

(C) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

(D) DELAY BEFORE TERMINATION.—In the case of any rebate agreement with a manufacturer entered into under this section which is terminated, another such agreement with the manufacturer for a successor manufacturer may not begin until such period after the date of the first quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such agreement.

(E) AMOUNT OF REBATE.—

(i) 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 covered outpatient drugs of the manufacturer shall be increased by $10,000 for each day in each such period of 1 day that such information has not been provided, and, if such information is not reported within 30 days of the deadline imposed, the agreement shall be suspended for the remainder of the period in which such information is not reported.
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

(1) 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

(2) the difference between the average manufacturer price for such drug and the best price (as defined in paragraph (2)(B) for such quarter (or period) for such drug,

(A) agents when used for anesthesia or weight gain that are not approved for such use by the Secretary,

(B) agents when used to promote fertility,

(C) agents when used for cosmetic purposes, and

(D) agents when used for the symptomatic relief of cough and colds.

(3) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

(4) New chemical entities (NCE) drugs.

(5) 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.

(6) Drugs described in section 107(c)(13) of the Drug Amendments of 1962 and identical, generic, or pharmaceutically equivalent drug (or other period) reported by the State under subsection (b)(2).
Feels or intense sensations and therapeutic contraindications for preparation, administration and use by the patient or caretaker of such individual. Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when a individual receiving benefits under this title or caretaker of such individual refuses to consult.

(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through its automated drug claims processing and prescription dispensing systems (approved by the Secretary under section 1931(i) or otherwise, for the ongoing periodic examination of claims data and other records in order to detect fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and individuals associated with the delivery of covered outpatient drug therapy under this title, or associated with specific drugs or groups of drugs.

(C) APPLICATION OF STANDARDS.—The program shall, through its automated drug claims processing and prescription dispensing systems (approved by the Secretary under section 1931(i) or otherwise, for the ongoing periodic examination of claims data and other records in order to detect fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and individuals associated with the delivery of covered outpatient drug therapy under this title, or associated with specific drugs or groups of drugs.

(D) EDUCATIONAL PROGRAM.—The program shall, through its automated drug claims processing and prescription dispensing systems (approved by the Secretary under section 1931(i) or otherwise, for the ongoing periodic examination of claims data and other records in order to detect fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and individuals associated with the delivery of covered outpatient drug therapy under this title, or associated with specific drugs or groups of drugs.

(E) ELECTRONIC CLAIMS MANAGEMENT.—

(1) In general.—In accordance with chapter 33 of title 44, United States Code (relating to competitive procurement process of the Federal sector), and chapter 32 of title 44, United States Code (relating to electronic claims management policy), the Secretary shall ensure that each State agency to establish, as its principal means of processing claims for covered outpatient drug therapy 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 reimbursement.

(2) Encouragement.—In order to carry out paragraph (1), the Secretary shall, for the applicable competitive procurement process of the Federal sector, and the electronic claims management policy, encourage each State agency to establish, as its principal means of processing claims for covered outpatient drug therapy 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 reimbursement.

(3) Determination.—The Secretary shall, in the process of reviewing the cost-savings generated by the implementation, development, and use of each State plan attributable to development of 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 reimbursement under this title, determine whether the implementation, development, and use of each State plan attributable to development of 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 reimbursement under this title, achieves 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 reimbursement under this title, and, in the process of reviewing the cost-savings generated by the implementation, development, and use of each State plan attributable to development of 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 reimbursement under this title, shall develop and implement in each State, 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 reimbursement under this title.
for proposal in competitive procurement for advances or loans under this or any other legislation, and 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 Committee on Aging of the Senate, and the House of Representatives a report on the operation of this section in the preceding fiscal year.

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 for outpatient drugs; and

(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.

(4) EXCEPTION OF ORGANIZED HEALTH CARE SETTINGS.—(1) Health Maintenance Organizations that operate drug formularies or drug distribution 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 providers providing medical assistance under such plan that such hospitals which bill the Secretary to provide outpatient prescription drug benefits, including those organizations that contract under section 1903(m) 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).

(5) AVERAGE MANUFACTURER PRICE.—In this section—

(A) average manufacturer price means the 'average manufacturer price' means, with respect to a covered outpatient drug of a single source drug, the average price paid by the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy channel.

(B) covered outpatient drug means—

(1) any drug which is treated as a prescription drug only upon prescription (except as provided in paragraph (3)), and—

(2) which is approved for safety and effectiveness as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act or which is approved under an original new drug application under such Act;

(3) 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 510(b)(1) of title 21 of the Code of Federal Regulations and 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(f) of such Act) or an action brought by the Secretary under section 505(a), or 506(a) of such Act; and

(4) which is described in section 107(1)(3) of the Drug Amendments of 1962 and for which the Secretary has determined that there is a significant potential for the drug to be used for a medical need, or is identical, similar, or related (within the meaning of section 510(b)(1) of title 21 of the Code of Federal Regulations) to a drug approved under 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 effective than all conditions of use prescribed, recommended, or suggested in its labeling; and

(5) has a biologic product, other than a vaccine which—

(A) may only be dispensed upon prescription;

(B) is licensed under section 351 of the Public Health Service Act, and

(C) is produced at an establishment licensed under such section to produce such product; and

(D) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

(6) Manufacturing.—The term 'manufacturing' means—

(A) the production, preparation, propagation, and distribution of a drug, as defined in subparagraph (A)(i)(I), in order to make such drug available to the public through retail pharmacies or other outlets; and

(B) the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

(7) MANUFACTURER.—The term 'manufacturer' means any entity that—

(A) produces, manufactures, imports, markets, distributes, or otherwise deals in any way with a drug or a device.

(B) in the case of a covered outpatient drug, a wholesaler or a pharmacy that—

(i) is licensed under section 301(a) of the Federal Food, Drug, and Cosmetic Act; and

(ii) is a member of the American Hospital Formulary Service, the American Medical Association Drug Evaluations, and the United States Pharmacopoeia—Drug Information.

(8) MULTIPLE SOURCE DRUG.—The term '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, including a drug product marketed by any cross-licensed producers or distributors operating under such an agreement.

(9) SINGLE SOURCE DRUG.—The term 'single source drug' means a single source drug that is not an innovator multiple source drug.

(10) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator 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, including a drug product marketed by any cross-licensed producers or distributors operating under such an agreement.

(11) STATE—The term 'State' means a State that—

(A) is a member of the American Hospital Formulary Service, the American Medical Association Drug Evaluations, and the United States Pharmacopoeia—Drug Information, the American Medical Association, and the American Hospital Association;

(B) is licensed under section 351 of the Federal Food, Drug, and Cosmetic Act or which Is approved under an original new drug application under such Act;

(C) and as determined by the Food and Drug Administration, and

(D) is sold or marketed in the State during the period.

(12) DEPARTMENT.—The term 'Department' means the Department of Health and Human Services.

(13) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

(14) FUNDING.—(A) by striking "plus" at the end of subparagraph (A)(i)(II) of section 1902(a)(5) of title 42 of United States Code, and

(B) by inserting the following legend after such subparagraph—

"MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG—".

(15) 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.

(16) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator 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, including a drug product marketed by any cross-licensed producers or distributors operating under such an agreement.

(17) SINGLE SOURCE DRUG.—The term 'single source drug' means a single source drug that is not an innovator multiple source drug.

(18) NONPPRESCRIPTION DRUG.—If a State plan for medical assistance under this title includes a nonprescription drug as described in section 1905(a)(12), a drug which may be dispensed only upon prescription (except as provided in paragraph (3)), and—

(1) which is approved for safety and effectiveness as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act or which is approved under an original new drug application under such Act;

(2) 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 510(b)(1) of title 21 of the Code of Federal Regulations and 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(f) of such Act) or an action brought by the Secretary under section 505(a), or 506(a) of such Act; and

(3) which is described in section 107(1)(3) of the Drug Amendments of 1962 and for which the Secretary has determined that there is a significant potential for the drug to be used for a medical need, or is identical, similar, or related (within the meaning of section 510(b)(1) of title 21 of the Code of Federal Regulations) to a drug approved under 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 effective than all conditions of use prescribed, recommended, or suggested in its labeling; and

(4) has a biologic product, other than a vaccine which—

(A) may only be dispensed upon prescription;

(B) is licensed under section 351 of the Public Health Service Act, and

(C) is produced at an establishment licensed under such section to produce such product; and

(D) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

(5) Manufacturing.—The term 'manufacturing' means—

(A) the production, preparation, propagation, and distribution of a drug, as defined in subparagraph (A)(i)(I), in order to make such drug available to the public through retail pharmacies or other outlets; and

(B) the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

(6) MANUFACTURER.—The term 'manufacturer' means any entity that—

(A) produces, manufactures, imports, markets, distributes, or otherwise deals in any way with a drug or a device.

(B) in the case of a covered outpatient drug, a wholesaler or a pharmacy that—

(i) is licensed under section 351(a) of the Federal Food, Drug, and Cosmetic Act; and

(ii) is a member of the American Hospital Formulary Service, the American Medical Association Drug Evaluations, and the United States Pharmacopoeia—Drug Information, the American Medical Association, and the American Hospital Association;

(C) and as determined by the Food and Drug Administration, and

(D) is sold or marketed in the State during the period.

(7) STATE.—The term 'State' means a State that—

(A) is a member of the American Hospital Formulary Service, the American Medical Association Drug Evaluations, and the United States Pharmacopoeia—Drug Information, the American Medical Association, and the American Hospital Association;

(B) is licensed under section 351 of the Federal Food, Drug, and Cosmetic Act or which Is approved under an original new drug application under such Act;

(C) and as determined by the Food and Drug Administration, and

(D) is sold or marketed in the State during the period.

(8) DEPARTMENT.—The term 'Department' means the Department of Health and Human Services.

(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

(10) FUNDING.—(A) by striking "plus" at the end of subparagraph (A)(i)(II) of section 1902(a)(5) of title 42 of United States Code, and

(B) by inserting the following legend after such subparagraph—

"MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG—".
tion of a drug use review program which conforms to the requirements of section 1902(a)(17) of the Social Security Act to negotiate discounts with suppliers of prescription drugs to such programs. The Comptroller General shall submit to Congress a report on such study no later than one year after the date of enactment of this subsection.

PART II—PURCHASE OF PRIVATE HEALTH INSURANCE

SEC. 201. STATES REQUIRED TO PAY PREMIUMS, DEDUCTIBLES, AND COINSURANCE FOR PRIVATE HEALTH INSURANCE COVERAGE WHERE COST EFFECTIVE.

(a) State Plan Requirement.—Section 1902(a)(42 U.S.C. 1396a(a)), as amended by section 202, is further amended by striking "and" and inserting "or" in lieu thereof.

(b) Description of Requirement.—Title XIX (42 U.S.C. 1396 et seq.), as amended by section 202, is further amended by renumbering section 202 as section 202X.

"PAYMENT OF PREMIUMS FOR PRIVATE HEALTH INSURANCE" assistant. The Comptroller General shall report to the Secretary, the Committees on Aging of the Senate and House of Representatives, and the Committees on Energy and Commerce of the House of Representatives, the extent to which reimbursement rates with respect to which procedures are approved or disapproved under paragraph (A) and shall make recommendations with respect to which procedures are approved or disapproved under subparagraph (A).

(L) The Secretary, acting in consultation with the Comptroller General, shall study prior to May 1, 1991, under 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 Medicare.

By not later than May 1, 1991, the Secretary shall submit to Congress a report on such study:

(a) Study on Drug Pricing.—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 House of Representatives on the results of the study conducted under subparagraph (A) and shall make recommendations with respect to which procedures are approved or disapproved under paragraph (A) and shall make recommendations with respect to which procedures are approved or disapproved under subparagraph (A).
"(d) PRIVATE HEALTH INSURANCE DEFINED.—For purposes of this section, the term ‘private health insurance policy’ includes employment-related health insurance, group health plan, health maintenace organization in interstate commerce, or such other private health insurance as the Secretary may specify.";

(1) EXPANDING AMENDMENTS.—
(1) LIMITATION ON AMOUNT, DURATION, AND SCOPE OF BENEFITS MODIFIED.—Section 1905(a)(1)(A) (42 U.S.C. 1396d(a)(1)) is amended by adding the following subparagraph (E)—
(A) by striking "and" at the end of subdivision (IX);
(B) by inserting "and" at the end of subdivision (IX); and
(C) by adding at the end the following new subdivision:
"(X) the making available of medical assistance to cover the costs of premiums, deductibles, and coinsurance for private health coverage as described in this subparagraph shall not, by reason of paragraph (10), require the making available of any such benefits or the making available of the same amount, duration, and scope of such private coverage to any other individuals;";
(2) PREMIUMS INCLUDED AS MEDICAL ASSISTANCE.—Section 1905(a)(1)(B) (42 U.S.C. 1396d(a)(1)) 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) the making available of medical assistance, deductibles, and coinsurance for private health insurance coverage where cost effective (as provided in section 1928); and"
(2) EXTENSION 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 this section, the State shall be deemed to have failed to meet this additional requirement as failing to comply with the requirements of such title solely on the basis of its failure to meet the 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 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. 621. DELAY IN COUNTING SOCIAL SECURITY BENEFITS FOR PURPOSES OF THE LIMITATION ON ELIGIBILITY FOR FEDERAL MEDICAID FUNDS.
(a) IN GENERAL.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended—
(1) in subparagraph (B), by striking "or" and inserting "and";
(2) in paragraph (1), by striking paragraph (2)(A) and inserting the following:
"(A) on the date of enactment of this Act, after January 1, 1985, who have attained 6 years of age but do not exceed age of 19;
(B) children born after September 30, 1983, who have attained 6 years of age but do not exceed age of 19;
(C) children born after September 30, 1983, who have attained 6 years of age but do not exceed age of 19;
(D) children born after September 30, 1983, who have attained 6 years of age but do not exceed age of 19;"
(2) 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.

PART IV—CHILD HEALTH

SEC. 621. MEDICARE CHILD HEALTH PROVISIONS.
(a) PROVIDERS OF MEDICARE ELIGIBLE FOR FAMILIES AND MEDICARE ELIGIBLE FOR ELDERLY AND ELDERLY ELIGIBLE FOR MEDICAID.—
(1) The amendments made by this subsection shall apply to determinations or redeterminations of eligibility for income for such payments beginning on or after the date of enactment of this Act.

PART V—ASSISTANCE FOR VETERANS

SEC. 621. VETERANS HEALTH CARE BENEFITS.
(a) PROVIDERS OF MEDICARE ELIGIBLE FOR FAMILIES AND MEDICARE ELIGIBLE FOR ELDERLY AND ELDERLY ELIGIBLE FOR MEDICAID.—
(1) The amendments made by this subsection shall apply to determinations or redeterminations of eligibility for income for such payments beginning on or after the date of enactment of this Act.

PART VI—ASSISTANCE FOR PERSONS WITH DISABILITIES

SEC. 621. MEDICARE ELIGIBILITY FOR PERSONS WITH DISABILITIES.
(a) PROVIDERS OF MEDICARE ELIGIBLE FOR FAMILIES AND MEDICARE ELIGIBLE FOR ELDERLY AND ELDERLY ELIGIBLE FOR MEDICAID.—
(1) The amendments made by this subsection shall apply to determinations or redeterminations of eligibility for income for such payments beginning on or after the date of enactment of this Act.
implemented 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 the 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 Child—

(1) In General—Section 1902(a) (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(a) In order to meet the requirements of subsection (a)(54), the State plan must provide that payments to hospitals under the plan for medical 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 from a state-licensed share hospital described in section 1923(b)(1), shall—

"(1) be 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 dollar 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 payment systems chosen 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) Amendment—Section 1902(a)(10)(C). (42 U.S.C. 1396a(a)), as amended by section 6211(a), is further amended—

(A) by inserting "and" at the end of sub-paragraph (D), and

(B) by striking the period at the end of sub-paragraph (D), and

(C) by striking "and" at the end of sub-paragraph (E).

(3) Effective Date—(A) The amendments made by this subsection shall apply to payments for medical services furnished under the plan for the period beginning on or after July 1, 1991.

(B) The amendment made by this subsection shall apply to payments for medical services furnished before July 1, 1991, to the extent consistent with section 1902(r) (1) (2), is receiv- ed under paragraph (c), as amended by section 6211(f) (2), is further amended—

(A) by redesignating paragraph (e) as paragraph (f); and

(B) by inserting at the end of paragraph (f) the following new paragraph:

"(g) Home and Community Care for Functionally Disabled Elderly Individuals—

"(1) In General—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 6211(f), is further amended—

(A) by striking "and" at the end of sub-paragraph (C), and

(B) by striking the period at the end of sub-paragraph (D), and

(C) by striking "and" at the end of sub-paragraph (F).

(4) Amendment—Section 1902(a)(10)(C). (42 U.S.C. 1396a(a)), as amended by section 6211(a), is further amended—

(A) by striking "and" at the end of sub-paragraph (D), and

(B) by striking the period at the end of sub-paragraph (D), and

(C) by striking "and" at the end of sub-paragraph (F).

(5) Effective Date—(A) The amendments made by this subsection shall become effective under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(B) The amendment made by this subsection shall become effective under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, for the purposes of section 1932. (a) (10)(C), as amended by section 6211(f), is further amended—

(A) by redesignating paragraph (e) as paragraph (f); and

(B) by inserting at the end of paragraph (f) the following new paragraph:

"(g) Home and Community Care for Functionally Disabled Elderly Individuals—

"(1) In General—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 plan manager under subsection (d)), which may include—

"(A) Homemaker/home health aide services,

"(B) Chore services,

"(C) Personal care services,

"(D) Nursing care services provided by, or under the supervision of, a registered nurse,

"(E) Respite care,

"(F) Training for family members in managing the individual,

"(G) Adult day health services,

"(H) 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),

"(I) Such other home and community-based services (other than room and board) as the Secretary may approve,

"(J) Functionally Disabled Elderly Individuals—

"(1) In General—In this title, the term 'functionally disabled elderly individual' means an individual who is—

"(A) a resident of a nursing facility in the State, or

"(B) 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 benefit under title XVII or is considered to be eligible for such benefit under title XVI; or

"(2) Treatment of Certain Individuals Previously Covered under a Waiver—(A) In the case of a State which, pursuant to its election to provide coverage for home and community care under this section has a waiver approved under section 1915(e) or 1915(k) with re-
spec to individuals 65 years of age or older, and

(4) subsequently discontinues such waiver, individuals who were eligible for benefits under subparagraph (B) 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 State plan, and who meets the requirements of paragraph 1 of this section, is being provided not less often than once every 12 months.

(3) USE OF PROJECTED INCOME.—In applying the eligibility requirements specified by the Secretary under subparagraph (B) of the section described in section 1902(a)(10)(A)(iii)(V).

(4) ASSESSMENT INSTRUMENT.—The instrument described in paragraph (2) shall, at a minimum, include the following:

(i) the assessment instrument shall be used in the State in complying with the requirements of subparagraph (A); and

(ii) the instrument shall be used in the State under section 1902(a)(10)(A)(iii)(V).

(3) USE OF PROJECTED INCOME.—In applying the eligibility requirements specified by the Secretary under subparagraph (B) of the section described in section 1902(a)(10)(C) for medical assistance for home and community care, the instrument shall include:

(i) the average number of individuals in the quarter receiving such care under this section,

(ii) the average number of individuals in the quarter receiving such care under this section, and

(iii) the average number of individuals in the quarter receiving such care under this section.

(4) ASSESSMENT INSTRUMENT.—The instrument described in paragraph (2) shall, at a minimum, include the following:

(i) the instrument shall be used in the State in complying with the requirements of subparagraph (A); and

(ii) the instrument shall be used in the State under section 1902(a)(10)(A)(iii)(V).

(3) USE OF PROJECTED INCOME.—In applying the eligibility requirements specified by the Secretary under subparagraph (B) of the section described in section 1902(a)(10)(C) for medical assistance for home and community care, the instrument shall include:

(i) the average number of individuals in the quarter receiving such care under this section, and

(ii) the average number of individuals in the quarter receiving such care under this section.
fied in the paragraph are as follows:

1. The right to be provided with care are competent to provide such care.

2. The right specified in paragraph (2).

3. The rights specified in this paragraph are as follows:

(a) The right to be informed orally and in writing of the care to be provided, to be fully informed in advance of any changes in care to be provided (except with respect to an individual's competency) to participate in planning care or changes in care. In cases of incompetent individuals, such rights shall be provided to the primary caregiver or family member.

(b) The right to be informed orally and in writing of the care to be provided, to be fully informed of changes in care, to be provided (except with respect to an individual's competency) to participate in planning care or changes in care. In cases of incompetent individuals, such rights shall be provided to the primary caregiver or family member.

(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 be free from physical or chemical restraints imposed on the management of care.

(f) The right to medical treatment appropriate to one's condition and physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's IPP.

(g) The right to be fully informed orally and in writing of the individual's rights.

(h) Any other rights established by the Secretary.

(ii) 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 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 minor care) are provided in conjunction with residing in the setting.

(ii) MINIMUM REQUIREMENTS.—A small community care setting and community care settings with the applicable requirements imposed on providers of community care or on community care settings shall be based on a survey of the setting and the care provided. Such surveys for such settings must be conducted without prior notice to the setting.

(iii) DISCLOSURE OF OWNERSHIP AND CONTROL INFORMATION.—A community care setting—

(A) must disclose persons with an ownership or control interest including such persons as defined in section 1128A(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 a community care setting which has been found repeatedly to be substandard or to have failed to meet the requirements of paragraph (2).

(iii) SURVEY AND CERTIFICATION PROCESS.—

1. Certification of the State.—Under each State's procedures for scheduling and conducting such surveys, the Secretary may conduct a review of the setting and the care provided. Such surveys for such settings must be conducted without prior notice to the setting.

(ii) REVIEWS OF COMPLIANCE.—

2. Reviews of Providers.—The Secretary may conduct a review of the provisions 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 for which the provider has been certified under section 1128A in accordance with the requirements of subsection (f).

(i) SPECIAL REVIEWS OF COMPLIANCE.—

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 surveys for such settings must be conducted without prior notice to the setting.

(B) The right to privacy and to have one's property treated with respect.

(C) The right to confidentiality of personal and clinical records.

(D) The right to be free from physical or chemical restraints imposed on the management of care.

(E) The right to medical treatment appropriate to one's condition and physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's IPP.

(F) The right to be informed orally and in writing of the care to be provided, to be fully informed of changes in care, to be provided (except with respect to an individual's competency) to participate in planning care or changes in care. In cases of incompetent individuals, such rights shall be provided to the primary caregiver or family member.

(G) The right to be fully informed orally and in writing of the individual's rights.

(H) Any other rights established by the Secretary.
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Table 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 fraud and abuse control unit (established by section 1124, and for fiscal years thereafter for fiscal years 1994, $70,000,000, and for fiscal years thereafter for fiscal years 1994, $70,000,000, and for fiscal years thereafter such sums as provided by Congress).

(b) Allocation of funds—(1) In general.—Each State shall carry out the purposes of this section.

(2) Authorizations.—The amount of funds available for each fiscal year established by the Secretary under this subsection 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.

(3) Secretarial responsibilities.—(i) Publication of interim requirements. (A) In general.—The Secretary shall publish, by December 1, 1991, a proposed regulation that contains interim requirements, consistent with such regulations, for the provision of home and community care and for community care settings, including—

(A) that a provider, on review under subsection (f) relating to comprehensive functional assessments, including the use of assessment instruments, of subsection (g) relating to qualifications for qualified case managers, of subsection (h) relating to minimum requirements for home and community care, of subsection (j) relating to minimum requirements for large community care settings, and of subsection (k) relating to minimum requirements for small community care settings, and of section 1124(a)(1) which relate to such requirements.

(b) Minimum requirements.—Each interim requirement under paragraph (a) and final requirements under paragraph (2) shall be developed, through methods other than reliance on State licensure processes, that make providers of home and community care are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of home care services by unqualified personnel in community care settings.

(c) Development of final requirements.—The Secretary shall develop, by not later than October 1, 1992—

(1) final requirements, consistent with paragraph (1)(b), respecting the provision of appropriate, quality home and community care settings, including at least the requirements referred to in paragraph (1)(a)(i), and

(2) 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 of authority.—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 severe or more stringent than those developed by the Secretary under this subsection.

(i) 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.

(ii) Waiver.—(A) States may waive the requirement that a nonpublic agency not provide home care and community care services and do not have a 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 wide-ness) 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 made available to carry out the purposes of this section shall be for fiscal year 1989, $10,000,000, for fiscal year 1992, $20,000,000, for fiscal year 1994, $40,000,000, and for fiscal years thereafter such as provided by Congress.

(2) Allocation of funds.—(A) Allocation of funds in general. (B) Allocation of funds for each fiscal year (1991, 1992, 1993, 1994, and 1995) will be allocated to each State in the proportion of the amount made available to each 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.

(2) Secretarial responsibilities.—(i) Publication of interim requirements. (A) In general.—The Secretary shall publish, by December 1, 1991, a proposed regulation that contains interim requirements, consistent with such regulations, for the provision of home and community care and for community care settings, including—

(A) that a provider, on review under subsection (f) relating to comprehensive functional assessments, including the use of assessment instruments, of subsection (g) relating to qualifications for qualified case managers, of subsection (h) relating to minimum requirements for home and community care, of subsection (j) relating to minimum requirements for large community care settings, and of subsection (k) relating to minimum requirements for small community care settings, and of section 1124(a)(1) which relate to such requirements.

(b) Minimum requirements.—Each interim requirement under paragraph (a) and final requirements under paragraph (2) shall be developed, through methods other than reliance on State licensure processes, that make providers of home and community care are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of home care services by unqualified personnel in community care settings.

(c) Development of final requirements.—The Secretary shall develop, by not later than October 1, 1992—

(1) final requirements, consistent with paragraph (1)(b), respecting the provision of appropriate, quality home and community care settings, including at least the requirements referred to in paragraph (1)(a)(i), and

(2) 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 of authority.—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 severe or more stringent than those developed by the Secretary under this subsection.

(i) 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.

(ii) Waiver.—(A) States may waive the requirement that a nonpublic agency not provide home care and community care services and do not have a 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 wide-ness) 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 made available to carry out the purposes of this section shall be for fiscal year 1989, $10,000,000, for fiscal year 1992, $20,000,000, for fiscal year 1994, $40,000,000, and for fiscal years thereafter such as provided by Congress.

(2) Allocation of funds.—(A) Allocation of funds in general. (B) Allocation of funds for each fiscal year (1991, 1992, 1993, 1994, and 1995) will be allocated to each State in the proportion of the amount made available to each 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.

(2) Secretarial responsibilities.—(i) Publication of interim requirements. (A) In general.—The Secretary shall publish, by December 1, 1991, a proposed regulation that contains interim requirements, consistent with such regulations, for the provision of home and community care and for community care settings, including—

(A) that a provider, on review under subsection (f) relating to comprehensive functional assessments, including the use of assessment instruments, of subsection (g) relating to qualifications for qualified case managers, of subsection (h) relating to minimum requirements for home and community care, of subsection (j) relating to minimum requirements for large community care settings, and of subsection (k) relating to minimum requirements for small community care settings, and of section 1124(a)(1) which relate to such requirements.
(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) (1), by striking "and" at the end of subparagraph (D),

(B) by inserting "and" at the end of subparagraph (E),

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

"(F) for payment for home and community care furnished on or after July 1, 1991, the term "community supported living arrangements" means one or more of the following services provided in a State plan under this section (as defined in subsection (d)) to assist a developmentally disabled individual (as defined in subsection (b)) in activities of daily living (as defined in paragraph (1)) to live in an integrated living environment, and provide for the provision of such services under this section;"

(2) (A) For payment for home and community care furnished on or after July 1, 1991, the term "community supported living arrangements" means one or more of the following services provided in a State plan under this section (as defined in subsection (d)) to assist a developmentally disabled individual (as defined in subsection (b)) in activities of daily living (as defined in paragraph (1)) to live in an integrated living environment, and provide for the provision of such services under this section.

(3) The amendments made by this section shall apply to any State plan under this section for fiscal year 1993, and shall only be in effect for any fiscal year thereafter if the Secretary determines that the State plan is consistent with the purposes and purposes of this Act and the purposes of this Act and the purposes of this Act and the purposes of this Act and the purposes of this Act and the purposes of this Act.
shall expire with respect to services provided on or after December 31, 1993.

PART I—RESHAPING HOME REFORM

SEC. 101. MEDICAID NURSE AIDE 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) with respect to a State under section 1919(e)(1)(A) 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 minimum criteria under section 1919(e)(1)(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.

(b) If a State fails to meet such requirement before such effective date:

(1) any action against a State under section 1919(e)(1)(B) of such Act, and

(2) any action against a State under section 1904 of such Act.

(c) EXCLUSION FROM ppm DISSIPATION PROVISIONS.—Section 1919(b)(5)(A) (42 U.S.C. 1396r(b)(5)(A)) is amended by striking "individuals" and inserting "individuals including those individuals covered under section 1904(b)(4) (B), (C), and (D) of the Omnibus Budget Reconciliation Act of 1989 that have satisfied the training and competency evaluation program requirements under this section"

(d) RETRAINING OF NURSE AIDES NOT EMPLOYED.—Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)) is amended by striking the following: "or a new competency evaluation program.

(e) FACILITIES INCLUDED IN NURSE AIDE TRAINING PROGRAMS.—Section 1919(b)(12) (42 U.S.C. 1396r(b)(12)) is amended—

(A) in subparagraph (B)(iii), by amending "(A) offered by or in a nursing facility described in subparagraph (C), or;"

(B) by adding after subparagraph (B) the following:

(II) CANCELLATION OF PERMISSIBLE CHARGES FOR TRAINING NOT YET EMPLOYED BY A FACILITY.—Section 1919(f)(1)(A) (42 U.S.C. 1396r(f)(1)(A)) is amended—

(a) by striking "temporarily, per diem, or other"

(b) by inserting "(ii) after "(A)"

(c) by redesignating clauses "(ii)" and "(ii)" as subclauses "(i)" and "(ii)" respectively

(d) by adding at the end the following:

"(iii) EXCEPTION.—A nursing facility must not use a per diem, 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 1919(d)(1)(B)(2) (42 U.S.C. 1396r(d)(1)(B)(2)) is amended by striking "July 1, 1990" and inserting "October 1, 1990"

(4) CLARIFICATION OF PERMISSIBLE CHARGES FOR TRAINING NOT YET EMPLOYED BY A FACILITY.—Section 1919(f)(2)(A)(ii)(I) (42 U.S.C. 1396r(f)(2)(A)(ii)(I)) is amended by striking "such program" and inserting "such program, except that an accredited, non-facility based program may impose such charges on individuals who are not presently employed as a nurse aide until the facility has incurred costs incurred by such individuals for such programs are reimbursed to such individuals.


(A) in subparagraph (B)(i)(A), by amending "(II) by redesignating clauses "(iv)" and "(iv)" as subclauses "(i)" and "(ii)"

(B) by striking the following:

"(i) no survey or investigation finds any deficiencies warranting termination, and

"(ii) an agreement that a survey is conducted pursuant to subsection (p) or

"(iii) the facility—

"(I) received a notice of termination of its provider agreement under this title or title XVII, until after the end of the one-year period ending September 30, 1990, or

"(II) at the end of the period the facility is found, pursuant to a standard survey or investigation under subsection (g), to have deficiencies resulting in a fine of $5,000, denial of payment, or appointment of temporary management pursuant to subsection (h)(1)(A) or to section 1919(h)(1)(B), unless after the end of the one-year period the facility is found, pursuant to a standard survey or investigation under subsection (g) which finds no such deficiencies.

(6) 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:

"(i) an offer to a nursing facility that the Secretary, before April 1, 1991, but only if, under the revised agreement, all residents subject to the agreement who do not receive specialized services are discharged from the facility by not later than April 1, 1994.

(B) STATE REPORTS REQUIRED.—Section 1919(e)(7)(E) (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following new clause:

"(ii) Annual Report.—Each State shall require the Secretary to report the number and disposition of residents described in each of clauses (i) and (iii).

(2) SUMMARY OF REPORTS.—Section 4215 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following new sentence: "Each such report shall also include a summary of the information by State under section 1919(e)(7)(E)(ii) of such Act.

(3) DEFINITION OF MENTALLY ILL.—Section 1919(e)(7)(F)(i) (42 U.S.C. 1396r(e)(7)(F)(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 serious mental illness"

(4) SUBSTITUTION OF "SPECIALIZED SERVICES" FOR "ACTIVE TREATMENT".—Sections 1919(b)(1)(F) and 1919(e)(7)(F) (42 U.S.C. 1396r(b)(1)(F) and 1396r(e)(7)(F)) are each amended by striking the term "active treatment" and inserting "specialized services and active treatment."

(5) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL.—Section 1919 (42 U.S.C. 1396r) is amended—

(A) in subsection (e)(1)(F), by striking a "nursing facility" and by inserting "Except as provided in clauses (ii) and (iii) of subsection (e)(1)(A), a nursing facility";

(B) in subsection (e)(1)(i), by redesignating the first 2 sentences as clauses (i) and (ii) of such subsection (e)(1)(i)

(C) by adding at the end the following:

"(iii) EXCEPTION 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 hospital, was transferred for care in a hospital.

"(iv) 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—

(A) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital.
"(III) who requires nursing facility services for the condition for which the individual received care in the hospital," and 1919(b)(4)(B)(i) is amended by striking "4 days" and inserting "7 days.

(e) EFFECTIVE DATES.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section are effective on April 1, 1992.

(2) Paragraphs (1), (3), and (9) of subsection (a); paragraphs (2), (3), and (7) of subsection (b); paragraphs (1) and (2) of subsection (c); and paragraphs (3) and (4) of subsection (d) are effective as if included in the Omnibus Budget Reconciliation Act of 1987.

(3) Subsections (c)(1), (c)(1)(A), and (c)(1)(C) are effective upon enactment.

PART VII—MISCELLANEOUS AND TECHNICAL PROVISIONS

SEC. 411. 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.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with States under this section with respect to those projects described in subparagraph (B) of paragraph (1) and no more than 2 of the projects are conducted on a state 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 until the Secretary determines that—

(i) the project can reasonably be expected to improve access to health care in the area targeted by the project;

(ii) with respect to projects for which the Statewide requirements have not been waived, such plan is acceptable under title XIX of the Social Security Act; and

(iii) the project only imposes preexisting and non-discriminatory requirements, managed care provisions, and other cost-sharing for covered services.

(B) In entering into agreements with States under this section, the Secretary shall—

(i) consult with representatives of the State and appropriate State and local health planning and advocacy authorities or representatives of the organization of health practitioners, and report to Congress by January 1, 1993, on whether the projects are conducted on a state basis, and that such projects target areas which contain a high percentage of racial or ethnic minorities.

(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 facility residents or any of the projects are conducted on a state basis, and that such projects target areas which contain a high percentage of racial or ethnic minorities. The Secretary shall submit the report provided for in this subsection appropriate ratios or standards.

(a) MISCELLANEOUS.—

(1) DELAY IN REQUIREMENT FOR REMEDIES.—Section 1919(h)(2)/I(II) (42 U.S.C. 1396r(b)(2)/I(II)) is amended by striking "October 1, 1993" and inserting "April 1, 1993.

(2) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1919(h)(2)/I(II) (42 U.S.C. 1396r(b)(2)/I(II)) is amended by inserting before the period at the end of such subsection a comma and the words "in a hospital or an intermediate care facility for the mentally retarded or a long-term care institution for the elderly, if the State waives the requirement for such coverage and the waiver is effective under subsection (a)(4)") and subparagraph (B) of paragraph (1) and no more than 2 of the projects are conducted on a state basis, and that such projects target areas which contain a high percentage of racial or ethnic minorities.

(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 medical assistance made available under the project and may limit coverage of items and services, other than early and periodic screening, diagnostic, and treatment services for children under 18 years of age.

(2) LIMITS ON BENEFITS.—(A) In general.—Except with respect to those projects described in subparagraph (B) of paragraph (1), 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) for persons who are eligible for medical assistance under the State plan under title 19 of the Social Security Act and the Secretary waives, the State provides under its plan under title 19 of such Act the provisions of section 1922(a)(1)(A)(i)(I) 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 medical assistance made available under the project and may limit coverage of items and services, other than early and periodic screening, diagnostic, and treatment services for children under 18 years of age.

(2) USE OF UTILIZATION CONTROLS.—Nothing in this subsection shall be construed as limiting a State's authority to impose reasonable requirements, including preadmissions, requirements, managed care provisions, and other cost-sharing for covered services, and other cost-sharing for covered services, and other cost-sharing for covered services.

(c) PREMIUMS AND COST-SHARING.—(1) NONELIGIBLE WITHIN THE POVERTY LINE.—Under a project, the Secretary may waive the requirement that certain low-income individuals pay a premium, coinsurance, or other cost-sharing for medical assistance at the time of enrollment.

(2) LIMITS FOR THOSE WITH INCOME ABOVE THE POVERTY LINE.—In a project, the Secretary may not impose premiums, coinsurance, or other cost-sharing for individuals whose family income level does not exceed 150 percent of the income official poverty line applicable to a family of the size involved.

(b) Permanent.—A State, with the approval of the Secretary, may limit or otherwise decrease 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.
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 approved by the Secretary for projects under title XIX of the Social Security Act for individuals entitled to benefits under part A of title IV of such Act.

(b) Effective Date.—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.

(c) Limits on Expenditures and Funding.—

(1) In General.—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 $1,000,000 in each of the years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994.

(2) Of the amounts appropriated under subsection (d), 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). Family FAF 4510 statement of need is required to be attached.

(d) 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 of the State.

(e) No Increase in Federal Medical Assistance Percentage.—Payments to a State under a project with respect to expenditures made under a project may not exceed the Federal medical assistance percentage (as defined in section 1902(b) of the Social Security Act) of such expenditures.

(f) Evaluation and Report.—

(1) Evaluations.—For each project the Secretary shall conduct 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, 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(b) of the Omnibus Budget Reconciliation Act of 1990.

(2) The term "project" refers to a demonstration project under subsection (a).
(c) The Secretary shall publish proposed criteria and the notice of the proposed criteria 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 pursuant to section 1905(h) of the Social Security Act, the Administrator shall submit a report to the Committee on Finance of the Senate in accordance with section 1903(c)(1)(B) of the Social Security Act.

SEC. 677. 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 the conducting of demonstration projects in the States of Indiana, Illinois, Wisconsin, Oregon, California, Connecticut, Massachusetts, New York, New Jersey, and New Mexico. Such project shall allow individuals with income and resources above eligibility levels for receipt of medical assistance under title XVIII 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 XVIII of the Social Security Act.

(b) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary in providing for the demonstration project described in subsection (a), may set such Federal standards concerning the cost of a demonstration project as are necessary to carry out such project.

(c) LIMITATION ON DISALLOWANCES OR DEFERRAL.—The term "medical assistance" shall include medical assistance provided pursuant to this section, but not medical assistance provided pursuant to title XVIII of the Social Security Act.

(d) DURATION, AND ELIGIBILITY.—(1) The estimated average per capita and aggregate expenditures for 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)

(e) APPLICABILITY TO MEDICAID ELIGIBLE LONG-TERM CARE INSURANCE.—Securities may be offered for sale only if the issuer, in a suitably formatted document, has included the following statement: "This security is not covered by the provisions of the Social Security Act."
The Secretary shall award such demonstrations in a budget neutral manner.

(2) The Secretary shall either approve or disapprove the application of a State descripted in subsection (a) to conduct a demonstration project descrised in this section within 90 days of receipt of such application. If the Secretary disapproves the application of a State descripted in subsection (a) to conduct a demonstration project descrised in this section, the Secretary shall within 30 days of such disapproval notify the State of the reason for such disapproval and allow the State to correct any deficiencies and allow the State to resubmit a corrected application which the Secretary shall award within 90 days of the date on which 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 be entitled to long-term care services under the State plan after the expiration of such project.

(5) A demonstration project disapproved under section 102 of OBRA 87—Section 1011(d)(1)(B) and (C) (42 U.S.C. 1396n(d)(1)(B) and (C)) is amended by striking "this title" the place it appears and inserting "this title whose provisions become effective on or after such date."

(6) CHANGES TO FREEDOM OF CHOICE Waivers—Paragraph (1) of section 1915(c)(1) and (c)(3) (2) are amended—

(1) by striking "and section" and inserting "section" and

(2) by inserting after "community" and "the requirements of section 1902(d)(23) relating to restricting the recipient's choice of providers," thereof as such requirements relate to the provision of long-term care and supportive services, where the State provides assurances satisfactory to the Secretary that such a restriction will not substantially limit the recipient's choice of providers.

SEC. 472. MEDICAID PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

A) PHYSICIAN INCENTIVE PAYMENTS—Section 1902(m)(5) is amended by adding at the end of subparagraph (B) the following new subparagraph:

"(B) the number of enrollees actively 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);"

B) ADJUSTMENTS OF FEES—Paragraph (a) of section 1902(m)(5) is amended by adding at the end of such subparagraph the following new subparagraph:

"(C) the number of enrollees actively 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);"

C) PHYSICIAN INCENTIVE PAYMENTS—Section 1902(m)(5) is amended by adding at the end of subparagraph (B) the following new subparagraph:

"(1) an increase in the amount of each payment adjustment is required under subparagraph (A) or (B) 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 violation."

SEC. 473. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

Section 1905(a)(1) 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 a service for alcoholism or drug dependency."

SEC. 474. HOME AND COMMUNITY-BASED WAIVERS.

A) TREATMENT OF ROOM AND BOARD.—Subsection (2) of section 1915(k) of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following:

"For purposes of this subsection, the terms "room and board" shall not mean the amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated individual who is related by blood to the same household with an individual who, for the assistance of such caretaker, provides personal attendant services or an intermediate care facility for the mentally retarded."

B) TREATMENT OF DECONTINENT 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 long-term care. Notwithstanding any other provision of law, 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 EFFECT ON OR AFTER APRIL 1, 1991.—Section 1915(d)(5)(B)(iii) (42 U.S.C. 1396n(d)(5)(B)(iii)) is amended by striking "this title" the place it appears and inserting "this title whose provisions become effective on or after such date."

D) CHANGES TO FREEDOM OF CHOICE Waivers.—Paragraph (1) of section 1915(c)(1) and (c)(3) (42 U.S.C. 1396n(c)(1) and (c)(3)) are each amended—

(1) by striking "and section" and inserting "section" and

(2) by inserting after "community" and "the requirements of section 1902(d)(23) relating to restricting the recipient's choice of providers," thereof as such requirements relate to the provision of long-term care and supportive services, where the State provides assurances satisfactory to the Secretary that such a restriction will not substantially limit the recipient's choice of providers.

SEC. 475. MEDICAID PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

A) PHYSICIAN INCENTIVE PAYMENTS—Section 1902(m)(5) is amended by adding at the end of subparagraph (B) the following new subparagraph:

"(B) the number of enrollees actively 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);"

B) ADJUSTMENTS OF FEES.—Paragraph (a) of section 1902(m)(5) is amended by adding at the end of such subparagraph the following new subparagraph:

"(C) the number of enrollees actively 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);"
"(I) The Secretary of the Treasury shall provide for the processing of merchandise in a manner that is consistent with the objectives of the Customs and Trade Act of 1990.

"(II) The Secretary of the Treasury shall provide for the processing of formal entries and releases of merchandise, including the ad valorem rate (but not to a rate of 0.19 percent) for merchandise entered or released during any fiscal year.

"(III) The Secretary of the Treasury shall provide for the processing of formal entries and releases of merchandise, including any amendment made by such paragraph (A) and inserted in paragraph (B) before the colon, and

"(IV) The Secretary of the Treasury shall provide for the processing of formal entries and releases of merchandise, including any amendment made by such paragraph (A) for merchandise entered or released during any fiscal year, a fee in an amount equal to

"(V) The Secretary of the Treasury shall provide for the processing of formal entries and releases of merchandise, including any amendment made by such paragraph (A) for merchandise entered or released during any fiscal year, a fee in an amount equal to

"(VI) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(VII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(VIII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(IX) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(X) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XI) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XIII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XIV) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XV) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XVI) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XVII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XVIII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XIX) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XX) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXI) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXIII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXIV) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXV) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXVI) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXVII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXVIII) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXIX) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.

"(XXX) Any fee charged under this paragraph (A) for merchandise entered or released during any fiscal year shall be applied as if the amendment made by such paragraph (A) had not been enacted.
Section 658. 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 1981.'"

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS. "There are authorized to be appropriated to carry out this subchapter, $750,000,000 for fiscal year 1990, $800,000,000 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 an agency to act as the lead agency.

"(b) DUTIES.— (1) In general.—The lead agency shall—

(A) serve as the lead agency for, 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; and

(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 the public an opportunity to comment on the provision of child care services and to permit the public to furnish information to the lead agency.

"(2) Coordination of services under this subchapter with other Federal, State, and local child care and early childhood development programs.—"The Secretary shall coordinate the provision of services under this subchapter with other Federal, State, and local child care and early childhood development programs.

"(3) Development of plan.—In the development of the State plan described in paragraph (2), the lead agency shall consult with appropriate representatives of units of general purpose local government. Such consultation shall include the consideration of the child care needs and resources of the State and the provision of services under this subchapter to 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 require. Such applications shall be designed to facilitate the provision of services to such providers, and to permit the Secretary to furnish information to such parents, and shall contain information on the availability of health and safety training, technical assistance, and any relevant information pertaining to regulatory requirements on child care services and programs. 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.

"(b) INCREASE OVER PLAN.—The State plan submitted in an application under subsection (a) shall be designed to be implemented—

(1) during a 3-year period for the initial State plan application;

(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 652D.

"(2) POLICIES AND PROCEDURES.—The State plan shall—

(A) PARENTAL CHOICE OF PROVIDERS.—Provide assurances that—

(i) the State or local government, or other public or private entities selecting the option described in clause (ii), shall be designed to be implemented—

(I) to receive a child care certificate as defined in section 652P(b);

(II) to receive such child care certificate appropriately, to provide services through such lead agency or other designated agency; and

(iii) such certificates shall include—

(I) a description of such provider that has been determined to meet the applicable State or local health and safety standards of the State; and

(II) the application procedures and criteria by which the State shall evaluate such applications;

(B) UNLIMITED PARTNERSHIP.—Provide assurances that the State will permit a partnership between such lead agency or other designated agency and any public or private entity, or combination of such entities, that are subject to the State's licensing standards, to accommodate the needs of such parents.

"(d) COMPLIANCE WITH STATE AND LOCAL HEALTH AND SAFETY REQUIREMENTS.—Provide assurances that such lead agency or other designated agency shall require such State or local health and safety requirements in such State or local plan to be identical to the State or local health and safety standards of the State.
(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—

(1) child care services that meet the requirements of this subchapter, that are provided to the State under section 658E(c)(2)(A), and that, by priority being given for services provided by centers with very low family incomes (taking into consideration family size) and to children with special needs.

(2) 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.

(3) 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 the activities described in paragraph (2) to improve the availability of child care (as described in section 658G) and to provide before- and after-school and early childhood development services.

(4) Payment rates.—

(a) in general.—The State plan shall provide for—

(i) payment rates for the provision of child care services for which assistance is provided under this subchapter that are sufficient to ensure access for eligible families for affordable child care services provided to children 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.

(ii) in the case of sectarian agencies or organizations, that the payment rates for the provision of child care services, such as providing child care services for which assistance is provided under this subchapter, shall be consistent with national averages for such services.

(b) in the case of child care services for which assistance is provided under this subchapter to be provided to children attending early childhood development and before- and after-school child care programs for which assistance is provided under this subchapter, that—

(i) 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 which assistance is provided under this subchapter.

(ii) nothing in this paragraph shall be construed to create a public right of action.

(c) 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 family that receive child care services for which assistance is provided under this subchapter.

(5) approval of application.—The Secretary shall approve an application that satisfies the requirements of this section.

(6) limitations on state allotments.—Nothing in this subchapter shall be construed to require the Secretary to—

(a) to entitle any child care provider or recipient to receive child care services for which assistance is provided under this subchapter.

(b) to limit the right of any State to impose any regulations, conditions or contracts on grantees or contractors.

(c) to set conditions on the construction of facilities.

(7) construction of facilities.—No funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the construction or improvement (other than minor remodeling) of any building or facility.

(8) 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. 658. LIMITATIONS ON STATE ALLOTMENTS.

(1) in general.—(A) a State that receives financial assistance under this subchapter shall use not less than 75 percent of the State plan or any requirement of this subchapter.

(B) establishment of sliding fee scale.—Subject to the availability of appropriations, the Secretary shall provide that the State, and shall have 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—

(i) any other areas with concentrations of poverty; and

(ii) any areas with very high or very low population densities.

SEC. 659. 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 feasible, 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 make such standards available in an electronic format.

(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 the State's submission of any requirements for any plan approved under section 658E(c) for the State, and shall have the authority to terminate the application of the State in accordance with paragraph (2).

(2) noncompliance.—

(A) in general.—In general, if the Secretary, after reasonable notice to the 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 for, in the case of noncompliance in the operation of a program or activity, that no further payments may be made to such State with respect to such program or activity until the Secretary is satisfied that there is no longer any such failure to comply or that such noncompliance will be promptly corrected.

(B) additional sanctions.—In the case of a State that has been subject 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 financial assistance under this subchapter.

(3) notice.—The notice required under subparagraph (A) shall include specific identification of any additional sanction being imposed under subparagraph (B).

(4) issuance of rules.—The Secretary shall establish by rule procedures for—

(A) receiving, processing, and determining the validity of complaints concerning State plans or any requirement of this subchapter, and

(B) imposing sanctions under this section.

SEC. 659A. PAYMENTS.

(a) in general.—Subject to the availability of appropriations, a State that has an approved plan under section 658E(d)(1) shall be entitled to a payment under this section for each fiscal year.
in an amount equal to its allotment under section 658L for the fiscal year.

(b) Method of Payment.—

"(1) In General.—Subject to paragraph (2), the Secretary may make payments to a State for assistance under this subchapter in accordance with paragraph (3) of section 658E(c) and the amount of funds expended for such uses;

"(2) containing available data on the needs of the State in the area of child care, including information concerning—

"(3) any services provided to such students during the regular school day;

"(4) any instructional services which supplement or duplicate the academic program of any public or private school;

"(5) any academic program approved, in whole or in part, under this subchapter.

SEC. 85K. ANNUAL REPORT AND AUDIT.

(a) Annual Report.—Not later than December 31, 1992, and annually thereafter, a State shall submit under this subchapter a report of such activities, and shall submit to the Secretary in accordance with section 658L an annual report and audit of the expenditures of funds under this subchapter for the fiscal year ending March 31, 1993, and each succeeding fiscal year.

(b) Contents.—Each report required under this subsection, the findings of the State in that fiscal year or in the succeeding fiscal year, shall be submitted to the Secretary in accordance with section 658L. Such report shall include an assessment, and where appropriate, recommendations for amounts determined to be inadequate or in excess of such amounts.

SEC. 85L. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE.

SEC. 85M. NONDISCRIMINATION.

(a) Construction.—

"(1) IN GENERAL.—Except as provided in subparagraph (2), no financial assistance provided under this subchapter 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 sex in any organization that owns or operates any child care provider or school described in section 658E(c) and the State in response to such requests;

"(2) specifying the extent to which the availability of child care services has increased;

"(3) the number and type of child care programs, child care providers, caregivers, and support personnel located in the State;

"(4) any services for which such students receive academic credit toward graduation;

"(5) any instructional services which supplement or duplicate the academic program of any public or private school.

(g) Religious Nondiscrimination.—

"(1) IN GENERAL.—A State shall prepare and submit to the Secretary a report containing—

"(2) any services provided to such students during the regular school day;

"(3) any services provided to such students during the regular school day;

"(4) any services provided to such students during the regular school day.

(h) Employment and Admission Practices.—Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State financial assistance or program, including the Secretary's enforcement of such assistance, is determined to be necessary for a State to prevent discrimination against any individual in employment, the Secretary, specifically provided, that no person with responsibilities in the operation of the child care program, project, or activity receiving assistance under this section shall 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, because of the race of such individual.

(i) 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 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. 85O. ACCOUNTS AND 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 section 658B for each fiscal year for payment 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 in accordance with this section.

(b) Indians.—

"(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—

"(2) 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

"(3) 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.

"(2) Young Child Factor.—The term 'young child factor' means the ratio of the number of children in the State under the age of 1 year 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.

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 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 Secretary of Agriculture, as prescribed in 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 Secretary of Agriculture, as prescribed in the National School Lunch Act (42 U.S.C. 1751 et seq.).

(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) CONSIDERATION OF 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.

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which such data are available from the Department of Commerce at the time such determination is made.

(5) PAYOUTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(A) GENERAL AUTHORITY.—From amounts reserved under subsection (a)(2), the Secretary may make grants 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.

(B) APPLICATIONS AND REQUIREMENTS.—An application for a grant or contract under this subsection shall include a plan that—

(i) COORDINATION.—The applicant will coordinate, to the maximum extent feasible, with the Department of Education and any public, private, or nonprofit organization in the Indian State in which the applicant will carry out programs or activities under this section.

(ii) SERVICES ON RESERVATION.—In the case of an application that proposes activities 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 the 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.

(D) CONSIDERATION OF SECRETARIAL APPROVAL.—The Secretary shall determine whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration—

(i) 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

(ii) whether the applicant has the ability to provide additional child care services, including community support, and other necessary components to satisfactorily carry out the program.

(E) THREE-YEAR LIMIT—Grants or contracts under this section shall be for periods not to exceed 3 years.

(F) 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 an 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 unless the Secretary determines that—

(i) 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).

(ii) REALLOCATIONS.—(I) In general.—Any portion of the allotment to a State that the Secretary determines is not required to carry out a State plan approved under section 658E(a), in the period for which the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotments to the other States.

(II) LIMITATIONS.—(A) REDUCTION.—The amount of any reallocation to which a State is entitled to under paragraph (I) shall be reduced to the extent that it is determined that the Secretary estimates will be in the State in order to carry out a State plan approved under section 658E(a).

(B) REALLOCATIONS.—The amount of such reduction shall be similarly reallocated among States for which no reduction in an allotment or reallocation is required by this subchapter.

(6) AMOUNTS REALLOCATED.—For purposes of any portion of this subchapter, any amount reallocated to a State under this subchapter shall be considered to be part of the allotment made under subsection (b) to the State.

(7) 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. 658Q. PARENTAL RESPONSIBILITIES.

(A) IN GENERAL.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

(B) SECONDARY SCHOOL.—The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law.

(C) SECRETARY.—The term 'Secretary' includes the Secretary of Health and Human Services unless the context specifies otherwise.

(8) 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.

(9) 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 Mariana Islands, and the Trust Territory of the Pacific Islands.

(10) SECONDARY SCHOOL.—The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law.

(11) SCHOOL.—The term 'school' includes 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 Mariana Islands, and the Trust Territory of the Pacific Islands.

(14) TRIBAL ORGANIZATION.—The term 'tribal organization' means an Indian tribe or other Indian organization that is recognized by the Secretary in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c).

(15) SEC. 658R. SECULARITY.

(A) IN GENERAL.—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.

(16) TITLE VII—REVENUc PROVISIONS

SEC. 658R. SECULARITY.

(A) IN GENERAL.—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.

(B) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an abbreviation to, or in the case of any other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.
Sec. 7101. Allocation of research and experimental expenditures.
Sec. 7102. Research credit.
Sec. 7103. Employer-provided educational assistance.
Sec. 7104. Group life services plans.
Sec. 7105. Targeted job credit.
Sec. 7106. Energy investment credit for solar, geothermal, and ocean-related property.
Sec. 7107. Low-income housing credit.
Sec. 7108. Qualified mortgage bonds.
Sec. 7109. Qualified small issue bonds.
Sec. 7110. Health insurance costs of self-employed individuals.
Sec. 7111. Expenses for drugs for rare conditions.

Subtitle B—Tax Incentives

Part I—Energy Incentives
Sec. 7201. Extension and modification of credit for producing fuel from nonconventional source.
Sec. 7202. Credit for small producers of ethanol; modification of alcohol fuels credit.
Sec. 7203. Tax credit to increase domestic energy exploration and production.
Sec. 7204. Percentage depletion permitted after transfer of proven property.
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.
Sec. 7206. Increase in percentage depletion allowance for marginal production.
Sec. 7207. Special energy deduction for minimum tax.
Sec. 7208. Reduce pollution and dependence on foreign oil.
Sec. 7209. Special resolution.

Part II—Small Business Incentives

Subpart A—Treatment of Estate Taxes
Sec. 7210. Repeal of section 2038(c).
Sec. 7211. Special valuation rules.

Subpart B—Additional Incentives
Sec. 7212. Credit for cost of providing nondiscriminatory public accommodations for disabled individuals.

Subtitle C—Modifications of Earned Income Tax Credit
Sec. 7301. Modifications of earned income tax credit.
Sec. 7302. Dependent care credit made refundable.
Sec. 7303. Study of advance payments.
Sec. 7304. Program to increase public awareness.
Sec. 7305. Exclusion from income and resources of earned income tax credit under titles IV, XVI, and XIX of the Social Security Act.
Sec. 7306. Coordination with refund provision.

Subtitle D—Revenue-Raising Provisions

Part I—Excise Taxes
Sec. 7401. Increase in excise taxes on distilled spirits, wine, and beer.
Sec. 7402. Increase in excise taxes on tobacco products.
Sec. 7403. Additional chemicals subject to tax on ore-depleting chemicals.

Part II—User-Related Taxes
Sec. 7405. Increase and extension of highway-related taxes and trust funds; repeal of reduction in security tax.
Sec. 7405A. Increase and extension of aviation-related taxes and trust funds; repeal of reduction in security tax.
Sec. 7406. Increase in harbor maintenance tax.
Sec. 7407. Extension of Leaking Underground Storage Tank Trust Fund taxes.
Sec. 7408. Floor stocks tax treatment of articles for foreign trade zones.

Subpart C—Taxes on Luxury Items
Sec. 7409. Taxes on luxury items.

Subpart D—Telephone Tax
Sec. 7410. Permanent extension of telephone excise tax.

Part II—Insurance Provisions

Subpart A—Provisions Related to Policy Acquisition Costs
Sec. 7411. Capitalization of policy acquisition expenses.

Part III—Compliance Provisions
Sec. 7412. Treatment of certain nonlife reserves of life insurance companies.
Sec. 7413. Treatment of life insurance reserves of insurance companies which are not life insurance companies.

Subpart B—Treatment of Salvage Recoverable
Sec. 7414. Treatment of salvage recoverable.

Subpart C—Waiver of Estimated Tax Penalties
Sec. 7415. Waiver of estimated tax penalties.

Part IV—Employer Reversions

Subpart A—Treatment of Reversions of Qualified Plan Assets to Employees
Sec. 7413. Increase in reversion tax.
Sec. 7432. Additional tax if no replacement plan.
Sec. 7433. Effective date.
Sec. 7434. Transfers of excess pension assets to retire health accounts.
Sec. 7435. Application of ERISA to transfers of excess pension assets to retire health accounts.

Part V—Corporate Provisions
Sec. 7411. Recognition of gain by distributing corporation in certain section 355 transactions.
Sec. 7422. Modifications to regulations issued under section 355(c).
Sec. 7423. Modifications to section 1960.
Sec. 7441. Modification to corporation equity redemption limitations on net operating loss carrybacks.
Sec. 7445. Issuance of debt or stock in satisfaction of indebtedness.

Sec. 7451. Increase in dollar limitation on amount of wages subject to hospital insurance tax.

Sec. 752. Extending Medicare coverage of, and application of hospital insurance taxes to, all state and local government employees.
Sec. 753. Coverage of certain state and local employees under social security laws.
Sec. 754. Extension of FUTA surtax.
Sec. 755. Increase in tier 2 railroad retirement tax.
Sec. 756. Transfer to railroad retirement account.
Sec. 757. Tier 1 railroad retirement tax rates explicitly determined by reference to social security laws.
Sec. 758. Deposits of payroll taxes.

Part VII—Miscellaneous Provisions
Sec. 7661. Overall limitation on itemized deductions.
Sec. 7662. Disallowance of deduction for interest on unpaid corporate taxes.
Sec. 7663. Denial of deduction for unnecessary cosmetic surgery.

Subtitle E—Other Provisions
Sec. 7671. Tax-related user fees made permanent.
Sec. 7672. Public debt limit extension.
Sec. 7673. Reports of refunds and credits.


SEC. 781. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES
(a) Extension.—Paragraph (5) of section 41(b) 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 December 31, 1989, and on or before December 31, 1991.”

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 782. THE RESEARCH CREDIT
(a) Extension.—Subsection (b) 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”.
(3) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 783. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE
(a) In General.—Subsection (d) of section 127 relating to educational assistance program 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 “1990”.
(c) Conforming Amendment.—Subsection (a) of section 7110 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. 711. TARGETED JOBS CREDIT.

(a) 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 clause (viii), and inserting "Dec. 31, 1991" therefor.

(b) Authorization—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 712. LOAN-WORKOUT CREDIT.

(a) Extension.—(1) In General.—Paragraph (4) of section 51(c) 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, 1990.

SEC. 713. TARGETED JOBS CREDIT.

(a) Authorization.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 714. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 715. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 716. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 717. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 718. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 719. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 720. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 721. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 722. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 723. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 724. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 725. 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.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2) and inserting "paragraph (3)" therefor.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.
(2) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after September 30, 1991.

(b) DEFINITIONS.—Section 40(d)(3) is amended—

(1) by striking paragraph (2); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) ALCOHOL 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 produced by an eligible small ethanol producer, and which—

(i) is sold by such producer to another person,

(ii) for use by such other person in the production of a qualified fuel mixture in which such other person's trade or business (other than casual off-farm production),

(iii) for use by such other person as a fuel in trade or business, or

(iv) who sells such alcohol at retail to another person and places such alcohol in the fuel tank of such person's vehicle, or

(v) is used or sold by such producer for any purpose described in clause (i).

"(C) LIMITATION.—The qualified ethanol fuel production of any eligible small ethanol producer for any taxable year shall not exceed 15,000,000 gallons.

"(D) ADDITIONAL DISTILLATION EXCLUDED.—

The qualified ethanol fuel production of any eligible small ethanol producer shall not include any alcohol which is purchased by the producer and with respect to which such producer increases the proof of the alcohol by additional distillation, "and (3) by striking "and alcohol credit" in the heading for such subsection and inserting "and alcohol credit", "small ethanol producer credit", "and definitions and special rules for eligible small ethanol producer credits", "and definitions and special rules for eligible small ethanol producer credits", "and definitions and special rules for eligible small ethanol producer credits", and "and definitions and special rules for eligible small ethanol producer credits".

"(E) REDUCED CREDIT FOR ETHANOL BLENDERS.—

(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), all amounts 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 allocated by the Secretary for such period under this section.

"(3) ALLOCATION.—For purposes of this section, the term 'allocation' means the amount of the alcohol credit for fuel production attributable to any person for any taxable year under section 40, or the alcohol credit for fuel production attributable to any person for any taxable year under section 40 to the pass-thru entity in which such person has an interest, or the algebraic sum of the credits attributable to any person for any taxable year under section 40 to any entity in which such person has an interest.

"(4) PARTNERSHIP, S CORPORATIONS, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, "partnership", 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.

"(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary.
[SNIPPED TEXT]
(b) TECHNICAL AMENDMENT.—Paragraph (11) of section 613A(c), as redesignated by subsection (a) of this section, is amended by striking subparagraphs (C) and (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1990, for expenses incurred after such date.

SEC. 5. INCREASE IN PERCENTAGE DEPLETION.

(a) IN GENERAL.—Except as provided in subsection (b) and subparagraph (B), the allowance for depletion under section 611 shall be computed in accordance with section 613A for purposes of subsection (a) of that section.

(b) APPLICABILITY.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage (not greater than 25 percent) equal to the sum of—

(1) 15 percent, plus
(2) 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 average daily price of domestic crude oil or domestic natural gas during such calendar year.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 6. INCREASE IN PERCENTAGE DEPLETION ALLOWANCE FOR MARGINAL PRODUCTION.

(a) IN GENERAL.—Except as provided in subsection (b) and subparagraph (B), the allowance for depletion under section 611 shall be computed in accordance with section 613A for purposes of subsection (a) of that section.

(b) APPLICABILITY.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage (not greater than 25 percent) equal to the sum of—

(1) 15 percent, plus
(2) 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 taxable year, the average daily price of domestic crude oil or domestic natural gas during such calendar year.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7. SPECIAL ENERGY DEDUCTION FOR MARGINAL PRODUCTION.

(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:

"(11) ADJUSTMENT BASED ON ENERGY PREFERENCES.—"(I) 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—

(II) the alternative tax energy preference deduction, or
(III) 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 (h) (A)(4).

(2) PHASE-OUT OF DEDUCTION AS OIL PRICES INCREASE.—The amount of the deduction under paragraph (1) determined without regard to clause (I) shall be reduced (but not below zero) by the product 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 (a) $28, bears to (b) $28, bears to...
NC 5751. SPECIAL SALVATION RULER (N CARE OP adding at the end thereof the following new SEC 721* SPECIAL E4LSh4flONRUL&t 1987. of property transferred after December 17, made by this section shall apply in the case Inserting 'subsection (a)' and In subsection (c) (as so redesignated) and (b), (C), and Id), respectively, nating subsection (d) as subsection (c). SEC 7255. REPEAL domestic sources tation fuel with alternative and other do- sources and promote environmental interests require that the Nattonand environmental air quality; being of our citizens, and the maintenance of automobiles and the production of pollution and reduce our dependence on foreign oil, it is important to coordinate programs relating to the produc- and production of fuels: (1) the achievement of long-term energy se- curity for the United States is essential to the well- being of our citizens, and the maintenance of national security; (2) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality; (3) 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 cleanburning, nonpetroleum transportation fuels to reach a threshold level of commercial ap- plication and commercial acceptability at which they can successfully compete with petroleum based fuels.

SEC. 721A. REPEAL OF SECTION 7220A (a) In GENERAL.—Section 2036 relating to transactions with retained life estates is amended by striking subsection (c) and by redesignating section (d) as subsection (c).

(b) CONFORMING AMENDMENTS.— (1) Section 22021 is amended— (A) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d); (B) by striking subsections (b) and (d) in subsection (c) (as so redesignated) and adding subsection (b) (as so redesignated); and (C) by striking subsection (c) (as so redesignated) and inserting subsections (b) and (c). (2) Section 22021(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.

S 15950

CONGRESSIONAL RECORD — SENATE

October 18, 1990

(1) in order to have a comprehensive pro- gram to reduce pollution and reduce our de- pendence on foreign oil, it is important to coordinate programs relating to the produc- and production of automobiles and the production of fuels:

(2) the achievement of long-term energy se- curity for the United States is essential to 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 commercial acceptability at which they can successfully compete with petroleum-based fuels.

SEC. 721A. REPEAL OF SECTION 7220A (a) In GENERAL.—Section 2036 relating to transactions with retained life estates is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS.— (1) Section 22021 is amended— (A) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d); (B) by striking "subsection (b)" in subsection (c) (as so redesignated) and striking subsection (b) (as so redesignated); and (C) by striking subsection (c) (as so redesignated) and inserting subsections (b) and (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of property transferred after December 17, 1987.
"(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 is exercisable 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—

"(1) 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) (or would be of the same class but for nonalighting differences in voting power),

"(ii) is nonalighting,

"(iii) is subject to proportionate adjustments for capital gains or losses, recapture or recission, 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 transferee—

"(A) the transferee's spouse,

"(B) a lineal descendant of the transferee or the transferee's spouse, and

"(C) the transferee's spouse or any similar right, it does not include any liquidation, put, call, or conversion right, or any similar right, which is exercisable at a specific time and at a specific amount.

"(2) Applicable family member.—The term 'applicable family member' means, with respect to any transferee—

"(A) the transferee's spouse,

"(B) a lineal descendant of the transferee or the transferee's spouse, and

"(C) the transferee's spouse or

"(d) Control.—For purposes of paragraph (1), "control" means the holding of interests representing at least 50 percent by value or control of the stock of the corporation.

"(e) Partnership.—In the case of a partnership, the term 'control' means—

"(2) any interest which consists of the right to receive fixed amounts payable not less frequently than annually.

"(f) 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 fixed amounts payable not less frequently than annually.

"(g) Noncontingent remainder interest.—If all of the interests in the trust consist of interests described in paragraph (1) or (2), the term 'noncontingent remainder interest' means—

"(1) any interest which is a noncontingent remainder interest.

"(2) any interest which consists of the right to receive fixed amounts payable not less frequently than annually.

"(h) Certain property treated as held for fixed term.—For purposes of this section—

"(1) The transfer of an interest in property to a noncontingent remainder interest.

"(2) The transfer of an interest in a trust.

"(3) The transfer of an interest in property to a noncontingent remainder interest.

"(4) The transfer of an interest in property to a noncontingent remainder interest.

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"(75) The transfer of an interest in property to a noncontingent remainder interest.
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 subsection (b) 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 such property and which effective-las on the death of such decedent concerning to such property and which effective-las on the death of such decedent

SEC 754. CERTAIN RIGHTS AND RESTRICTIONS DIS-REGARDED.

(a) General Rule.—For purposes of this subtitle, the value of any property shall be other than a restriction which by its terms will never lapse, and

(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:

"(b) Gift Tax on Certain Gifts Not Shown on Return.—If any gift of property the value of which is determined under section 2701 or section 2702 is made in any taxable gift which is assumed by law to be a gift of property the value of which is not shown on return, any gift tax imposed by chapter 22 (without regard to section 2633(b)) is required to be shown on a return of tax imposed by chapter 22 (without regard to section 2633(b))."

(c) Conforming Amendment.—The table of chapters for subtitle B is amended by adding at the end thereof the following item:

"Ch. 11.—INTEREST IN PORTION OF TRUST".

(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

SEC 758. CARRYBACK AND CARRYFORWARD OF UNUNITED CREDIT.

"(1) In general.—If the amount of the credit allowable under subsection (a) for any taxable year exceeds the taxable year, it shall be added to the credit allowable under subsection (a) for each of the preceding taxable years.

"(2) Amount carried to each year.—

"(A) Entire amount carried to first year.—The entire amount of an unused credit shall be carried to the earliest of the

SEC 759. TREATMENT OF CERTAIN RESTRICTIONS AND LAPSE RIGHTS.

"(1) without regard to any restriction other than a restriction which by its terms will never cease,

"(2) the tentative minimum tax for the taxable year.

"(3) the amount of the credit allowable under subsection (a) for any taxable year shall not exceed the amount of the credit allowable for that taxable year under subsection (b) of this section.

"(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.

"(5) Eligible Small Business.—For purposes of this section, the term 'eligible small business' means a person—

"(A) who has gross receipts for the taxable year not exceeding $1,240,000, or

"(B) the annualized amount of any such expenditure for which a public accommodations credit is allowed under section 7602(c) for the taxable year.

"(6) Eligible Public Accommodations Access Expenditures.—For purposes of this section—

"(A) the term 'eligible public accommodations access expenditures' means amounts paid or incurred by a taxpayer in the case of a person with such receipts exceeding $4,000,000, which employs not more than 30 full-time employees during the taxable year.

"(2) the amount of the credit allowed under subsection (a) for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(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 amount which, by reason of this subsection, is 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.

"(5) ELIGIBLE SMALL BUSINESS—For purposes of this section, the term 'eligible small business' means a person—

"(1) who has gross receipts for the taxable year not exceeding $1,240,000, 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 the 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.

"(6) 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 in the case of a person with such receipts exceeding $4,000,000, which employs not more than 30 full-time employees during the taxable year.

"(2) in the case of a person with such receipts exceeding $4,000,000, which employs not more than 30 full-time employees during the 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.
made after the date of the enactment of this Act.

(12) SECTION 45C.—The amendment made by subsection (d) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle C—Modifications of Earned Income Credit

SEC. 7013. MODIFICATIONS OF EARNED INCOME TAX CREDITS

(a) In General.—So much of section 32 (relating to earned income credit) as precedes subsection (d) thereof is amended to read as follows:

"(d) 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—

"(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 basic earned income credit allowable to a taxpayer for any taxable year shall be equal to—

"(i) the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $5,714,

"(ii) the credit percentage shall be equal to

"(B) Limitation.—The amount of the basic earned income credit allowable to a taxpayer for any taxable year shall not exceed the excess of—

"(i) the credit percentage of $5,714, over

"(ii) the percentage of so much of the adjusted gross income (or, if greater the earned income) of the taxpayer for the taxable year as exceeds $5,714.

"(c) Special Rules.—For purposes of this paragraph—

"(1) In General.—Except as provided in clause (ii), the percentages shall be determined as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of Credit Percentage</th>
<th>Individual or Children</th>
<th>Child Tax Credit Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>14.1</td>
<td>10.8</td>
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</tr>
<tr>
<td>1992</td>
<td>14.1</td>
<td>10.8</td>
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<tr>
<td>1993</td>
<td>14.1</td>
<td>10.8</td>
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</tbody>
</table>

(13) HEALTH INSURANCE CREDIT.—

(a) In General.—The term "health insurance credit" means the amount determined in the same manner as the basic earned income credit except that—

"(B) the credit percentage shall be equal to 5.5 percent, and

"(ii) the 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 described in section 2201(b).

(14) MODIFICATIONS OF ELIGIBILITY AND THE AMOUNT OF THE TAX CREDIT.

(a) In General.—The term "eligible individual" means any individual who has a qualifying child for the taxable year.

(15) FAMILY LIMITATIONS.—If 2 or more individuals would (but for this subparagraph) be treated as 2 or more qualifying children for a taxable year beginning before 1984, the percentages under paragraph (a) shall be determined as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of Credit Percentage</th>
<th>Individual or Children</th>
<th>Child Tax Credit Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>11.8</td>
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<td>1993</td>
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</table>

(16) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(17) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means any individual who has a qualifying child for the taxable year.

(18) QUALIFYING CHILD.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer, beginning in any calendar year, such individual shall be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

(19) MODIFICATIONS OF ELIGIBILITY AND THE AMOUNT OF THE TAX CREDIT—If 2 or more individuals would (but for this subparagraph) be treated as 2 or more qualifying children for a taxable year beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable year shall be treated as an eligible individual with respect to such qualifying child.

(20) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 111.—The term "eligible individual" does not include any individual who is related to the individual claiming the benefit under section 111.
individual who claims the benefits of section 31(a) (relating to citizens or residents living abroad) for the taxable year.

(ii) If the taxpayer is an employed individual and was not a student (as defined in section 31(c)(4)) who has not attained the age of 19 as of the close of the calendar year in which such individual is of earned income, such individual shall be taken into account, and

(iii) If the taxpayer is an employed individual who bears a relationship to the taxpayer for more than half of such taxable year of the taxpayer described in subparagraph (B), and

(iv) If the taxpayer is an employed individual with 1 qualifying child of earned income described in paragraph (1).
the availability of such credit and filing procedures. The Secretary shall use all means of communication, direct-mail contact, and any other appropriate means of communication to carry out the provisions of section 32 of the Internal Revenue Code of 1986 relating to advance payment of earned income credit (relating to earned income 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.

SEC. 7905. COORDINATION WITH REFUND PROVISION. For purposes of section 1324(b)(12) 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

SECTION 7401. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—(1) IN GENERAL.—Paragraphs (1) and (2) of section 5041(b) (relating to rates of tax on distilled spirits) are each amended by striking "19 cents" and inserting "3.15 cents".

(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 "19 cents" and inserting "1.57 cents per gallon".

(C) CREDIT OR SMALL DOMESTIC PRODUCERS.—Paragraph (5) of section 5041(b) is amended by striking "67 cents" and inserting "1.57 cents per gallon".

(c) BEER.—(1) TAX INCREASES.—(A) Wines containing not more than 21 percent alcohol.—Paragraph (1) of section 5041(b) is amended by striking "$1.25" and inserting "$1.57 per gallon".

(b) REDUCTION IN CREDIT.—The credit allowable by paragraph (2) of section 5041(b) is amended by striking "21 cents" and inserting "1.57 cents per gallon".

(2) CREDIT FOR SMALL DOMESTIC PRODUCERS.—(A) ALLOWANCE OF CREDIT.—Except as provided in paragraph (2), in the case of a brewer who has not produced more than 250,000 barrels of beer during the calendar year, there shall be allowed as a credit against any tax imposed by this title a deduction from the tax on beer of $11 per barrel for 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 a brewer at qualified breweries in the United States.

(b) REDUCTION IN CREDIT.—The credit allowable by subparagraph (a) shall be reduced by $1 per barrel for each barrel of beer brewed or produced in excess of 45,000 barrels of beer during the calendar year.

(2) TIME FOR DETERMINING AND ALLOWING CREDIT.—The credit allowable by subparagraph (a) shall be determined at the same time the tax is determined under paragraph (1) of this subsection, and shall be allowable at the time any tax described in subparagraph (a) of this paragraph is payable as if the credit allowable by this subsection constituted a reduction in the rate of such tax.

(3) CONTROLLED GROUPS.—Rules similar to the rules of section 32 shall apply for purposes of this subsection.

(4) PENALTY.—Any person who produces at a facility or a group of facilities in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year.

(5) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowance of credit against the tax imposed by subtitle A, see section 30A.

(6) REGULATIONS.—The Secretary shall, by regulation, prescribe such regulations as may be necessary to carry out the provisions of this subsection.
control where 1 or more of the brewers is not a corporation.

(D) TAx 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.

(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 on such wine increased 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 1989, 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 subsection (a); and

(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 thereof had at any time been transferred to any other person.

(3) EXCEPTION FOR CREDIT AGAINST WHOLESALE-SOLD DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held by such dealer on such date 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) $238 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 (1) on which tax was determined under paragraph (1) shall be liable for the tax imposed by paragraph (1) and the Secretary shall prescribe the manner in which the tax shall be paid.

(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 corporation—

(i) the 500 wine gallon amount specified in paragraph (4); 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 prescribe by regulations. For purposes of the preceding sentence, the term "controlled group" has the meaning prescribed by 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" such place it appears in such subsection.

(B) NONCORPORATE DEALERS.—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 comparison of a tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks described in 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 the distilled spirits excise tax;

(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.

(C) CIGARETTES.—For purposes of this paragraph, applicable and similar provisions of the customs laws of the United States shall apply with appropriate modifications.

(8) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of paragraphs (1) and (2) of section 5051, articles described in section 5051(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 after January 1, 1991, on the premises of a retail establishment.

SEC. 704. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS

(a) CIGARES.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$3.125 per thousand (52.75 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 1991 and

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "8 per thousand" in paragraphs (1) and (2) and inserting "$1.125 per thousand (810 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$1.08 per thousand" in paragraph (2) and inserting "$2.25 per thousand (421 per thousand on cigarettes removed during 1991 or 1992)".

(c) 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)".

(d) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—
(1) by striking "24 cents" in paragraph (1) and inserting "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)",

(1) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "87.5 cents 156.25 cents on pipe tobacco removed during 1991 or 1992.

(9) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

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 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 pound and a proportionate tax at the like rate on any fractional part thereof, of the length of each as one cigarette.

(B) LARGEx CIGARETTES.—On cylinders 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, 0.25 cent for each 50 tubes or fractional part thereof, of the length of each as one cigarette tube.

(D) CIGARETTE PAPERS.—On each book or set of cigarette papers containing more than 25, 0.125 cent for each 50 papers or fractional part thereof, of the length of each as one cigarette.

(E) PIPE TOBACCO.—On pipe tobacco, 11.25 cents per pound and a proportionate tax at the like rate on any fractional part thereof.

(F) CIGARETTE TUBES.—On cigarette tubes, 0.875 cents per tube or fractional part thereof; except that, if more than 6 inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2% inches, or fraction thereof, of the length of each as one cigarette.

(G) SNUFF.—On snuff, 6 cents per pound and a proportionate tax at the like rate on any fractional part thereof.

(H) CHEWING TOBACCO.—On chewing tobacco, 2 cents per pound and a proportionate tax at the like rate on any fractional part thereof.

(J) PIPE TOBACCO.—On pipe tobacco, 11.25 cents per pound and a proportionate tax at the like rate on any fractional part thereof.

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 each 2% inches, or fraction thereof, of the length of each 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 resale 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 allow in the case of such person such amount in subparagraph (A) and the $50 amount in paragraph (4) with respect to such person.

EXCEPTION FOR ARTICLES OTHER THAN CIGARETTES.—On any article described in section 5701 of such Code (other than cigars) 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) or such article exceeding $60.

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 cigars), the Secretary may increase the dollar amount of the credit allowed under this paragraph in the administration of this subsection.

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.

TAX-INCREASE DATE.—The tax imposed by paragraph (1) shall be paid on or before the 1st June following the tax-increase date.

DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1992.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 4682 of this title shall have the respective meanings such terms have in such section.

SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

CONTROLLED GROUPS.—Rules similar to the rules of section 7601(h)(9) shall apply for purposes of this subsection.

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.

ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.—

(A) GENERAL RULE.—

(i) The table set forth in section 4682(h)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Base Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carbon tetrachloride</td>
<td>1.1</td>
</tr>
<tr>
<td>Methyl chloroform</td>
<td>0.1</td>
</tr>
<tr>
<td>CFC-13</td>
<td>1.0</td>
</tr>
<tr>
<td>CFC-111</td>
<td>1.0</td>
</tr>
<tr>
<td>CFC-112</td>
<td>1.0</td>
</tr>
<tr>
<td>CFC-21</td>
<td>1.0</td>
</tr>
<tr>
<td>CFC-213</td>
<td>1.0</td>
</tr>
<tr>
<td>CFC-214</td>
<td>1.0</td>
</tr>
<tr>
<td>CFC-215</td>
<td>1.0</td>
</tr>
<tr>
<td>CFC-216</td>
<td>1.0</td>
</tr>
<tr>
<td>CFC-217</td>
<td>1.0</td>
</tr>
</tbody>
</table>

(ii) A SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

(1) Subparagraph (B) shall be applied separately with respect to newly listed chemicals.

(iii) A SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—For purposes of this subparagraph, the term "newly listed chemical" means any substance which appears in the table contained in subsection (a)(1) below Halon-2402.

(iv) A 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 so defined) is the amount determined under the following table for such calendar year:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.37</td>
<td>.87</td>
<td>.67</td>
<td>.47</td>
</tr>
</tbody>
</table>

(ii) NEWLY LISTED CHEMICALS.—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 which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.17</td>
<td>.87</td>
<td>.67</td>
<td>.47</td>
</tr>
</tbody>
</table>
(A) INCREASE IN GASOLINE TAX.—Subparagraph (A) of section 4081(c) (relating to rate of tax) is amended—
(1) by striking "2.314 cents" and inserting "2.314 cents"; and
(2) by inserting at the end thereof the following new sentence:
"(A) Paragraph (1) of section 4081(c) is amended by striking "at a rate equivalent to 9 cents a gallon" and inserting "at a rate equivalent to 15.1 cents a gallon.""

"(B) INCREASE IN TRUCK TOWING FUND TAX.—Subparagraph (B) of section 4081(c) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemicals.""

(2) Paragraph (3) of section 4627(h) is amended by striking "April 1" and inserting "June 30."
"(B) used by any person as a fuel in a diesel-powered motor vehicle if there was a taxable sale of such liquid under subparagraph (A)."

No tax shall be imposed by this paragraph on gasoline used in a non-diesel-powered motor vehicle if there was a taxable sale of such liquid under section 4091."

Paragraph (4) of section 9503(a)(1) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of subparagraphs (A) and (B) of section 4041(c) and the Highway Trust Fund financing rates and 20 percent of the deficit reduction rate under such sections:

"(I) there shall not be taken into account the taxes imposed by section 4041, 4081, and 4091 only to the extent attributable to section 4091."

No tax shall be imposed by this paragraph on the sale or use of any liquid there was a taxable sale of such liquid under section 4091."

Subparagraph (A) of section 4041(b)(2) is amended by striking "shall not exceed 12 cents" and inserting "shall be 3 cents per gallon less than the applicable rate at which tax was imposed on such fuel by section 4041 or 4091, as the case may be."

Subparagraphs (A) and (B) of section 4041(c) are amended—

"(A) by striking "9 cents" and inserting "13.75 cents"; and

"(B) by striking "shall be 1 9 cents per gallon" and inserting "and the diesel fuel deficit reduction rate shall be 10/9 of the otherwise applicable such rates under subsection (b)."

Subparagraph (2) of section 4041(c) is amended by striking "9 cents" and inserting "13.75 cents."

Subparagraph (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 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 4041 at the time such fuel is sold or used."

Subparagraph (A) of section 4041(b)(2) is amended to read as follows:

"(A) by striking "qualified alcohol fuel, the Highway Trust Fund financing rate applicable under subsection (a) shall be 8 cents per gallon less than the otherwise applicable rate under such subsection, "qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a) shall be 8 cents per gallon less than the otherwise applicable rate under such subsection, "qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a) shall be 8 cents per gallon less than the otherwise applicable rate under such subsection,"

"(ii) qualified methanol or ethanol fuel, the Highway Trust Fund financing rate applicable under subsection (a) shall be 8 cents per gallon less than the otherwise applicable rate under such subsection, "qualified methanol or ethanol fuel, the Highway Trust Fund financing rate applicable under subsection (a) shall be 8 cents per gallon less than the otherwise applicable rate under such subsection,"

"(ii) qualified ethanol fuel, the deficit reduction rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cents per gallon, and,"

"(iii) qualified methanol or ethanol fuel, the deficit reduction rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cents per gallon, and,"

"(iii) qualified methanol or ethanol fuel, the deficit reduction rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cents per gallon, and,"

"(iv) qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a) shall be 8 cents per gallon less than the otherwise applicable rate under such subsection, "qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a) shall be 8 cents per gallon less than the otherwise applicable rate under such subsection, "qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a) shall be 8 cents per gallon less than the otherwise applicable rate under such subsection,"

Subparagraph (A) of section 4041(c) is amended by striking "9 cents" and inserting "13.75 cents.""
(B) by striking "1990" each place it appears and inserting "1995".

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT—

(1) IN GENERAL.—Paragraph (2) of section 5001(e) is amended by striking "1 cent" and inserting "1.95 cents".

(2) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to amounts attributable to taxes imposed on or after December 1, 1990.

(3) TRANSFER BEFORE JANUARY 1, 1991.—

(A) IN GENERAL.—Paragraph (2) of section 5001(e) of the Internal Revenue Code of 1986 shall be substituted for the following new subparagraph:

"(C) any amount received in the Highway Trust Fund under paragraph (2) on or after January 1, 1991, shall be transferred to the Mass Transit Account.

(B) TRANSFER OF OLD MOTORBOAT PURCHASE TAXES TO ACCOUNT.—Section 5001(e)(4) (relating to transfers from the trust fund for motorboat fuel taxes) as amended, is further amended by adding at the end thereof the following new subparagraph:

"(D) any amount received in the Mass Transit Account underparagraph (1) on or after January 1, 1991, shall be transferred to the Mass Transit Account.

(4) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on December 1, 1990.

(1) FLOOR STOCKS TAXES—

(1) IMPOSITION OF TAX.—In the case of gaso-line and diesel fuel on which tax is imposed under section 4081 or 4091 of such Code before any tax-increase date other than gasoline on which tax is imposed under section 4081 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) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on December 1, 1990.

(1) FLOOR STOCKS TAXES—

(1) IMPOSITION OF TAX.—In the case of gaso-line and diesel fuel on which tax is imposed under section 4081 or 4091 of such Code before any tax-increase date other than gasoline on which tax is imposed under section 4081 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) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on December 1, 1990.

(1) IMPACT TAX.—In the case of gasoline and diesel fuel on which tax is imposed under section 4081 or 4091 of such Code before any tax-increase date other than gasoline on which tax is imposed under section 4081 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) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on December 1, 1990.

(1) IMPACT TAX.—In the case of gasoline and diesel fuel on which tax is imposed under section 4081 or 4091 of such Code before any tax-increase date other than gasoline on which tax is imposed under section 4081 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) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on December 1, 1990.

(1) IMPACT TAX.—In the case of gasoline and diesel fuel on which tax is imposed under section 4081 or 4091 of such Code before any tax-increase date other than gasoline on which tax is imposed under section 4081 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) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on December 1, 1990.
PURPOSES. A paragraph, amended by adding at the end thereof the following new paragraph: "(Y) DISCLOSURE OF NAMES AND REGISTRATION NUMBERS FOR ADMINISTRATION OF EXCISE TAXES.—The name, address, and registration number of the person registered with the Secretary under subtitle D may be disclosed to the extent necessary to permit the effectuation of any action of such person. In the case of the tax imposed by section 4081, the terminals owned by such person may also be disclosed.”

5. 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 4081(c).

6. EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

SEC. 4. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND: REPEAL OF REDUCTION IN TAX RATE.

(a) INCREASE IN RATES ON TRANSPORTATION.

(1) TRANSPORTATION OF PERSONS.—Subsection (b) of section 4211, as amended by striking “6 percent” and inserting “10 percent”.

(2) TRANSPORTATION OF PROPERTY.—Subsection (b) 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 ON FUEL.

(1) NONCOMMERCIAL AVIATION JET FUEL.—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 4091(c) is amended by striking “14 cents” and inserting “17.5 cents”.

(B)(i) Subparagraph (B) of section 4041(b)(1), as redesignated by section 13211 of this title, is amended by striking “3.5 cents” and inserting “3 cents”.

(B)(ii) Subparagraph (B) of section 4041(m)(1) is 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)), and

(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

(B) 2.89 cents per gallon in the case of the sale of any mixture of aviation fuel (at the time of such sale) in producing a mixture described in subparagraph (A).

(C)(i) Paragraphs (1) and (2) of section 4081(c) 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)), and

(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

(iii) the aviation fuel in such mixture was not taxed 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 tax rate reduced by the amount of tax determined without regard to subsection (c) thereof, and

(B) 2.89 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)), and

(ii) the aviation fuel in such mixture was not taxed under subsection (a).

(2) FLOOR STOCKS TAXES.

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4011(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 which is not a port and Airport and Airway Trust Fund financing rate shall be 5 cents per gallon.

(3) LEAKING UNDERGROUND STORAGE TANKS TAX.—The tax imposed on any person registered with the Secretary who is used by any person in producing a mixture described in section 4081(c), 4091(b)(1)(A), or 4091(b)(3)(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 5 cents per gallon of the regular tax rate over the incentive tax rate with respect to such fuel.

(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used during which the Highway Trust Fund financing rate shall be reduced by the amount of tax imposed by this paragraph.

(5) FLOOR STOCKS TAXES.

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4011(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 which is not a port and Airway Trust Fund financing rate shall be 5 cents per gallon.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

(3) FLOOR STOCKS TAXES.

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4011(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 which is not a port and Airway Trust Fund financing rate shall be 5 cents per gallon.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

(3) FLOOR STOCKS TAXES.

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4011(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 which is not a port and Airway Trust Fund financing rate shall be 5 cents per gallon.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

(3) FLOOR STOCKS TAXES.

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4011(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 which is not a port and Airway Trust Fund financing rate shall be 5 cents per gallon.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.
SEC. 4001. PASSENGER VEHICLES

(a) In General.—Paragraph (2) of section 401(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1996." "(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on December 1, 1990.

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 come within the meaning of "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) AMOUNT.—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 in the active conduct of—

"(1) a helicopter, in a use described in paragraph (1) or (2) of section 4281(e);

"(2) in a trade or business of providing flight training, or

"(3) 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 90 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. 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 $200.

(b) PASSENGER VEHICLE.—"(1) "passenger vehicle" means a motor vehicle designed, or business produces jewelry from material furnished directly or indirectly by a custome—

"(2) "aircraft" means any aircraft—

(a) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be amended to add—

"(2) "aircraft" means any aircraft—

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on December 1, 1990.
jewelry for a price equal to its fair market value at the time of such delivery.

(ii) FURNISHING OF ARTICLES FOR THE USE OF CUSTOMER.—(A) In general.—For purposes of this subchapter, the term 'furnishing of an article for use by a lessee' means—

(i) any lease in the case of a boat or an aircraft,

(ii) the delivery of such article to such customer, and

(iii) furnishing of such component shall not apply to furnishing of such component to the Lessee for use by the Lessee

(iii) DETERMINATION OF PRICE.—(A) In general.—In determining price for purposes of this subchapter—

(i) there shall be included any charge incidental to placing the article in condition ready for use or consumption;

(ii) 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—

(a) such component is furnished by the 1st user of such article, and

(b) such component has been used before such furnishing;

(5) the price shall be determined without regard to any trade-in.

Subparagraph (B) shall not apply for purposes of the taxes imposed by sections 4001(c), 4002(b), and 4004(a).

(2) OTHER RULES.—Rules similar to the rules of paragraph (2) and (4) of section 4021(b) shall apply for purposes of this subchapter.

(c) 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.

(d) EXEMPTION FOR EXPORTS.—In the case of a contract, sale, or arrangement described in paragraph (2) or (3), or 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.

(e) EXEMPTION FOR EXPORTS.—In the case of a contract, sale, or arrangement described in paragraph (2) or (3), or 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.

(f) DETERMINATION OF PRICE.—In the case of a contract, sale, or arrangement described in paragraph (2) or (3), or 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.

(g) EXEMPTION FOR EXPORTS.—In the case of a contract, sale, or arrangement described in paragraph (2) or (3), or 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.

(h) DURATION OF CERTIFICATE.—Any statement provided under paragraph (1) shall remain in effect until—

(i) the provider of communications services has actual knowledge that the information provided in such statement is false, or

(ii) such provider is notified by the Secretary that the provider of the statement is no longer entitled to an exemption described in paragraph (1).
"(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 calendar taxable year following such taxable year.

"(3) Special Rule for Members of Controlled Group.—In the case of any controlled group—

(a) each insurance company which is a member of such group shall be treated as 1 person for purposes of this subsection, and

(b) the amount of such expenses allocable to any such insurance company for any taxable year shall be reduced (but not below zero) by the amount of such expenses incurred on or after September 30, 1990, by another member of such group for any taxable year of such other member.

(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.

(5) Policy Acquisition Expenses.—For purposes of this section—

(A) the term ‘specified policy acquisition expenses’ means the deduction allocable to any specified insurance contract set forth in subsection (1) for such taxable year on specified insurance contracts which are annuity contracts or noncancellable accident and health insurance contracts, and

(B) 2.5 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) 2.5 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

(6) General Deductions.—The term ‘general deductions’ means the deductions provided in paragraph (5) of this subsection (as modified pursuant to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit-sharing, compensation plans, etc.).

(7) Net Premiums.—For purposes of this section—

(A) in general.—The term ‘net premiums’ means, with respect to any category of specified insurance contracts set forth in subsection (1)(i), the excess (if any) of—

(i) the gross amounts of premiums and other consideration incurred for reinsurance of such contracts, over

(ii) the 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 which is subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made by the method required under section 811(a) for life insurance companies.

(3) Treatment of Certain Policyholders' Deductions.—If any net premiums shall be determined without regard to section 803(e) and without regard to other similar amounts treated as paid to, and returned as such under this section, the excess (if any) of—

(A) the amount determined by such method for such taxable year, and

(B) the sum of—

(i) the amount determined under paragraph (a)(1) of subsection (d) of section 1563 of the Internal Revenue Code of 1954 (other than this section), and

(ii) the amount determined under paragraph (b)(6) of such section, shall be allowed as a deduction for such taxable year.

(4) 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 paragraph (c)(1)(ii) of such category) of the amount (if any) by which—

(A) the amount determined under subparagraph (B) of subsection (d)(1) of such section (other than this section) with respect to such category, and

(B) the amount determined under subparagraph (A) of such subsection (d) with respect to such category.

(5) Treatment of Certain Ceding Commissions.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commissions incurred on or after September 30, 1990, under any reinsurance contract.

(6) Secretarial Authority to Adjust Capitalization Amounts.—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 and prescribe a percentage applicable to such category if the Secretary determines that the deferral of acquisition expenses for such type of contract which otherwise result under this section is substantially greater than the deferral of acquisition expenses which would have resulted if actual acquisition expenses were incurred (as opposed to assumed acquisition expenses) and the actual useful life for such type of contract had been used.

(7) 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 the subsection to such category 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 subsection (b) of such section for any taxable year.

(8) Treatment of Qualified Foreign Contracts Under Adjusted Current Earnings.—For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (i)(I) or (iii)(I) of paragraph (2) (other than this section) shall require the Secretary to adjust adjusted current earnings under section 56(g) on or after September 30, 1990, to the extent that (other than this section) shall require the Secretary to adjust adjusted current earnings under section 56(g) on or after September 30, 1990, to the extent that (other than this section) shall require the Secretary to adjust adjusted current earnings under section 56(g) on or after September 30, 1990, to the extent that...
Any capitalization required by reason of such amendment shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) Special Rules for Year Which Includes September 30, 1996.—In the case of any taxable year which includes September 30, 1996, the amount of acquisition expenses which is required to be capitalized under section 561(g)(4)(F) of the Internal Revenue Code of 1986 (so in effect before the amendment made by subsection (b) by a company which is not a life insurance company shall be the amount which bears the same ratio to the amount of acquisition expenses which would have been so required if this paragraph had been in effect as the amount of acquisition expenses which would bear to the amount of acquisition expenses which would have been so required if this paragraph had been in effect as the ratio of the number of days in such taxable year before September 30, 1996, bears to the number of days in such taxable year.

A similar reduction shall be made in the amount amortized for such taxable year under such section 561(g)(4)(F).

SEC. 761. TERMINATION AS LIFE INSURANCE COMPANY 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 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 816(b)(1)(B) is amended 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

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning on or after December 31, 1989.

SEC. 762. TREATMENT OF LIFE INSURANCE RESERVES OF CERTAIN NONLIFE INSURANCE COMPANIES.

(a) General Rule.—Section 807 (relating to special rules(134,704),(384,810)(349,704),(604,810) for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(b) Special Rules for Treatment of Certain Nonlife Reserves.—

"(1) In General.—The amount taken into account for purposes of subsection (a) and (b) as the (i) the opening balance of the items referred to in subparagraph (C), and

"(ii) To the results so obtained, add unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 832(b)(8)) outstanding at the end of the taxable year and deduct unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the taxable year.

The Secretary shall by regulations provide that the following shall be added to the items referred to in subparagraph (C) as of the end of the taxable year:

(i) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the taxable year.

(ii) To the results so obtained, add estimated salvage and reinsurance recoverable as of 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 taxable year.

The Secretary shall by regulations provide that the taxable years beginning after December 31, 1989, shall be increased by the amount of estimated salvage recoverable as of the close of the taxable year beginning before January 1, 1990, and any preceding taxable year beginning after December 31, 1989, shall be increased by the amount of estimated salvage recoverable as of the close of the taxable year beginning before January 1, 1990, and any preceding taxable year beginning after December 31, 1989.

(b) Conforming Amendment.—Section 9802 of the Internal Revenue Code of 1986, as amended by this section, is amended to provide that the term "small insurance company" means any insurance company which took into account the section 807 premium with respect to any accident year beginning on or after December 31, 1986.

SEC. 763. WAIVER OF ESTIMATED TAX PENALTIES.

(a) General Rule.—Section 6502 (relating to suspension of running of period of limitation) is amended by redesignating subsection (b) as subsection (c) and by inserting after such subsection (1) the following new subsection (k):

"(k) Extension in Case of CertainSummones.—

"(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 limitation with respect to any tax shall be suspended during any judicial enforcement period.

"(ii) with respect to such summons, or

"(iii) with respect to any other summons which has been issued by the Secretary with respect to such tax, and

"(A) In General.—Except as provided in paragraph (1), if for any taxable year beginning on or before September 30, 1990, there shall be included in the gross income of any life insurance company an amount equal to 3 percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning after September 30, 1989.

"(B) Transitional Rule.—For the taxable year beginning before or on September 30, 1990, there shall be included in the gross income of any life insurance company an amount equal to 3 percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning after September 30, 1989.

"(C) Exception.—In the case of any taxable year beginning on or after September 30, 1990, there shall be included in the gross income of life insurance company an amount equal to 3 percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning after September 30, 1989.

"(D) Treatment of Certain Life Insurance Companies Which Are Not Life Insurance Companies.—Except as provided in paragraph (1), if for any taxable year beginning on or before September 30, 1990, there shall be included in the gross income of any nonlife insurance company an amount equal to 3 percent of such company’s closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning after September 30, 1989.

"(E) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.
Congressional Record — Senate

October 18, 1980

[Text of section 9363B as amended by subsection (c) of such section 9363B]...
paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7653(b) to enforce such summons, and

"(2) 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 the corporation that such reporting corporation has not substantially complied,

the Secretary may apply the rules of paragraph (2) with respect to any transaction or item to which such summons relates 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 such records relate.

"(3) Applicable rules.—If the rules of this paragraph apply to any transaction or item, the transaction (or the transaction for the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from or in 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 that subsection shall not apply by substituting 'transaction' or 'item' for 'transaction'.

"(e) Definitions.—For purposes of this section, the terms 'related party', 'foreign person', and any other terms, respectively, mean as given to such terms by section 6038A(c).

(1) Corporating 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.

(e) Effective Date.—The amendments made by this section shall apply to—

"(1) any requirement to furnish information under section 6038(c)(4) 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 section 6038(c)(4) 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 6038(c)(4)(C) of such Code (as so added) if the enactment of such section 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 (for which the information, records, authorization, or summons relates) began.

(2) 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 intercorporate allocation 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.

(3) 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 Revenues of Qualified Replacement Plans

SEC. 7411. INCREASE IN REVERSION TAX

Section 6038(b) (relating to tax on reversion of qualified plan assets to employer) is amended by striking '10 percent' and inserting '15 percent'.

SEC. 7412. ADDITIONAL TAX IF NO REPLACEMENT PLAN

(a) In General.—Section 6801 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) (as so amended) shall apply if—

"(I) such amount shall be allocated to the accounts of participants as of the termination date of the plan—

"(i) the employer establishes or maintains a qualified replacement plan, or

"(ii) the plan provides for increases in annuities or pension benefits,

"(B) the plan provides for a minimum annual increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) 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.

(b) 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, and

"(ii) no deduction shall be allowable with respect to such transfer,

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) Allocation Requirements.—

"(1) In General.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B) shall be—

"(I) allocated to the accounts of participants in the plan in the year in which the transfer occurs, or

"(II) credited to a suspense account and allocated to accounts of such participants no less rapidly than daily over the 7-year period beginning with the year of the transfer.

"(2) Coordination with Section 435 Limitation.—If, by reason of any limitation under section 435, any amount credited to a suspense account under clause (II) may not be allocated to the accounts of other participants, then—

"(i) if any portion of such amount may not be allocated to the accounts of other participants by reason of such limitation, such amount shall be allocated to the participant as provided in section 435.

"(3) Treatment of Income.—Any income on any amount credited to a suspense account under clause (II) shall be allocated to the accounts of participants no less rapidly than quarterly over the 7-year period determined under such clause (after application of clause (iii)).

"(4) Unallocated Amounts at Termination.—If any amount credited to a suspense account under clause (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 clause (II) 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 clause (II) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(5) 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 for the establishment of a qualified replacement plan and receives a pro rata allocation of increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) 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.

"(B) 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, and

"(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.—

"(1) In General.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B) shall be—

"(I) allocated to the accounts of participants in the plan in the year in which the transfer occurs, or

"(II) credited to a suspense account and allocated to accounts of such participants no less rapidly than daily over the 7-year period beginning with the year of the transfer.

"(2) Coordination with Section 435 Limitation.—If, by reason of any limitation under section 435, any amount credited to a suspense account under clause (II) may not be allocated to the accounts of other participants, then—

"(i) if any portion of such amount may not be allocated to the accounts of other participants by reason of such limitation, such amount shall be allocated to the participant as provided in section 435.

"(3) Treatment of Income.—Any income on any amount credited to a suspense account under clause (II) shall be allocated to the accounts of participants no less rapidly than quarterly over the 7-year period determined under such clause (after application of clause (iii)).

"(4) Unallocated Amounts at Termination.—If any amount credited to a suspense account under clause (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 clause (II) 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 clause (II) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(5) 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 for the establishment of a qualified replacement plan and receives a pro rata allocation of increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) 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.
Note: Omitting the preceding sentence, the paragraph 19.366 percentages are not divisible to a
nient benefit of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (a), or any
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
participate under paragraph (2)(C) if such transfer 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.—

Every transfer or reallocation provided by this paragraph shall not apply to any increase in benefits by reason of this subsection to
the extent that the application of this subsection to such transfer or reallocation would result in the receipt of terminated assets by nonservice,
highly compensated employees (as defined in section 414(q)).

DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who is not a
participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant 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, or

"(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 plans are
determined on termination.

"(C) INCREASE OF INCOME.—Except as provided in paragraph (2)(C), any amount of such reduction shall be allocated to
the remaining participants on the same basis as other increases shall be treated as meeting any allocation requirement
of this subsection.

"(D) AGGREGATION OF PLANS.—The Secretary may provide by regulations or otherwise that plans may be treated as 1 plan for purposes of deter-
miming whether there is a qualified replacement plan, or to increase benefits, as provided in 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 re-
placement plan, and

"(ii) under section 4980(d)(2)(B)(i) or 4980(d)(13) 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 the receipt of assets from the terminated plan, and

"(ii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(C) For purposes of this subsection—

"(i) any reference in this subsection to the Internal Revenue Code of 1986 shall have the same meaning as when used in such
section, and

"(ii) any reference in this subsection to such Code as in effect on January 1, 1991.

"(2) CONFORMING AMENDMENTS.—

"(A) Section 404(d)(1) of such Act (29 U.S.C. 1104(d)(1)), as in effect on January 1, 1991, is amended by striking
"'or title IV' and inserting 'and title IV'.

"(B) Section 404(d)(1) of such Act (29 U.S.C. 1104(d)(1)), as in effect on January 1, 1991, is amended by inserting

"(C) with the same meaning as when used in such section.

"(D) For purposes of this subsection—

"(i) the vesting requirements of subsection (c)(2), and

"(ii) the minimum benefit requirements of subsection (c)(3).

"(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 reason-
estimated to be the amount the employer is required to maintain (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—

"(II) the date such return is filed, and

"(iii) the due date (including extensions) for the filing of the return of tax for such taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deduction otherwise allowable under this chapter to an employer for the
future year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this para-
graph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a
transfer described in subparagraph (A).

"(D) EXTRAPOLATION.—In any taxable year beginning after December 31, 1995, such transfer shall be treated as a qualified transfer.

"(E) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a qualified replacement plan, and

"(B) as the transfer described in paragraph (4) shall not be treated as failing to meet the requirements of subsection (a) or (b) of
section 401 solely by reason of such transfer for any other action authorized under this section.

"(2) no amount shall be includable in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall be treated as a qualified transfer—

"(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.

"(2) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) which is a defined benefit plan to a defined benefit plan, and

"(B) which is a defined benefit plan to a defined contribution plan,
(I) 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 paid only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (a)(1)(B)) for the taxable year of the transfer (whether directly or through reimbursement).

(b) Amounts not used for health benefits.—

(1) In general.—Any amounts 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 treated as transferred out of the account to the transferor plan.

(2) Tax treatment of amounts.—Any amount transferred out of an account under clause (1)—

(A) shall not be includible in the gross income of the employer for such taxable year;

(B) shall be treated as an employer reversion for purposes of section 4950 without regard to subsection (b)(2)(B) thereof;

(C) subject to the requirements of this section, any amount paid out of a health benefits account shall be treated as paid first from the funds and income described in subparagraph (a); and

(D) shall be treated as paid for purposes of section 411 of the Internal Revenue Code of 1986.

(II) Exception for purposes of section 411—

(A) In general.—The term "qualified current retiree health liabilities" means, with respect to any taxable year, the aggregate amount paid or incurred by an employer in the qualified current retiree health liabilities for the taxable year of the qualified transfer.

(B) No contributions allowed.—An employer may not make contributions (including employer costs and any income allocable thereto) to a health benefits account established and maintained under section 412(f) for the qualified current retiree health liabilities for the taxable year of the qualified transfer.

(III) Minimum cost requirements.—

(A) In general.—The requirements of this paragraph are met if the amount paid or incurred by the employer in the qualified current retiree health liabilities for the taxable year of the qualified transfer is less than or equal to the amount determined under subsection (b)(1).

(B) Special rule for 1990.—In the case of a qualified transfer described in subsection (b)(1), 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 reason of termination of employment or death) if such participant is entitled to pension benefits under the plan and receive such benefits upon retirement and before the end of the taxable year in which the qualified transfer occurs.

[Further provisions are included in the text.]
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)(i) for the first plan year after the plan year in which such transfer occurs in an amount determined by subtracting the amount of the transfer (reduced by any amounts transferred back to the plan under section 420(c)(11)(B) of such Code) except that such subsection shall be applied by substituting '10 plan years' for '5 plan years'.

(c) NOTICE REQUIREMENTS.—
(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1132) is amended by redesignating subsection (c) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNT.—
(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 benefit plan, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under such plan in which such transfer occurs in an amount determined by subtracting the amount of the transfer (reduced by any amounts transferred back to the plan under section 420(c)(11)(B) of such Code) except that such subsection shall be applied by substituting '10 plan years' for '5 plan years'.

(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—
(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(f) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

(1) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of section 267(b) or 707(b)(1)) shall be treated as one person.

(2) PURCHASE.—For purposes of this subsection, a person shall be treated as having acquired stock in a corporation (or so much of section 351, 356, or 358 applies) by acquiring such stock in an exchange to which section 351 applies if stock is acquired in an exchange for—

(i) any cash or cash items,

(ii) any marketable security, or

(iii) any debt of the transferee.

(3) CARRYOVER BASIS TRANSACTIONS.—If—

(i) a person acquires stock from an organization (or any controlled corporation), or

(ii) a person holds stock in any corporation (directly or indirectly) in which the transferor acquired stock at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total value of shares of all classes of stock.

(ii) AGGREGATION RULES.—

(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of section 267(b) or 707(b)(1)) shall be treated as one person.

(B) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of section 267(b) or 707(b)(1)) shall be treated as one person.

(2) INFORMATION RELATING TO TRANSFER.—Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the assumption of liabilities by the transferee, the funding of the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the date of the transfer.

(3) 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.

(2) PENALTIES.—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 before the date of enactment of this Act) shall be given the same meaning as when used in such section.

(2) PENALTIES.—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 before the date of enactment of this Act) shall be given the same meaning as when used in such section.

(2) PENALTIES.—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 before the date of enactment of this Act) shall be given the same meaning as when used in such section.

(2) PENALTIES.—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 before the date of enactment of this Act) shall be given the same meaning as when used in such section.
(2) Exception.—The amendment made by subsection (a) shall not apply to any stock issued after 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 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, unless the stock is issued before the date 30 days after the date of such filing. Sec. 744A. MODIFICATIONS TO REGULATIONS ISSUED UNDER SEC. 305 (RELATING TO CERTAIN TRANSFERS OF INTERESTS IN ENTITIES)
(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 paragraph:
"(i) The amount allocated under subsection (b)(6) 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."
(b) 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. 744C. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACK
(a) Repeal of Exception for Acquisitions of Subsidiaries.—Clause (ii) of section 172(m)(2)(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 amendments made by subsection (a) shall 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. 744D. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS
(a) Issuance of Debt Instrument.—
(1) Subsection (d) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:
"(1) Indebtedness Satisfied by Issuance of Debt Instrument.—For purposes of determining the amount of debt income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of an indebtedness the amount of such debt instrument is determined by subtracting from the face amount thereof, the amount paid by the debtor to the issuer in satisfaction of such indebtedness, the amount attributable to any premium which is treated as interest paid on such debt instrument, and any amount paid by the debtor to the issuer in satisfaction of such indebtedness which is attributable to any amount received by the issuer as compensation for services provided by the debtor to the issuer in connection with such transaction.
(2)皮肤 and Stock in Satisfaction of In-"
"(III) the issuer of such stock has the right to redeem such stock at one or more times, or

(IV) the holder of such stock has the right to require its redemption at one or more times.'"

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 310(c) 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 3101, the applicable contribution base for any calendar year is the contribution and benefit base determined under section 3121 of the Social Security Act for such calendar year.

(2) Hospital insurance.—For purposes of the tax imposed by section 1801, the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(a)(2) for such calendar year.

(3) Medicare coverage.—For purposes of the tax imposed by section 1801, the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(a)(2) for such calendar year.

(4) Medicare trust fund.—For purposes of the tax imposed by section 1801, the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(a)(2) for such calendar year.

(e) Effective Date.—The amendments made by this subsection shall apply to 1991 and later calendar years.

SEC. 6211. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) Hospital Insurance Tax.—

(1) IN GENERAL.—Paragraph (1) of section 312(f) is amended—

(A) by striking "$30,000" and inserting "$40,000";

(B) by striking "the calendar year that ends after 1991" and inserting "the calendar year that ends after 1992"; and

(C) by striking "the benefit base under section 3121(b) of the Social Security Act" and inserting "the applicable contribution base under section 3121(b) of the Social Security Act".

(b) Self-Employment Tax.—

(1) IN GENERAL.—Subsection (b) of section 402 is amended by striking "the contribution and benefit base (as determined under section 3121 of the Social Security Act)" and inserting "the applicable contribution base (as determined under section 3121(b) of the Social Security Act)".

(2) PROVISION OF WAGES SUBJECT TO TAX.—Section 3121(b)(6) of the Internal Revenue Code is amended by striking the text of paragraph (6) and inserting the following:

"(6) The provisions of this subsection shall apply in the case of any individual who, in a taxable year ending after December 31, 1991, has an average earnings in excess of $60,000, and who is an individual who

(i) was entitled to Medicare hospital insurance benefits under title XVIII of the Social Security Act, but only for purposes of providing hospital insurance benefits to a dependent individual.

(ii) is receiving hospital insurance benefits under title XVIII of the Social Security Act, but only for purposes of providing hospital insurance benefits to an eligible individual.
tion to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on service performed therein.

SEC. 164. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (1) of section 3101 of the Social Security Act (42 U.S.C. 410(a)(1)) is amended—

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

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

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

"(F) service in the employ of a State rather 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 therein;

(iv) by an individual who is employed to relieve such individual from unemployment:

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

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

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

(d) by an employee if the remuneration paid in a calendar year for such service is less than $100;

"(ii) by an employer in a position compensated solely on a fee basis which is treated under such Code as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;

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

"(D) service in the employ of a State rather 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 therein;

"(E) service in the employ of a State rather 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 therein;

"(F) service in the employ of a State rather 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 therein;

"(G) service in the employ of a State rather 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 therein;

"(H) service in the employ of a State rather 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 therein;
PROPERTY.—Section 57(a)(6)(A) is amended by inserting "other than tangible personal property" after "capital gain property".

(a) CLERICAL AMENDMENT.—The table of sections referred to in section 412(c)(1)(C) 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."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

"(11) 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— 
(1) the information is limited to identify-ing individuals who have access or have had access to such asset or income, "

(11) the Board of the Federal agency which administers the program determines that there is a high degree of confidence that information provided to the recipient agency is accurate;

(12) 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

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

(14) 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 (A) the amount of any asset or income otherwise prohibited by such paragraph if that notice; or

(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 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.

(4) the date on which the data integrity board of the Federal agency that 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

(5) 30 days after the date of publication of guidance under section 2105(c).

S. 4996. APPLICATION OF CERTAIN MEDICARE LIMITS TO FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAMS.—Section 8804 of title 5, United States Code, is amended by substituting "section 1111 of the Social Security Act (42 U.S.C. 1395cc et seq.),' for "section 1315 of the Social Security Act (42 U.S.C. 1395cc et seq.),' in subsection (a) of section 2105(c). 

(1)(A) the annual leave of an employee who is not a high degree of confidence "

(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 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.

(4) the date on which the data integrity board of the Federal agency that 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

(5) 30 days after the date of publication of guidance under section 2105(c).

S. 4996. APPLICATION OF CERTAIN MEDICARE LIMITS TO FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAMS.—Section 8804 of title 5, United States Code, is amended by substituting "section 1111 of the Social Security Act (42 U.S.C. 1395cc et seq.),' for "section 1315 of the Social Security Act (42 U.S.C. 1395cc et seq.),' in subsection (a) of section 2105(c). 

(1)(A) the annual leave of an employee who is not a high degree of confidence "

(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 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.

(4) the date on which the data integrity board of the Federal agency that 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

(5) 30 days after the date of publication of guidance under section 2105(c).

S. 4996. APPLICATION OF CERTAIN MEDICARE LIMITS TO FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAMS.—Section 8804 of title 5, United States Code, is amended by substituting "section 1111 of the Social Security Act (42 U.S.C. 1395cc et seq.),' for "section 1315 of the Social Security Act (42 U.S.C. 1395cc et seq.),' in subsection (a) of section 2105(c). 

(1)(A) the annual leave of an employee who is not a high degree of confidence "

(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 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.

(4) the date on which the data integrity board of the Federal agency that 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

(5) 30 days after the date of publication of guidance under section 2105(c).
the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter shall be transferred to the employee's credit under the nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c); shall be transferred to the employee's credit under the nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c); and, respectively, described in section 2105(c), shall 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.

(1) Amendments to Include Additional Service for Leave Purposes.—(1) Section 6312 is amended to read as follows:

"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 as a committee or an association of producers established pursuant to section 8(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 or Coast Guard nonappropriated fund instrumentality, 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;".

(3) Amendments Relating to the Civil Service Retirement System.—(1) Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (1)(A), by inserting "or" after the semicolon at the end of subparagraph (i);

(B) by striking "and" at the end of subparagraph (i) and inserting "or"; and

(C) by inserting a new item as follows:

"(ii) 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 8473(p)(2) or 8461(n)(1) to remain subject to such a system,;".

(4) Definitions.—(1) The amendments made by this section shall be applied 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, respectively, described in section 2105(c) or title 5, United States Code, to employment in the Department of Defense or the Coast Guard, respectively, that is described in section 2105(c); or

(B) moves without a break in service from employment in the Department of Defense or the Coast Guard that is described in section 2105(c) or title 5, United States Code, to employment in the Department of Defense or the Coast Guard, respectively, that is described in section 2105(c).
(2) The Secretary of Defense, the Secretary of Transportation, the Director of the Office of Personnel Management, and the Director of the Federal Retirement Thrift Investment Board, as applicable, shall make such actions as may be practicable to deduct and remit to the appropriate retirement fund contributions under subsection (b) of section 20105(c) of title 5, United States Code, to remain available until expended.

(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, the Department of Energy, the Department of State, the Department of Treasury, or the Department of Commerce (as defined in sections 903(b) and 903a of title 5, United States Code), including any Government agency or instrumentality thereof, or any nonappropriated fund instrumentality created pursuant to section 903(b) or 903a of title 5, United States Code.

(2) If an individual makes an election under subsection (b)(1) or (b)(2), the department, agency, or instrumentality shall—

(A) deduct from such individual's compensation, to remain available until expended, such amount as may be necessary in order to ensure that each individual who has made an election under section 8347(p)(1) of title 5, United States Code, is amended by adding at the end the following paragraph:

"(2) by striking "10-year period' in paragraph (1) and inserting "10 years' and "(3) for determining the feasibility or appropriateness of providing services to such individual for a period extending beyond such year;"

(b) Effect of Election.—The amendments made by this section shall take effect as of January 1, 1991, and shall apply with respect to contracts entered into after that date.

(c) Report on Federal Agency User Fees.—(1) In general.—Section 105(a) of Public Law 100-703 is repealed.

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

Title I—Labor

Subtitle A—Labor—This title may be cited as the "Labor Reconciliation Act of 1990".

Subtitle B—Labor—This title may be cited as the "Labor Reconciliation Act of 1990".

See, 10001. Short title and table of contents.

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 for this title is as follows:

Sec. 10001. Short title and table of contents.

Title II—Health and Human Services

Subtitle A—Education Provisions

Title III—Education

Subtitle A—Education Provisions

See, 10101. Initial disbursement and enforcement.

Sec. 10101. Initial disbursement and enforcement.

Subtitle B—Education Provisions

See, 10103. Maximum loan amounts.

Sec. 10103. Maximum loan amounts.

Subtitle C—Program Administration

See, 10104. Maximum loan amounts.

Sec. 10104. Maximum loan amounts.

Subtitle D—Monitoring

See, 10105. Amendment to related provisions.

Sec. 10105. Amendment to related provisions.

Subtitle E—Implementation

See, 10106. Sunset provision.

Sec. 10106. Sunset provision.

Subtitle F—Earmarking

See, 10201. Occupational safety and health.

Sec. 10201. Occupational safety and health.

Subtitle G—Energy

See, 10202. Mine safety and health.

Sec. 10202. Mine safety and health.

Subtitle H—Health

See, 10203. Nuclear waste.

Sec. 10203. Nuclear waste.

Subtitle I—Employment

See, 10204. Tobacco products.

Sec. 10204. Tobacco products.

Subtitle J—Trade

See, 10205. Energy efficiency.

Sec. 10205. Energy efficiency.

Title IV—Transportation

Subtitle A—General Provisions

Sec. 10401. Authorization and appropriation.

Subtitle B—Highways

Sec. 10402. Authorization and appropriation.

Subtitle C—Mass Transportation

Sec. 10403. Authorization and appropriation.

Subtitle D—Aviation

Sec. 10404. Authorization and appropriation.

Subtitle E—Other Provisions

Sec. 10405. Authorization and appropriation.

Title V—Agriculture

Subtitle A—General Provisions

Sec. 10501. Authorization and appropriation.

Subtitle B—Agricultural Research

Sec. 10502. Authorization and appropriation.

Subtitle C—Agrarian Development

Sec. 10503. Authorization and appropriation.

Subtitle D—Agricultural Credit

Sec. 10504. Authorization and appropriation.

Subtitle E—Agriliteracy

Sec. 10505. Authorization and appropriation.

Subtitle F—Wetlands

Sec. 10506. Authorization and appropriation.

Subtitle G—Program Administration

Sec. 10507. Authorization and appropriation.

Subtitle H—Cranes

Sec. 10508. Authorization and appropriation.

Subtitle I—Animal Health

Sec. 10509. Authorization and appropriation.

Subtitle J—Fruits and Vegetables

Sec. 10510. Authorization and appropriation.

Title VI—Other Federal Programs

Subtitle A—Provision of Federal Funds

Sec. 10601. Authorization and appropriation.

Subtitle B—Earmarking

Sec. 10602. Authorization and appropriation.

Subtitle C—Other Provisions

Sec. 10603. Authorization and appropriation.
Subtitle C—Employee Retirement Income

PART I—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS.

SEC. 10201. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

SEC. 10302. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

PART II—TRANSFERS TO RETIREE HEALTH ACCOUNTS.

SEC. 10311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

SEC. 10312. AMENDMENT OF ERISA TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

PART III—PREMIUM RATES.

SEC. 10321. INCREASE IN PREMIUM RATES.

Subtitle A—Education Provisions

SEC. 10401. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(a) AMENDMENT.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10402. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10403. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10404. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

Subtitle B—Labor-Related Penalties

SEC. 10501. OCCUPATIONAL SAFETY AND HEALTH.

(a) IN GENERAL.—Section 17(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10502. OCCUPATIONAL SAFETY AND HEALTH.

(a) IN GENERAL.—Section 17(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

Subtitle C—Employee Retirement Income

PART II—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS.

SEC. 10201. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10202. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10203. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

Subtitle D—Employee Retirement Income

PART II—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS.

SEC. 10201. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10202. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10203. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

Subtitle E—Employee Retirement Income

PART II—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS.

SEC. 10201. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10202. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10203. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.
from the terminated plan to the replacement plan

shall not exceed 40 percent of the aggregate amount determined under clause (ii).

The aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under clause (ii).

(ii) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) 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 (ii).

(ii) 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.

If any amount transferred to the replacement plan under subparagraph (ii) is

allocated by reason of any limitation under section 4980(d) of such Code with respect to such transfer, and

the gross income of the employer.

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 (ii).

(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

(ii) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) 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 (ii).

(ii) 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.

If any amount transferred to the replacement plan under subparagraph (ii) is

allocated by reason of any limitation under section 4980(d) of such Code with respect to such transfer, and

the gross income of the employer.

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 (ii).

(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

(ii) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) 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 (ii).

(ii) 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.

If any amount transferred to the replacement plan under subparagraph (ii) is

allocated by reason of any limitation under section 4980(d) of such Code with respect to such transfer, and

the gross income of the employer.

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 (ii).

(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

(ii) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) 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 (ii).

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the gross income of the employer.

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(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

(ii) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) 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 (ii).

(ii) 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.

If any amount transferred to the replacement plan under subparagraph (ii) is

allocated by reason of any limitation under section 4980(d) of such Code with respect to such transfer, and

the gross income of the employer.

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 (ii).

(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

(ii) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) 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 (ii).

(ii) 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.

If any amount transferred to the replacement plan under subparagraph (ii) is

allocated by reason of any limitation under section 4980(d) of such Code with respect to such transfer, and

the gross income of the employer.

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 (ii).

(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

(ii) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) 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 (ii).

(ii) 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.

If any amount transferred to the replacement plan under subparagraph (ii) is

allocated by reason of any limitation under section 4980(d) of such Code with respect to such transfer, and

the gross income of the employer.

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 (ii).

(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

(ii) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to (i) 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 (ii).

(ii) 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.

If any amount transferred to the replacement plan under subparagraph (ii) is

allocated by reason of any limitation under section 4980(d) of such Code with respect to such transfer, and

the gross income of the employer.
Benefit Guarantee Corporation before October 1, 1989, or

(2) in the case of plans subject to title I

and not to title IV of such Act, a notice of

intention to reduce the applicable employer cost

required to be provided to participants in connection with the

termination before October 2, 1989.

PART 2—TRANSFERS TO RETIREE

HEALTH ACCOUNTS

SEC. 402. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) In General.—Part I of subchapter D of chapter 1 of title 26 of United States Code of 1986 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following new subpart:

"Subpart I. Treatment of Transfers 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

employer plan to a health benefit account which is part of such plan—

(1) a trust which is part of such plan shall be treated as a trust under the requirements of subsection (a) or (b) of section 402(b) solely by reason of such transfer (or any other action authorized under this section),

(2) no amount shall be includable 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 paragraph (A) of subsection (b),

(B) as a prohibited transaction for purposes of section 407, and

(C) with respect to which the plan meets—

(i) the use requirements of subsection (c)(2), and

(ii) the vesting requirements of subsection (1)(c)(1),

(4) only 1 transfer per year.

(B) In General.—No more than 1 transfer

(1) with respect to any plan during a taxable

year may be treated as a qualified transfer for purposes of this section.

"(a) General Rule.—A qualified transfer described in paragraph (4) shall not be taken into

account for purposes of subparagraph (A).

"(b) 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 reason-

ably 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.

"(c) Special rule for 1989.—In the case of a qualified transfer described in subsection (b)(1), 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 from service during the taxable year to which such transfer relates by recom-

mending such participant's benefits as if subsection (1)(a)(I) had applied immediately before such separation).

"(d) Minimum benefit requirements.—

(1) In the case of a qualified transfer described in subsection (c)(1), the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(2) in the case of transfers to health benefit accounts other than a health benefits account in a qualified transfer, the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(e) Applicable employer cost.—

For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by di-

viding the amount of excess pension assets which were transferred during such taxable year into a qualified retiree health account by a factor which is not less than the highest applicable employer cost required to be paid for the health benefits described in subsection (4)(A) for the taxable year.

"(f) Amounts not used for benefits.—Any amounts transferred out of a qualified retiree health account shall be treated as a qualified transfer for purposes of paragraphs (A) and (B).

"(g) Amounts not used for benefits.—Any amounts transferred out of a qualified retiree health account shall be treated as a qualified transfer for purposes of paragraphs (A) and (B).

"(h) Special rule for 1989.—In the case of a qualified transfer described in subsection (b)(1), 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 from service during the taxable year to which such transfer relates by recom-

mending such participant's benefits as if subsection (1)(a)(I) had applied immediately before such separation).

"(i) Minimum benefit requirements.—

(1) In the case of a qualified transfer described in subsection (c)(1), the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(2) in the case of transfers to health benefit accounts other than a health benefits account in a qualified transfer, the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(3) Applicable employer cost.—

For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by di-

viding the amount of excess pension assets which were transferred during such taxable year into a qualified retiree health account by a factor which is not less than the highest applicable employer cost required to be paid for the health benefits described in subsection (4)(A) for the taxable year.

"(4) Applicable employer cost.—

For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by di-

viding the amount of excess pension assets which were transferred during such taxable year into a qualified retiree health account by a factor which is not less than the highest applicable employer cost required to be paid for the health benefits described in subsection (4)(A) for the taxable year.

"(5) Amounts not used for benefits.—Any amounts transferred out of a qualified retiree health account shall be treated as a qualified transfer for purposes of paragraphs (A) and (B).

"(g) Amounts not used for benefits.—Any amounts transferred out of a qualified retiree health account shall be treated as a qualified transfer for purposes of paragraphs (A) and (B).

"(h) Special rule for 1989.—In the case of a qualified transfer described in subsection (b)(1), 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 from service during the taxable year to which such transfer relates by recom-

mending such participant's benefits as if subsection (1)(a)(I) had applied immediately before such separation).

"(i) Minimum benefit requirements.—

(1) In the case of a qualified transfer described in subsection (c)(1), the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(2) in the case of transfers to health benefit accounts other than a health benefits account in a qualified transfer, the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(3) Applicable employer cost.—

For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by di-

viding the amount of excess pension assets which were transferred during such taxable year into a qualified retiree health account by a factor which is not less than the highest applicable employer cost required to be paid for the health benefits described in subsection (4)(A) for the taxable year.

"(4) Applicable employer cost.—

For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by di-

viding the amount of excess pension assets which were transferred during such taxable year into a qualified retiree health account by a factor which is not less than the highest applicable employer cost required to be paid for the health benefits described in subsection (4)(A) for the taxable year.

"(g) Amounts not used for benefits.—Any amounts transferred out of a qualified retiree health account shall be treated as a qualified transfer for purposes of paragraphs (A) and (B).

"(h) Amounts not used for benefits.—Any amounts transferred out of a qualified retiree health account shall be treated as a qualified transfer for purposes of paragraphs (A) and (B).

"(i) Special rule for 1989.—In the case of a qualified transfer described in subsection (b)(1), 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 from service during the taxable year to which such transfer relates by recom-

mending such participant's benefits as if subsection (1)(a)(I) had applied immediately before such separation).

"(j) Minimum benefit requirements.—

(1) In the case of a qualified transfer described in subsection (c)(1), the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(2) in the case of transfers to health benefit accounts other than a health benefits account in a qualified transfer, the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(3) Applicable employer cost.—

For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by di-

viding the amount of excess pension assets which were transferred during such taxable year into a qualified retiree health account by a factor which is not less than the highest applicable employer cost required to be paid for the health benefits described in subsection (4)(A) for the taxable year.

"(4) Applicable employer cost.—

For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by di-

viding the amount of excess pension assets which were transferred during such taxable year into a qualified retiree health account by a factor which is not less than the highest applicable employer cost required to be paid for the health benefits described in subsection (4)(A) for the taxable year.

"(g) Amounts not used for benefits.—Any amounts transferred out of a qualified retiree health account shall be treated as a qualified transfer for purposes of paragraphs (A) and (B).

"(h) Amounts not used for benefits.—Any amounts transferred out of a qualified retiree health account shall be treated as a qualified transfer for purposes of paragraphs (A) and (B).

"(i) Special rule for 1989.—In the case of a qualified transfer described in subsection (b)(1), 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 from service during the taxable year to which such transfer relates by recom-

mending such participant's benefits as if subsection (1)(a)(I) had applied immediately before such separation).

"(j) Minimum benefit requirements.—

(1) In the case of a qualified transfer described in subsection (c)(1), the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.

"(2) in the case of transfers to health benefit accounts other than a health benefits account in a qualified transfer, the plan is treated as a plan which meets the applicable benefit requirements of subsection (c)(1) as of the date immediately before such separation.
benefit account or welfare benefit fund (as defined in section 419(i)(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) their survivors and dependents.

"(D) Key Employees Excluded.—If an employee is a key employee (within the meaning of section 2544(c)(1)) with respect to a 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 valuation date of the plan year preceding the qualified transfer.

"(F) HEALTH BENEFITS ACCOUNT.—The term 'health benefits account' means an account established and maintained under section 413(a) for—

"(A) to any person under "beneficiary" the first place it appears, and

"(B) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the second place it appears.

"(I) 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 III—PREMIUM RATES

SEC. 11031. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—


"(2) Conforming Amendment.—Section 406(h)(3)(A) of such Act (29 U.S.C. 1066(h)(3)(A)) is amended by adding at the end the following new clause:

"(iii) 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 406(h)(3)(A) of such Act (29 U.S.C. 1066(h)(3)(A)) is amended—

"(1) by striking "$8.00" in clause (ii) and inserting "$9.00", and

"(2) by striking "$11" in clause (iv) and inserting "$13".

"(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

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Subtitle E—Compensation and Pension

Sec. 11040. Compensation benefits for incompetents veterans' estates.

(a) In General.—Section 3203 of title 38, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (a) and (b), respectively;

(2) by inserting after subsection (a), the following new subsection (c):

"(c) [New Paragraph]—The amendment made by subsection (b) shall take effect on November 1, 1990."

Sec. 11041. Protection of nonveterans in certain catastrophic cases.

(a) In General.—Section 3291 of title 38, United States Code, is amended—

(1) by inserting after subsection (a), the following new subsection (b):

"(b) [New Paragraph]—The amendment made by subsection (a) shall take effect on November 1, 1990."

Sec. 11042. Elimination of presumption of total disability in determination of pension.

(a) Elimination of Presumption.—Section 502(2)(a) of title 38, United States Code, is amended by striking out "sixty-five years of age or older".

(b) Applicability.—The amendment made by subsection (a) shall take effect with respect to pensions under chapter 15 of title 38, United States Code, as amended by section 11001, on November 1, 1990, and shall not apply to any veteran under such chapter or to any person other than a veteran who, on November 1, 1990, is not receiving a pension under chapter 15 of title 38, United States Code, or is receiving a pension under chapter 15 of title 38, United States Code, which is in payment on November 1, 1990.

Subtitle F—Health Care

Sec. 11043. Medical care cost recovery.

(a) Amendment.—Section 1859(a)(2) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subsection (b) (2) and inserting in lieu thereof: "or";

(2) by striking out the first sentence of subsection (c) (2) and inserting in lieu thereof: "and;"

(3) by striking out the end of the following new clause—
section 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 Fund.

(3) THIRD-PARTY MEDICAL RECOVERY ACTIVITIES DEFINED.—For the purposes of this subsection, third-party medical recovery activities means recovery and collection activities carried out under section 829 of title 38, United States Code.

(4) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1990.

SEC. 1612. COWPANY FOR MEDICATION.

(a) In general.—Subchapter III of chapter 17 of title 38, United States Code, is amended by inserting after section 822 the following new section:

"822A. 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 and, in addition, 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 disease or condition, if the initial amount supplied is less than a 30-day supply, the amount of the charge may be reduced.

"(b) Amounts collected under this section shall be credited to the Department of Veterans Affairs Medical-Care Cost Recovery Fund.

(b) Effective date.—The amendments made by subsection (a) shall take effect with respect to medications furnished to a veteran on or after October 1, 1990.

SEC. 1613. MODIFICATION OF HEALTH-CARE CATEGORIES AND CO-PAYMENTS.

(a) IN GENERAL.—Subsection 810 of title 38, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "$249.00" and inserting in lieu thereof "$280.00";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) In the case of a veteran who is furnished 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:

(A) in paragraph (1), by striking out paragraph (a)(1)(A) and inserting in lieu thereof "(a)(1)(B)"; and

(B) by striking out paragraph (a)(2) and inserting in lieu thereof "(a)(2)(A)";

(3) in subsection (b), by striking out paragraph (a) and inserting in lieu thereof—

"(1) in paragraph (1), by striking out "$60.00" and inserting in lieu thereof "$70.00";

"(2) in paragraph (2), by striking out "$275.00" and inserting in lieu thereof "$325.00";

"(3) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(c) INCOME THRESHOLDS.—

"(1) IN GENERAL.—Subsection (a) of section 822 of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "(1)" at the beginning of the subsection and inserting in lieu thereof "(2)"; and

(2) by striking out paragraphs (2) and (3), respectively.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to medications furnished to a veteran on or after October 1, 1990.

SEC. 1614. TECHNICAL CORRECTIONS.

(a) In general.—Subsection (a) of section 1780(a) of title 38, United States Code, is amended—

(1) by striking out "(1)" at the beginning of the subsection and inserting in lieu thereof "(2)";

(2) by striking out paragraphs (3), (4), and (5), and inserting in lieu thereof "applicable income threshold amount under subsection (b)"; and

(3) by striking out paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to medications furnished to a veteran on or after October 1, 1990.

SEC. 1615. TECHNICAL CORRECTIONS.

(a) In general.—Subsection (a) of section 1780(b) of title 38, United States Code, is amended—

(1) by striking out "(1)" at the beginning of the subsection and inserting in lieu thereof "(2)";

(2) by striking out paragraphs (2), (3), and (4), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to medications furnished to a veteran on or after October 1, 1990.
individual for a period described in clause (B) or (C) of section 1780(f) of this title shall be reduced to 50¢ of the last rate of such monthly assistance payable to the individual for the semesters, quarter, or other academic terms immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for a 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.

"(12) A reduction is not required under paragraph (11) of this subsection for any period of less than 7 days.

"(13) 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.

"(f) INDEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 1732 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(11) 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(f) of this title shall be reduced to 50¢ of the last rate of such monthly assistance payable to the individual for the semesters, quarter, or other academic terms immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for a 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.

"(12) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(13) In the computation of the amount of the educational assistance allowance payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(f) of this title shall be reduced to 50¢ of the last rate of such monthly assistance payable to the individual for the semesters, quarter, or other academic terms immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for a 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.

"(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:

"(11) 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(f) of this title shall be reduced to 50¢ of the last rate of such monthly assistance payable to the individual for the semesters, quarter, or other academic terms immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for a 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.

"(12) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(13) In the computation of the amount of the educational assistance allowance payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(f) of this title shall be reduced to 50¢ of the last rate of such monthly assistance payable to the individual for the semesters, quarter, or other academic terms immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for a 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.

"(e) ADMINISTRATIVE COSTS.—The costs of administering sections 1415(e), 1422(c), 1422(f), 1732(c), and 1733(b) 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 from amounts available to the Department of Veterans Affairs for the payment of readjustment benefits.

SEC. 11021. DISTRIBUTION OF CLAIMS FOR EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

"(a) IN GENERAL.—Section 1502(1)(A) of title 38, United States Code, is amended to read as follows:

"(1) the Secretary's guaranty may not exceed the lesser of—

"(A) 1.50 percent of the original amount of the guaranty entitlement available to the veteran specified in paragraph (a) of this subsection;

"(B) 0.50 percent of the original amount of the guaranty entitlement available to the veteran specified in paragraph (a) of this subsection.

"(2) 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) by the filing of an application with the Secretary.

"(1) in subparagraph (B), by striking '1.25 percent' and inserting in lieu thereof '1 percent';

"(2) in clause (B), by striking out '0.75 percent' and inserting in lieu thereof '1.5 percent';

"(3) in clause (C), by striking out '0.50 percent' and inserting in lieu thereof '1.25 percent';

"(4) IN EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to loans guaranteed in whole or in part under chapter 37 of title 38, United States Code, on or after the date of the enactment of this Act.

Subtitle B—Home Loan Guarantees

SEC. 11021. ELIMINATION OF CLAIM FOR GUARANTY OF MANUFACTURED HOME LOANS.

"(a) IN GENERAL.—Paragraph (1) of section 18112(c) of title 38, United States Code, is amended to read as follows:

"(1) a claim 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—

"(1) the amount equal to the excess, if any, of the loan balance over the value of the property securing the loan, or

"(2) the amount equal to the excess, if any, of the amount of the guaranty over the value of such appraisal.

"(b) IN EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to death occurring after October 30, 1990.

Subtitle C—Health Care

SEC. 11031. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

"(a) DISCLOSURE OF TAX INFORMATION.—In General.—(1) Section 6103(j)(1) 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 (i) and

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

"(2) IN EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to returns for taxable years beginning after October 30, 1990.

Subtitle D—Miscellaneous

SEC. 11051. 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) IN EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to death occurring after October 30, 1990.

Subtitle E—Bereavement and Grave Markers

SEC. 11061. ELIGIBILITY FOR BEREAL ALLOWANCE.

"(a) IN GENERAL.—Section 903 of title 38, United States Code, is amended—

"(1) by striking out subsection (d), and

"(2) by redesignating subsection (e) as subsection (d).

"(b) IN EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to death occurring after October 30, 1990.

Sections 11041 to 11061 of title 38, United States Code, are amended by striking out "1.25 percent" and inserting in lieu thereof "1 percent".
(2) CLERICAL AMENDMENT.—The heading of paragraph (7) of section 6130(h) of such Code is amended by striking out "or the food stamp act of 1977, or title 38, United States code".

(b) USE OF INCOME INFORMATION 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 (a) 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(f)(7)(D) of the Internal Revenue Code of 1986. The Secretary shall periodically, at least every five years, reduce any benefit or service described in subsection (a) of this section 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(f)(7)(D) of the Internal Revenue Code of 1986 (as added by subsection (4)).

(b) DEADLINE FOR NOTICE.—Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(c) LIMITATION ON NOTICE.—The Secretary shall, upon the request of the Secretary, furnish such additional notice as is necessary to inform the Secretary that income information furnished to the Secretary by such applicants and recipients may be compared with income obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(f)(7)(D) of the Internal Revenue Code of 1986 (as added by subsection (4)).

SEC. 11051. LINE OF DUTY.—

(a) ELIMINATION OF COMPENSATION FOR VETERANS.—The Secretary shall, upon request by the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(f)(7)(D) of the Internal Revenue Code of 1986, furnishing, denying, or withdrawing such benefits and services, reduce any benefit or service described in subsection (a) of this section that income information furnished to the Secretary by such applicants and recipients may be compared with income obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(f)(7)(D) of the Internal Revenue Code of 1986 (as added by subsection (4)).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to acts or omissions committed after December 31, 1990.

This title may be cited as the "Budget Process Reform Act of 1990".

SUBTITLE A—DEFICIT REDUCTION

Sec. 12001. Short title.

Sec. 12002. Table of contents.

Subtitle A—Deficit Reduction

Sec. 12051. Deficit targets.

Sec. 12052. Discretionary spending limits.

Sec. 12053. Sequester of defense, domestic discretionary, and international discretionary accounts.

Sec. 12054. Restoration of funds sequestered.

Sec. 12055. Conforming changes.

Subtitle B—Pay-As-You-Go

Sec. 12101. Pay-as-you-go provisions in budget resolutions.

Sec. 12102. Pay-as-you-go provisions in tax legislation.

Subtitle C—Social Security Trust Fund

Sec. 12151. Exclusion of Social Security trust funds from budget resolutions.
Sec. 12202. President's budget to address out-years.

Sec. 12203. Strengthening the prohibition of spending before budgeting.

Subtitle E—Credit Reform

Sec. 12251. Credit reforms.

Sec. 12252. Effect of Congressional Budget Act and conforming amendments.

Sec. 12253. Table of contents.

Subtitle F—Budget Timetable

Sec. 12201. Budget timetable.

Subtitle G—Early Initial Gramm-Rudman-Hollings Reports

Sec. 12251. Early initial Gramm-Rudman-Hollings reports.

Sec. 12252. President's budget request to use Gramm-Rudman-Hollings rules.

Subtitle H—Strengthening the Byrd Rule on Excessive Manner in Reconciliation

Sec. 12401. Strengthening the Byrd rule.

Subtitle J—Budget Submissions by New Presidents

Sec. 12451. Requirement for new President's budgets.

Sec. 12452. Deadlines in years when a new President takes office.

Subtitle K—Standardization of Points of Order

Sec. 12652. Contingent liabilities of the Federal Government.

Sec. 12653. Display of Federalminiature amounts as the Office of Management and Budget shall estimate in its report under section 315(a)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 315(a)(1)(E) 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,

(1)(B) for fiscal year 1992:
(i) new budget authority, $20,500,000,000,
(ii) outlays, $19,100,000,000, and

(1)(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 budget authority and outlays for fiscal years 1991, 1992, and 1993 for all discretionary spending in categories other than major functional categories 150, 500, and 150 (International Affairs) and 195 (Domestic Entitlements) shall be—

(1)(A) for fiscal year 1991:
(i) new budget authority, $182,700,000,000,
(ii) outlays, $181,800,000,000,

(1)(B) for fiscal year 1992:
(i) new budget authority, $191,300,000,000,
(ii) outlays, $210,100,000,000, and

(1)(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.


(6) ADDITIONAL TECHNICAL REVISIONS.—Notwithstanding any other provision of law, the Director of the Office of Management and Budget shall make technical revisions (in addition to those that the Direc-
(A) the budget authority amounts in sub-
paragraph (A) and by the composite outlays
per category consistent with them; and
(B) the budget authority and outlay
amounts in subparagraphs (B), (C), (D), (E),
and (F).
(h)(i) FURTHER ADDITIONAL TECHNICAL REVI-
SIONS.—(1) Notwithstanding any other pro-
vision of law, the Director of the Office of
Management and Budget may make techni-
cal reestimates (in addition to those that the
Director may make pursuant to section
251(a)(1)(E) of the Bal-
anced Budget and
Emergency Deficit Control Act of 1985—
(i) 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 sub-
sections (a), (b), and (c) (together), for
fiscal years 1991, 1992, and 1993 (together),
for international affairs discretionary
spending budget authority under subsection (b);
(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 defense discretionary spending budget author-
ity under subsection (c);
(iii) 0.1 percent of the total of budget au-
thority in the allocations in subsections (a),
(b), and (c) (together), for fiscal years 1981, 1982,
1983, 1984, 1985, and 1986, for disaster and
emergency spending authority under subsection (c);
(iv) for any other amount under this paragraph, the estimated costs of
an appropriation enacted in calendar year
1980 or 1981 that for partial Egypt's Foreign Military Sales indebted-
ness to the United States; and
(v) for discretionary spending as sec-
tioned by the Prior Appropriations Act, by
stirring "November 10' and inserting November
15' after June 30 or before November 1 of the
fiscal year for which such Act makes appro-
priations.
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 "after" the following: "and after having ordered such reductions. If any, as may be required by sections 252A and 252B,

in section 252a(4), by striking subparagraph (a) and inserting the following:

"(A) In general—Notwithstanding section 257(1), the net amount of deficit increase caused by the enactment of new legislation that would be sequestered if the appropriate sequester orders were issued under this section, section 252A, and section 252B were issued on October 1, pending the issuance of final orders under that section, shall be permanently sequestered or reduced in accordance with those final orders upon the issuance of those final orders.

(b) by striking "252A(4)(A)(I)" and inserting "order under subsection (b) and inserting "orders under subsection (b) and section 252B;"

(c) by striking "2 percent" and inserting "4 percent;" and

(d) in section 256(d)(1)(B), by striking "2 percent" and inserting "4 percent";

SEC. 1064. RESTORATION OF FUNDS SEQUESTERED.

(a) Order Rescinded.—Upon the enactment of this Act, the orders issued by the President on August 25, 1980, and October 15, 1989, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are rescinded.

(b) Announce—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 under such orders is restored, revised, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 1065. RESTORATION OF FUNDS SEQUESTERED.

(a) EXPPIRATION.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by striking "1992" and inserting "1995."

(b) Margin.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended—

in section 251(a)(1)(B), by striking "$10,000,000,000 (zero in the case of fiscal year 1992)" and inserting "the margin;"

in section 251(a)(2), by striking "$10,000,000,000 (zero in the case of fiscal year 1992)" and inserting "the margin;" and

in section 257, by amending paragraph (1) as follows:

"(10) The term ‘margin’ means zero with respect to each of fiscal years 1991, 1992, and 1993, and $10,000,000,000 with respect to each of fiscal years 1994 and 1995."

Subtitle C—Pay-As-You-Go

SEC. 1101. PAY-AS-YOU-GO PROVISIONS IN BUDGET RESOLUTIONS.

Section 104(a) of the Congressional Budget Act of 1974 is amended—

(1) in paragraph (3), by striking "and;"

(2) by striking paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) The 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 bill, the enactment of such legislation will not increase the deficit amount of required deficit reduction in the bill or previously passed deficit reduction in the resolution for the first fiscal year covered by the concurrent resolution, and if, in that case, the total deficit for the period of fiscal years covered by the concurrent resolution that would not be reduced by the uniform percentage necessary to make the reductions in direct spending required except that—

(B) the sequestration program specified in section 256(d) shall not be reduced by more than 4 percent; and

(c) 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 section, the concurrent resolution on the budget for the fiscal year shall be considered an enacted law for purposes of this clause.

(3) The pay-as-you-go procedures as amended by this section shall apply to legislation enacted after the date of enactment of this section, including legislation enacted after the date of enactment of the Budget Enforcement Act of 1990, to the extent that such legislation is subject to the pay-as-you-go procedures.

(2) OMB ESTIMATES.—Within 5 calendar days after the end of any fiscal year, the Director of OMB shall submit to the President and the House of Representatives an estimate of the amount by which outlay reductions or receipts increases required by the Concurrent Resolution on the Budget for the fiscal year through the fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as the budget estimates 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. 1111. EXCLUSION OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—Section 101(b) of the Congressional Budget Act and Impoundment Control Act of 1974 is amended by striking the second sentence.

(b) SOCIAL SECURITY ACT.—Section 1101(a) of the Balanced Budget and Impoundment Control Act of 1974 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".

SEC. 1112. SOCIAL SECURITY FIREWALL AND POINT OF ORDER.

(a) EXCLUSION FROM RECONCILIATION PROCESS.—Section 310(b) 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:

"(2) the old-age, survivors, and disability insurance program established under title II of the Social Security Act that contains recommendations that do 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 its financing."
(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 paragraph: “(7) 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 title V of such Act; and (8) Social Security outlays, which for purposes of this title shall be composed of outlays in excess of the following new paragraph: “(7) 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 title V of such Act; and (8) 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 the related provisions of the Internal Revenue Code of 1986.” (d) POINT OF ORDER.—Section 301(a) 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)(3) 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(b) of such Act is further amended by adding at the end thereof the following: “In applying this paragraph— “(1) 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 “(2) 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 paragraph is applied below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget.” (f) ESTIMATES.— (1) Title II of the Social Security Act is amended by adding at the end thereof the following new section: “Sec. 234. (a) 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. “(b) The estimate required by paragraph (a) shall, at a minimum, display the change in long-range balance under each of the alternatives and assumptions used in the most recent report of the Board of Trustees pursuant to section 201(c)(2). Each such estimate shall be accompanied by an explanation of the methodology used in the estimate or a statement to the effect that such an explanation is not practicable. “(c) The Chairman of the Committee on Finance shall certify that each estimate is likely to be acted upon by the Congress, or “(d) any of fiscal years covered by the concurrent resolution.” (g) 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) by striking the first occurrence of “for each fiscal year”; and (B) 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(h)(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 covered by the concurrent resolution”. (h) 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) by inserting after “(2)” the following: “for the first fiscal year”. (i) by striking all after “statement” through the period and inserting the following: “,” for purposes of subsections (a) and (b) of section 301(f) the allocation to subsection (a) shall constitute the allocation pursuant to this subsection.”. (3) Section 302(c) of that Act is amended—
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 plus the following 4 fiscal years".

Section 302(f)(2) 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: "for fiscal years".

Section 302(f)(3) 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: "such fiscal years and for the period including the first fiscal year plus the following 4 fiscal years".

Subtitle E—Credit Reform

TITLE XII—CREDIT REFORM

LONG 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 reporting 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 Federal spending 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 an participation in a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan.
(3) 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 by the Federal Government.
(4) The term ‘loan guarantee commitment’ means a commitment to make a loan guarantee, whether made as a single loan or as agreed to by the Director and the head of the affected agency.
(5) The term ‘special loan’ means a loan obligation with a term that is less than 5 years.
(6) The term ‘cost to the Government’ means—
(A) the estimated long-term net cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis; and
(B) the cost to the Government resulting from any change or modification in direct or guaranteed loan contract terms that result in real or potential savings, as determined by the Government or loss of receipts to the Government.
(7) The term ‘borrower’ means a person, organization, or entity that receives a loan or loan guarantee from the Government.
(8) The term ‘interest income’ means the interest recoveries from the liquidation of a loan, whether received or receivable, and directly attributable to a loan or loan guarantee.
(9) The term ‘interest expense’ means the interest expense attributable to a loan or loan guarantee.”
and conditions of the direct loan or loan guarantee, including those resulting from—

(1) changes in the payment schedule,
(2) delays in repayments,
(3) prepayments,
(4) forbearance and restructuring rights,
(5) default and recovery procedures,
(6) penalty.

(7) Recoveries from the liquidation of collateral,

(8) where historical data is not available or adequate, private market analogues, adjusted to estimate the cost to the Government.

(9) The cost to the Government shall not include administrative costs.

(10) The term 'subsidy account' means the budget account or accounts associated with each subsidy account that—

(A) 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;

(B) receives payments of principal, interest, and fees from on or on behalf of borrowers for guaranteed 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.

(11) The term 'liquidating account' means the budget account or accounts that—

(A) provides the funding for direct loans obligated on or after October 1, 1991;

(B) disburses 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, and fees from on or on behalf of borrowers for guaranteed payments from subsidy accounts for direct loans obligated or loan guarantees committed on or after October 1, 1991.

(12) 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 and reviewing cost estimates made 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(b); and

(2) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for changes or modifications in the terms of existing direct loans 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 of a system of performance indicators 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.

DEVELOPMENT OF ESTIMATES—

"(1) IN GENERAL.—In developing estimates criteria to be used by Federal agencies, the Director shall, in cooperation with the Director of the Office of Management and Budget—

(A) coordinate the development of accurate data on historical performance of loans and guarantees;

(B) establish historical budget data and issue guidelines for the agencies to follow to develop the best available broad estimates of costs that would correct aggregate historical budget data to credit reform accounting.

(2) CONSULTATION WITH CONGRESS.—The Director shall 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).

(3) REVISION OF CRITERIA.—Any change by the Director in the criteria for estimating developed pursuant to subsection (a) may be made only after consultation with the Director of the Congressional Budget Office, and the chairman and ranking members of the Committees on the Budget and Appropriations of the Senate and the House of Representatives.

ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall analyze differences in long-term administrative costs for credit programs, using data as of the latest available data and 9 months after the date of enactment of this title; and when available thereafter, prepare changes to Congress for incorporating administrative costs in the credit reform accounting process.

"Sec. 1105. (a) AGENCY BUDGET PROPOSALS.—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;

(2) the estimated cost to the Government associated with the proposed loan guarantee commitments.

(b) LOAN GUARANTEE PROGRAMS—

"(1) In General.—At the time a loan guarantee commitment is made, the Federal agency shall estimate the cost to the Government of the loan guarantee commitment, including 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 pursuant to section 1104.

"(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) where the amount of the estimate exceeded the cost of the direct loan shall constitute an obligation of the financing account.

(1) Payment of Cost to the Government.—The cost to the Government associated with a direct loan as determined in subsection (a) shall be paid from the subsidy account into the financing account as the loan is disbursed.

(2) 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, appropriated against 202(a) and 202(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.

(3) Eligibility and Assistance.—Nothing in this title shall be construed to change the eligibility or the availability of a Federal agency to determine the terms and conditions of eligibility or, for the amount of assistance provided by a direct loan.

"Sec. 1106. (a) AGENCY BUDGET PROPOSALS.—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;

(2) the estimated cost to the Government associated with the proposed loan guarantee commitments.

(b) LOAN GUARANTEE PROGRAMS—

"(1) In General.—At the time a loan guarantee commitment is made, the Federal agency shall estimate the cost to the Government of the loan guarantee commitment, including 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 pursuant to section 1104.

(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) where the amount of the estimate exceeded the cost of the direct loan shall constitute an obligation of the financing account.

(1) Payment of Cost to the Government.—The cost to the Government associated with a direct loan as determined in subsection (a) shall be paid from the subsidy account into the financing account as the loan is disbursed.

(2) 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, appropriated against 202(a) and 202(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.

(3) Eligibility and Assistance.—Nothing in this title shall be construed to change the eligibility or the availability of a Federal agency to determine the terms and conditions of eligibility or, for the amount of assistance provided by a direct loan.
Calculating the function of the direct loan program.

Otherwise available to cover costs of the government in each fiscal year; and shall, as required by the Director, in accordance with the Director's guidance;

Agreement for the program; and

Transactions in the financing account shall be treated as a means of financing the government.

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;

Request annual appropriations, or loan guarantees available to the subsidies attributable to federal agency's direct loan or loan guarantee programs in each fiscal year;

Maintain reserves in a financing account to cover loan guarantee defaults, which may subsequently be recorded in a budget function 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 a substitution of the account charged with the subsidy payment. The cost to the government shall be included in the budget function of the guarantee program.

(c) CREDIT FINANCING ACTIVITIES.—For the purposes of chapter 11 of title 31, United States Code, and of titles II, 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 guarantee 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 Account," and the antidiscrimination policy of this Act shall apply to the financing accounts.

(2) Amounts recorded in the budget function entitled "Credit Financing Account," by section 302(a) or 302(b) allocations of the committee making the modifications, In default to the government on or after October 1, 1991, the cost to the government associated with proposed direct loan obligations and the costs of administering such obligations, such sums as may be necessary to pay the cost to the government associated with proposed direct loan obligations and the costs of administering such obligations, shall be recorded in a budget function entitled "Credit Financing Account."
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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 1993"

"Sec. 111. In General. — Beginning with the President's budget submission to Congress for fiscal year 1992, the President shall include, in the Budget Appendix, an estimated cost for each department, agency, 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 and 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) Beginning on January 1, 1991, the Congressional Budget Office shall include a cost to the Government estimate of direct loan and loan guarantee programs, as those terms are defined by title X.

"(2) Section 3 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"SEC. 1122. EFFECT ON CONGRESSIONAL BUDGET ACT AND CONFORMING AMENDMENTS. (a) Definitions. — (1) Section 312 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 X.

"(b) Section 3 of the Congressional Budget 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. 1124. GOVERNMENT-SPONSORED ENTERPRISES

(a) Treasury Report. —

"(1) On or before April 30, 1991, the Secretary of the Treasury shall submit to the committees on the Budget of both 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; and

"(B) assessing the adequacy of the existing regulatory structure for Government-sponsored enterprises; and

"(c) 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, in the judgment of the Secretary, in determining to provide access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

"(d) The Secretary shall provide 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.

"(e) 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, in the judgment of the Secretary, in determining to provide access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

"(f) 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.

"(g) The Department of Treasury shall be exempt from section 525 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 be pursuant to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency.

"(h) Any officer of employee of the Department of the Treasury shall be subject to the penalties set forth in section 106 of title 18, United States Code, if—

"(1) 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

"(2) he discloses the material in any manner other than—

"(fa) to an officer or employee of the Department of Treasury;

"(fb) pursuant to the exception set forth in section 1039 definitions; or

"(fc) in the Congressional Budget Office Report.

"(g) 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—

"(h) the types of risk that each Government-sponsored enterprise assumes;
(a) Ways in which the Congress can improve its understanding of these risks; and

(b) The risks to the budget posed by Government-sponsored enterprises;

(c) The adequacy of current Government-sponsored enterprise supervision and regulation with respect to risk management; and

(d) Presenting alternative models of oversight, with particular emphasis on the costs and benefits of each model for the Government and to Government-sponsored-entrepreneur-supported beneficiaries.

(2) A 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.

(3) The Congressional Budget Office shall be exempt from the Freedom of Information Act, United States Code, with respect to any record, or information made available under this subsection and determined by the Director to be confidential under this subsection.

(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;

(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. 15994. BUDGET TIMETABLE

Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"TIMETABLE

"(a) In General—Except as provided in subsection (b), the timetable for the Congressional budget process is as follows:

<table>
<thead>
<tr>
<th>Action to be completed:</th>
<th>On or before:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congressional Budget Office submits its baseline report to Budget Committees.</td>
<td>January 27</td>
</tr>
<tr>
<td>Congressional Budget Office issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.</td>
<td>March 10</td>
</tr>
<tr>
<td>President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress.</td>
<td>April 15</td>
</tr>
<tr>
<td>Congress completes action on concurrent resolution on the budget.</td>
<td>May 1</td>
</tr>
<tr>
<td>Congress completes action on appropriations legislation and completes action on reconciliation legislation.</td>
<td>May 15</td>
</tr>
<tr>
<td>President issues initial order.</td>
<td>June 1</td>
</tr>
<tr>
<td>Fiscal year begins and any initial order becomes effective.</td>
<td>September 30</td>
</tr>
<tr>
<td>Congress completes action on appropriations legislation and completes action on reconciliation legislation.</td>
<td>October 1</td>
</tr>
<tr>
<td>Congress completes action on concurrent resolution on the budget.</td>
<td>November 10</td>
</tr>
<tr>
<td>Congressional Budget Office issues its revised report to the President and the Congress. Congress President issues final order which becomes effective immediately.</td>
<td>November 15</td>
</tr>
<tr>
<td>Congress completes action on concurrent resolution on the budget.</td>
<td>November 30</td>
</tr>
<tr>
<td>Comptroller General issues compliance report.</td>
<td>December 15</td>
</tr>
</tbody>
</table>

(b) in years a new President takes office—In years in which a new President who had not been President on January 20, takes office on January 20, the timetable for the Congressional budget process is as follows:

"(a) In General—Except as provided in subsection (b), the timetable for the Congressional budget process is as follows:

<table>
<thead>
<tr>
<th>Action to be completed:</th>
<th>On or before:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congressional Budget Office submits a revised report to Budget Committees.</td>
<td>March 15</td>
</tr>
<tr>
<td>Congressional Budget Office issues its initial report to the President and the Congress.</td>
<td>April 15</td>
</tr>
<tr>
<td>Congressional Budget Office issues its initial Gramm-Rudman Hollings report to Office of Management and Budget and the Congress.</td>
<td>May 1</td>
</tr>
<tr>
<td>Congress completes action on concurrent resolution on the budget.</td>
<td>May 15</td>
</tr>
<tr>
<td>Congress completes action on concurrent resolution on the budget.</td>
<td>June 1</td>
</tr>
<tr>
<td>Congress completes action on appropriations legislation and completes action on reconciliation legislation.</td>
<td>September 30</td>
</tr>
<tr>
<td>Fiscal year begins and any initial order becomes effective.</td>
<td>October 1</td>
</tr>
<tr>
<td>Congress completes action on concurrent resolution on the budget.</td>
<td>November 10</td>
</tr>
<tr>
<td>Congressional Budget Office issues its revised report to the President and the Congress. Congress President issues final order which becomes effective immediately.</td>
<td>November 15</td>
</tr>
<tr>
<td>Congress completes action on concurrent resolution on the budget.</td>
<td>November 30</td>
</tr>
<tr>
<td>Comptroller General issues compliance report.</td>
<td>December 15</td>
</tr>
</tbody>
</table>

Subtitle G—Early Initial Gramm-Rudman-Hollings Report

SEC. 1231. 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)(1)(A), by striking "August 20" and inserting "February 1";

(3) in section 251(a)(1)(B), by striking "August 25" and inserting "February 1";

(4) in section 251(a)(1)(C), by striking clauses (i)(i) and (ii);

(5) in section 251(a)(3)(A), by striking "paragraph" and inserting "part";

(6) in section 251(a)(1)(D), 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";

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(7) in subsection (d)(2), by inserting after "A" the first place it appears the following: "Senate-originated; and"
appropriations, and then adding thereof the following new subsections: (e) EXTRANEOUS MATERIALS.—Upon the
reporting or discharge of a reconciliation bill except section 310 in the Senate, and upon the submission of a conference report on such a reconciliation
bill or resolution, the Committee on the budget shall submit for your, 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 Committees on the Budget of the Senate and the House of Representatives
provision shall not constitute a determination of extraneousness by the Presiding Officer
of the Senate.
(4) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The
point of order may sustain the point of order to as 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, and one of the provisions
sections (provisions including provisions of an amendment, motion, or conference report) against which the Senator raised the 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, and standing any other law or rule of the Senate, the Senator may sustain the point of order to as some or all of the provisions against which the Senator raised the point of
order.
(5) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget and emergency deficit control shall be determined on the basis of estimates made by the Committee on the Budget of the Senate and
the House of Representatives, the Conference Committee, and the Senate and House Appropriations Committees
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, and standing any other law or rule of the Senate, the Senator may sustain the point of order to as some or all of the provisions against which the Senator raised the point of
order.
(6) TRANSFER OF BYRD RULE.—(1) Section 3001 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 312 of that Act.
(2) Section 312 of the Congressional Budget Control Act of 1974 is amended by—
(A) striking 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), (g) and as subsections (b), (c), (d), (e), and (f), respectively.
(3) subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 286 (99th Congress, 2nd Session) and designated as subsection (c) of section 313 of the
(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";
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. 12541. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.

(a) In General—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 311(a)—

"(B) by striking "providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year or reducing revenues for such fiscal year," and "

(2) by striking "(4) in paragraph (1), by striking "bill, resolution, or amendment thereof" and inserting "bill, resolution, amendment, motion, or conference report"; and

(b) in section 302(h)(2), by striking "bill or resolution, or amendment thereof" and inserting "bill, resolution, amendment, motion, or conference report"; and

(c) in section 303(a), by striking "bill, resolution, or amendment thereof" and inserting "bill, resolution, amendment, motion, or conference report"; and

(d) in section 309, by striking "bill or resolution, and no amendment to any bill or resolution may be offered excepting "bill, resolution, amendment, motion, or conference report"; and

(e) in section 311(a), by striking "(4) in paragraph (1), by striking "bill, resolution, or amendment thereof" and inserting "bill, resolution, amendment, motion, or conference report"; and

(f) striking "or any conference report on any such bill or resolution"; and

(g) in section 401(a), by—

(1) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(2) (i) striking "or any amendment which provides such new spending authority";

(ii) in section 401(b)(1), by—

(A) in the matter before paragraph (1), by striking "by striking "bill or resolution, amendment, motion, or conference report"; and

(B) in section 303(a), by striking "bill, resolution, or amendment thereof" and inserting "bill, resolution, amendment, motion, or conference report"; and

(C) in section 303(a), by striking "bill, resolution, or amendment thereof" and inserting "bill, resolution, amendment, motion, or conference report"; and

(D) in section 309, by striking "bill or resolution, and no amendment to any bill or resolution may be offered excepting "bill, resolution, amendment, motion, or conference report"; and

(E) in section 401(a), by striking "(4) in paragraph (1), by striking "bill, resolution, or amendment thereof" and inserting "bill, resolution, amendment, motion, or conference report"; and

(F) in section 401(a), by—

(i) striking "or any conference report on any such bill or resolution"; and

(ii) in paragraph (1), by striking "and includes a legislated change in the estimated level of new budget authority provided in indefinite amounts by existing law.";

(g) in section 401(a), by—

(1) in paragraph (4), by striking "a provision of law that has the effect of requiring the Government to make payments (including payments to any Government account) regardless of the amount thereof, then entitlement authority that was enacted before the date

SEC. 12542. DEFINITIONS.

(a) Budget Authority.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"(a) Budget Authority.—"(A) In General.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, including the following:

"(1) provisions of law that make funds available for obligation and expenditure, including the authority to obligate and expend proceeds of obligations of the United States or authorization of the expenditure of appropriated funds;

"(2) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(3) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(4) offsetting collections as negative budget authority, and the reduction thereof as positive budget authority.

Such term includes transactions classified as means of financing the deficit.

(b) Estimation of Budget Authority.—Budget authority may be definite (in which statute specifies the numerical amount) or indefinite (and, therefore, subject to estimation and inclusion in the budgetary authority determined to exist).

(c) Limitations on Budget Authority.—Any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

(d) New Budget Authority.—The term 'new budget authority' means, with respect to a fiscal year:

"(1) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation, or

"(2) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law that first becomes effective in that year, and includes a legislatively mandated change in the estimated level of new budget authority provided in indefinite amounts by existing law.

(e) Entitlement Authority.—Section 319 of the Congressional Budget Act of 1974 is amended to read as follows:

"(a) Entitlement Authority.—"(A) In General.—The term 'entitlement authority' means any provision of law that has the effect of requiring the Government to make payments (including payments to any Government account) regardless of the amount thereof, then entitlement authority that was enacted before the date

SEC. 12543. DEFINITIONS.

(a) Budget Authority.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"(a) Budget Authority.—"(A) In General.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, including the following:

"(1) provisions of law that make funds available for obligation and expenditure, including the authority to obligate and expend proceeds of obligations of the United States or authorization of the expenditure of appropriated funds;

"(2) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(3) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(4) offsetting collections as negative budget authority, and the reduction thereof as positive budget authority.

Such term includes transactions classified as means of financing the deficit.

(b) Estimation of Budget Authority.—Budget authority may be definite (in which statute specifies the numerical amount) or indefinite (and, therefore, subject to estimation and inclusion in the budgetary authority determined to exist).

(c) Limitations on Budget Authority.—Any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

(d) New Budget Authority.—The term 'new budget authority' means, with respect to a fiscal year:

"(1) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation, or

"(2) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law that first becomes effective in that year, and includes a legislatively mandated change in the estimated level of new budget authority provided in indefinite amounts by existing law.

(e) Entitlement Authority.—Section 319 of the Congressional Budget Act of 1974 is amended to read as follows:

"(a) Entitlement Authority.—"(A) In General.—The term 'entitlement authority' means any provision of law that has the effect of requiring the Government to make payments (including payments to any Government account) regardless of the amount thereof, then entitlement authority that was enacted before the date

SEC. 12543. DEFINITIONS.

(a) Budget Authority.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"(a) Budget Authority.—"(A) In General.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, including the following:

"(1) provisions of law that make funds available for obligation and expenditure, including the authority to obligate and expend proceeds of obligations of the United States or authorization of the expenditure of appropriated funds;

"(2) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(3) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(4) offsetting collections as negative budget authority, and the reduction thereof as positive budget authority.

Such term includes transactions classified as means of financing the deficit.

(b) Estimation of Budget Authority.—Budget authority may be definite (in which statute specifies the numerical amount) or indefinite (and, therefore, subject to estimation and inclusion in the budgetary authority determined to exist).

(c) Limitations on Budget Authority.—Any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

(d) New Budget Authority.—The term 'new budget authority' means, with respect to a fiscal year:

"(1) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation, or

"(2) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law that first becomes effective in that year, and includes a legislatively mandated change in the estimated level of new budget authority provided in indefinite amounts by existing law.

(e) Entitlement Authority.—Section 319 of the Congressional Budget Act of 1974 is amended to read as follows:

"(a) Entitlement Authority.—"(A) In General.—The term 'entitlement authority' means any provision of law that has the effect of requiring the Government to make payments (including payments to any Government account) regardless of the amount thereof, then entitlement authority that was enacted before the date

(c) GERMANY.—Section 305(b)(2) of the Congressional Budget Act of 1974 is amended by inserting after the second sentence the following: "An amendment shall not be germ-

ame unless it complies with the precedents of the Senate, deals with the same subject matter as the matter to which it is germane, and does not encroach upon the jurisdiction as the matter to which it is germane."

Section I.—Codification of Budget Process Provisions

SEC. 1981. GENDER NEUTRALITY.

(a) CONGRESSIONAL BUDGET ACT.—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 201(a)(2), by striking "him" and inserting "the Deputy Director";

(2) in section 201(a)(2), by striking "has fitness to perform his duties" and inserting "fitness to perform the duties of the office of the Director"; (3) in section 201(a)(3)—

(A) by striking "his successor" in both places it appears and inserting "the President"; (B) by striking "him" and inserting "that the President";

(4) in section 201(a)(1)—

(A) by striking "he" and inserting "the Director";

(B) by striking "his duties and functions" and inserting "the duties and functions of the office of Director";

(5) in section 303(c)(2), by striking "his" and inserting "the minority leader’s";

(6) in section 305(c)(10), by striking "his" both times it appears and inserting "the majority leader’s";

(7) in section 305(c)(4), by striking "his" and inserting "the President’s";

(8) in section 305(c)(4), by striking "his" and inserting "the minority leader’s";

(9) in section 1016, by striking "of his own selection" and inserting "that the Comptroller General selects";

(10) in section 1011(d), by striking "him" and inserting "the Comptroller General";

(11) in section 1014(c), by striking "him" and inserting "the Comptroller General";

(12) in section 1014(d)(1)(A), by striking "him" and inserting "the President";

(13) in section 1015(b), by striking "his" and inserting "the Comptroller General’s";

(14) in section 1016, by striking "of his own selection" and inserting "that the Comptroller General selects";

(15) in section 1011(d)(2), by striking "him" and inserting "the minority leader’s";

(16) in section 1017(d)(6), by striking "his" both times it appears and inserting "the minority leader’s";

(17) in section 1017(d)(7), by striking "his" and inserting "the minority leader’s".

OMB Reports.—Section 251(a)(2)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "his" and inserting "the minority leader’s".

(c) MILITARY PERSONNEL FLEXIBILITY.—Section 251(d)(3)(C) of such Act is amended by striking "his" and inserting "the minority leader’s".

(d) PROCEDURES IN THE EVENT OF RECESSION.—Section 251(a)(4)(C)(ii) of such Act is amended by striking "his" and inserting "the minority leader’s".

SEC. 1982. REPEAL OF OBSOLETE PROVISIONS.

(a) CONGRESSIONAL BUDGET ACT OF 1976.—The Congressional Budget Act of 1976 is amended—

(1) in section 301(2)(F), by striking "(A)";

(2) by striking subparagraph (B); and (3) by striking "(C)" for & inserting the application of subparagraph (B), "the" and inserting "(B)";

(4) in section 251(a)(4)(C)(iii) of such Act is amended—

(a) by striking "that—" and subparagraph (A) and (B) through "fiscal year 1988," and inserting "that exceeds the maximum deficit amount for such fiscal year under section 301(7),"; and (b) in section 251(d)(2)(C) redesignating paragraph (2) and redesignating paragraph (3) as paragraph (2).
201 of the Congressional Budget Act of 1974 and is designated as subsection (f)(1).

Sections. Section 201 of the Congressional Budget Act of 1974 (as redesignated by subsection (f) is amended by—

(1) striking "this title and the Congressional Budget and Impoundment Control Act of 1974" and inserting "this Act"; and

(ii) inserting "Revenue Estimates."—(II) before the first subsection.

 Sect. 196. COMPIICATION OF RULES REGARDING SAVINGS TRANSFERS BETWEEN FISCAL YEARS.—

(a) TRANSFER.—The text of section 202 of Public Law 100-119 is transferred to the end of part A of title III of the Congressional Budget Control Act of 1974 and designated as section 312 of that Act.

(b) STRENGTHENING THE PROHIBITION OF COUNTING YEAR-TO-YEAR SHIFTS.—Section 312 of the Congressional Budget Control Act of 1974 is amended to read as follows:

"PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER."—

"Sec. 312. Any provision of an appropriations Act, regulation, or administrative action that has the effect of transferring an outlay in one fiscal year from the revenue of the United States from one fiscal year to an adjacent fiscal year when compared to baseline estimating assumptions including a law, regulation, or administrative action restricting the flow of outlays that would cause such a transfer, such as an outlay cap, shall not be treated as reducing the deficit or producing net deficit reduction in any fiscal year for purposes of this Act or the Balanced Budget and Emergency Deficit Control Act of 1985."

(c) TABLE OF CONTENTS.—The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 311 the following new item:

"Sec. 312. Prohibition of counting as savings the transfer of government actions from one year to another."—

(d) SEC. 194. TECHNICAL REVISIONS OF CHAP.

The Balanced Budget and Emergency Deficit Control Act of 1990 is amended by—

(1) in section 251(a)(6), by striking "and" the last time it appears and

(2) by inserting before the final semicolon the following: 

"and that subsidies under section 8 of the Housing Act of 1937 shall be renewed for equal durations and in similar form to existing subsidies;"

(3) in section 251(a)(6)(B), by striking "and" at the end thereof; and

(4) in section 251(a)(6)(E), by inserting after subparagraph (E) the following new subparagraph:

"(II) assuming that spending will be adjusted appropriately for the decennial census;"

(5) in section 252(f)(2), by striking subparagraph (B) and inserting the following:

"(B) Upon implementation of a full-year appropriations (including a continuing appropriation for the full year) for the account, the full amount of the reduction specified by the final order, reduced by the sum of—

(1) amounts previously sequestered, and

(2) savings achieved by such appropriation that would have been expected to occur in any fiscal year that the amount specified in such account shall be sequestered, except that the sum shall not exceed the amount specified in the final order for the account;"

(6) in section 257(l)(l) by inserting at the end thereof the following new paragraph:

"(II) the expressions of accounts set forth on the list entitled "Accounts Which Are Mandatory or Which Have Discretionary and Mandatory Spills to Appropriations Committee" that is attached to the Scorekeeping Guidelines for the Bipartisan Budget Agreement of April 14, 1985;"

(2) in section 257(c)(2), by striking "Congress" and inserting "Senate and the House of Representatives;"

(3) in section 257(c)(3), by—

(A) in subparagraph (F)(i) by striking "insofar as they relate to major function 050 (national defense)," and inserting "insofar as they relate to major function 050 (national defense);" and

(B) in subparagraph (F)(ii), by—

(i) striking "resolution," and all" and inserting "resolution. In the House of Representatives, all;"

(ii) striking "is privileged in the Senate and is not debatable," and inserting "is not debatable. The joint resolution is privileged in the Senate;" and

(iii) striking "The motion is not subject to amendment" and inserting "The motion is subject to amendment;"

(4) in subparagraph (H)(i), by—

(i) striking "incontinently" and inserting "incontinently;" and

(ii) striking "incontumnently" and inserting "incontinently;" and

(5) in subparagraph (H)(ii) by—

(i) striking "insofar as they relate to major function 050 (national defense);" and

(ii) inserting after subparagraph (I) the following:

"(J) In the House of Representatives, the motion is not subject to amendment;"

(6) in subparagraph (H)(iii), by striking: "The majority leader favors the amendment, motion, or appeal."

(7) in subparagraph (I)(h)(ii)(B) by—

(i) striking "incontinently" and inserting "incontinently;" and

(ii) inserting after subparagraph (J) the following:

"(K) In the Senate, the following: "For the purposes of amendment, an amendment shall be considered to be relevant if it relates to function 050 (national defense);" and

(8) in subparagraph (I)(h)(ii)(C) by—

(i) striking "incontinently" and inserting "incontinently;" and

(ii) inserting after subparagraph (J) the following:

"(L) In the Senate, the following: "For the purposes of amendment, an amendment shall be considered to be relevant if it relates to function 050 (national defense);" and

(9) in subparagraph (I)(h)(ii)(D)(i), by striking "incontinently" and inserting "incontinently;" and

(10) in subparagraph (I)(h)(ii)(D)(ii), by—

(i) striking "incontinently" and inserting "incontinently;" and

(ii) inserting after subparagraph (J) the following:

"(M) In the Senate, the following: "For the purposes of amendment, an amendment shall be considered to be relevant if it relates to function 050 (national defense);" and

(11) in section 258(a), by striking "pending after" and inserting "pending after any;"

(12) in subsection (b)(3)(C), by striking "the majority leader and the minority leader," and inserting "the majority leader and the minority leader," except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal;"

(13) in subsection (b)(4), by inserting "pending after any;"

(14) in subsection (b)(7)(B)(i), by—

(i) striking "incontinently" and inserting "incontinently;" and

(ii) inserting after subparagraph (J) the following:

"(II) In the Senate, the following: "For the purposes of amendment, an amendment shall be considered to be relevant if it relates to function 050 (national defense);" and

(15) in section 258(a)(2), by adding at the end thereof the following: "For the purpose of a sequester in a fiscal year, no withholding from obligation or expenditure shall be made from programs financed through special revenue or trust fund for the sequester percentage for such fiscal year."

(16) in section 258(h), by adding before the last sentence the following: "No State's meeting payments for program or equipment for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the domestic sequester percentage."

(17) in section 275, by adding at the end thereof the following new subsection:

"(d) Regulatory Actions.—Administrative actions implementing a sequester for a fiscal year shall not be effective to the extent that they are promulgated within 90 days of the close of the fiscal year."

(18) in section 258(a), by adding at the end thereof the following new paragraphs:

"(2) Marching Rates.—Except as specifically provided in this Act, no reduction may be made to a Federal matching rate to implement a sequester."

"SEC. 257. SEQUESTER WITHIN EACH PROGRAM, PROJECT, OR ACTIVITY.—Administrative actions implementing a sequester for a budget account shall be limited to reducing the budget allocations for the program, project, or activity in that account, and to distributing the post-sequester base thereafter. The size of distribution of allocations differs at different levels of budgetary resources for a program, project, or activity, the sequester reduction is to be taken in a manner consistent with the program allocation formulas in the substantive law."
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(18) in section 252(b)(1) by inserting after "laws enacted by," the following: "treaties ratified;"
(17) in section 251(h)(1)(A) by inserting after "laws enacted the following: "treaties ratified;"
(16) in section 252(b)(2) by inserting after "laws enacted" the following: "treaties ratified;"

and in section 257 by adding at the end thereof the following:

"(12) The term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum deficit for the fiscal year."
The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term 'agency' means an Executive agency as defined under section 105 of title 5, United States Code.

(i) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, the rate of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(i) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress or Executive officers and employees occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress or Executive officers and employees, all reductions which would have occurred if this section had been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for Fiscal Year 1991.

(i) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code. any executive officer or employee in the Executive Office of the President who on the date of enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level V or above of the Executive Schedule under Sections 5311 through 5317 of title 5, United States Code.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate insist upon its amendment and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Presiding Officer (Mr. Daschle) appointed from the Committee on Agriculture, Nutrition, and Forestry: Mr. LEARY, Mr. PRYOR, Mr. BOREN, Mr. KERRY, Mr. LOGAR, Mr. DOLE, and Mr. COCHRAN;

From the Committee on Banking, Housing, and Urban Affairs: Mr. RIEGLE, Mr. CRANSTON, Mr. DODD, Mr. HEINZ, and Mr. D'AMATO;

From the Committee on the Budget: Mr. SASSER, Mr. FOWLER, and Mr. DOMENICI;

From the Committee on Commerce, Science and Transportation: Mr. HOLINGS, Mr. INOUYE, Mr. FORD, Mr. EXON, Mr. BREAUX, Mr. ROCKEFELLER, Mr. KERRY, Mr. DANFORTH, Mr. PACKWOOD, Mr. STEVENS, Mr. AKSTEN, Mr. MCCAIN, and Mr. BURNS;

From the Committee on Environment and Natural Resources: Mr. JOHNSON, Mr. BUMPERS, Mr. FORD, Mr. MCCURDY, and Mr. DOMENICI;

From the Committee on Environment and Public Works: Mr. BURDICK, Mr. MOYNIHAN, Mr. MITCHELL, Mr. BAUCUS, Mr. GRAHAM, Mr. CHAFEE, Mr. SIMPSON, Mr. SYMMS, and Mr. DURENBERGER;

From the Committee on Finance: Mr. BENTSEN, Mr. MOYNIHAN, Mr. BOREN, Mr. MITCHELL, Mr. PRYOR, Mr. ROCKEFELLER, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, and Mr. CHAFEE;

From the Committee on Governmental Affairs: Mr. GLENN, Mr. SASSER, Mr. PRYOR, Mr. ROTH, and Mr. STEVENS;

From the Committee on the Judiciary: Mr. DeConcini, Mr. LEARY, and Mr. HATCH;

From the Committee on Labor and Human Resources: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Mr. KASSEBAUM, and Mr. JEFFORDS;

From the Committee on Veterans Affairs: Mr. CRANSTON, Mr. DeConcini, Mr. ROCKEFELLER, Mr. MURkowski, and Mr. SIMPSON conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll. Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.
ADAMS AMENDMENT NO. 3016
(Ordered to lie on the table.)
Mr. ADAMS submitted an amendment intended to be proposed by him to the bill S. 3209, supra, as follows:
Strike title VII of the bill and insert the following new title:
(b) Heads of households. — There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Rate</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $7,550</td>
<td>10%</td>
<td>$755.00</td>
</tr>
<tr>
<td>$7,550 but not over $15,100</td>
<td>15%</td>
<td>$1,162.50</td>
</tr>
<tr>
<td>$15,100 but not over $30,000</td>
<td>25%</td>
<td>$2,975.00</td>
</tr>
<tr>
<td>$30,000 but not over $50,000</td>
<td>28%</td>
<td>$4,200.00</td>
</tr>
<tr>
<td>$50,000 but not over $75,000</td>
<td>33%</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>$75,000 but not over $100,000</td>
<td>35%</td>
<td>$11,250.00</td>
</tr>
<tr>
<td>$100,000 but not over $200,000</td>
<td>38.6%</td>
<td>$42,300.00</td>
</tr>
<tr>
<td>$200,000 but not over $500,000</td>
<td>39.6%</td>
<td>$197,000.00</td>
</tr>
<tr>
<td>$500,000 but not over $10,000,000</td>
<td>35%</td>
<td>$1,750,000.00</td>
</tr>
</tbody>
</table>

(c) Unmarried individuals. — There is hereby imposed on the taxable income of every unmarried individual (other than a surviving spouse as defined in section 2(a)) a tax determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Rate</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $9,850</td>
<td>10%</td>
<td>$985.00</td>
</tr>
<tr>
<td>$9,850 but not over $19,700</td>
<td>15%</td>
<td>$1,455.00</td>
</tr>
<tr>
<td>$19,700 but not over $39,400</td>
<td>25%</td>
<td>$4,910.00</td>
</tr>
<tr>
<td>$39,400 but not over $59,100</td>
<td>28%</td>
<td>$8,199.00</td>
</tr>
<tr>
<td>$59,100 but not over $88,900</td>
<td>33%</td>
<td>$14,587.00</td>
</tr>
<tr>
<td>$88,900 but not over $137,800</td>
<td>35%</td>
<td>$25,411.00</td>
</tr>
<tr>
<td>$137,800 but not over $200,000</td>
<td>38.6%</td>
<td>$47,960.00</td>
</tr>
<tr>
<td>$200,000 or over</td>
<td>39.6%</td>
<td>$95,920.00</td>
</tr>
</tbody>
</table>

(2) Married individuals filing separate returns. — There is hereby imposed on the taxable income of every married individual (as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Rate</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $14,625</td>
<td>10%</td>
<td>$1,462.50</td>
</tr>
<tr>
<td>$14,625 but not over $29,250</td>
<td>15%</td>
<td>$2,857.50</td>
</tr>
<tr>
<td>$29,250 but not over $43,875</td>
<td>25%</td>
<td>$6,968.75</td>
</tr>
<tr>
<td>$43,875 but not over $68,500</td>
<td>28%</td>
<td>$12,290.00</td>
</tr>
<tr>
<td>$68,500 but not over $106,250</td>
<td>33%</td>
<td>$20,906.25</td>
</tr>
</tbody>
</table>

(e) Estates and trusts. — There is hereby imposed on the taxable income of:

(1) every estate, and

(2) every trust,

liable under this subsection a tax determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Rate</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $5,550</td>
<td>10%</td>
<td>$555.00</td>
</tr>
<tr>
<td>$5,550 but not over $11,100</td>
<td>15%</td>
<td>$1,665.00</td>
</tr>
<tr>
<td>$11,100 but not over $22,200</td>
<td>25%</td>
<td>$5,550.00</td>
</tr>
<tr>
<td>$22,200 but not over $33,300</td>
<td>28%</td>
<td>$9,324.00</td>
</tr>
<tr>
<td>$33,300 but not over $65,600</td>
<td>33%</td>
<td>$21,508.00</td>
</tr>
</tbody>
</table>

(b) Repeal of phasestop. —

(1) In general. — Section 1 is amended by striking subsection (g) (relating to phasestop of 15-percent rate and personal exemptions).

(2) Conforming amendment. — Subparagraph (A) of section 2(b)(3) relating to—
jumentation for Inflation) is amended by striking "subsection (g)(4)".

(2) 28 PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"Subchapter A—Certain Luxury Items

SEC. 13104. TAXES ON LUXURY ITEMS.

(a) In General.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapter A and B as subchapters A' and B, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"Subtitle A— Certain Luxury Items

Part I. Imposition of Taxes

Part II. Rules of General applicability.
"(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 4216(e),

"(3) in a trade or business of providing flight training,

"(4) in a trade or business of transporting persons or property for compensation or hire.

"SEC. 4011. 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,

"(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),

"(A) the owner, lessee, or operator of any article taxable under this subpart (determining for purposes of paragraph (2) of section 4216 any aggregate price of parts and accessories installed 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 the price of the passenger vehicle, boat, or aircraft sold, over (B) $100,000 ($30,000 in the case of a passenger vehicle).

"(c) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(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 $300 (or such other amount or amounts as the Secretary may by regulation prescribe).

"SEC. 4012. 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 the Secretary for such parts or accessories.

"SEC. 4013. IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED THEREFOR.

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by the seller of such article,

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser of such article, and

"(C) such resale 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) EXEMPTION FOR PURPOSES OF THIS SUBSECTION, the term '1st retail sale' means the 1st sale for a purpose other than resale, after manufacture, production, or importation.

"SEC. 4014. USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable 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 used in the production or manufacture 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.

"SEC. 4016. LACES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) in general.—Except as otherwise provided in this subsection, the lease of an article taxable under this subchapter (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) No tax shall be imposed on lease of 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 a separate and distinct lease of such article and the tax imposed by this chapter shall be computed on the lowest price for which the article is sold by the lessor for his own use.

"(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,

"(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 taxable under this subchapter (or any extension of such lease) by any person for use exclusively 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 a separate and distinct lease of such article and the tax imposed by this chapter shall be computed on the lowest price for which the article is sold by the lessor for his own use.

"(3) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(D) NO TAX WHERE EXEMPT USE BY LESSOR.—For purposes of this subchapter the tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is exempt use (as defined in section 4052(c) of such article).

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLES.—Parts and accessories sold, in connection with, or with the sale of a taxable article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of any partial payment or equivalent transfer of title to any article taxable under this subchapter, such article shall be considered sold for purposes of this subchapter.

"(g) EXEMPTION FOR EXPORTS.—

"(1) The material preceding paragraph (1) of section 4217(e) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

"(2) Subsection (a) of section 4217(e) 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.

(2) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 404(a)."

(3) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "sections 4053(a)(6)" and inserting "sections 4003(c), 4004(a), or 4053(a)(6) or 4003(c), 4004(a), or 4053(a)(6)."

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4053(a)(6)" 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 4003(c), 4004(a), or 4053(a)(6)".

(4) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

Subchapter A. Certain luxury items.

Subchapter B. Special fuels.

Subchapter C. Heavy trucks and trailers.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 13105. INCREASE IN EARNED INCOME TAX CREDIT

AMOUNT OF WAGES SUBJECT TO EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—(1) Paragraph (a) of section 32(c) is amended by striking "$100,000" in clause (1) and inserting "$110,000" in such clause.

(b) SELF-EMPLOYMENT TAX.—(A) Paragraph (2) of section 13101 is amended by striking "10 percent" and inserting "14 percent".

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3301(c)(2)(B)(i)(I) is amended by striking "1990" and inserting "1991".

(d) TECHNICAL AMENDMENTS.—(1) Paragraph (3) of section 4613(c) is amended to read as follows:

"(3)imore application for hospital insurance tax. In applying this subsection with respect to—

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

(B) an amount of the tax imposed by section 3211 as is determined at a rate not greater than the rate in effect under section 3101(b), the applicable contribution base determined under section 3211(x) for such calendar year."
PART IV—CAPITAL GAINS PROVISIONS
Subpart A—Reduction in Capital Gains Tax for Individuals
SEC. 1311. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS
(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:
SEC. 1312. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.
(1) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the sum of:
(A) the annual capital gains deduction (if any) determined under subsection (b), plus
(B) the lifetime capital gains deduction for nontradable property (if any) determined under subsection (c).
(2) ANNUAL CAPITAL GAINS DEDUCTION.—(A) the net capital gain for the taxable year, or
(B) $1,000.
(3) OTHER TAXES.—(A) stock or securities for which there is a market on an established securities market or otherwise, and
(B) property (other than stock or securities for which there is a market on an established securities market or otherwise, and
(4) QUALIFIED ASSETS.—For purposes of this subsection, the term 'qualified assets' means any property other than—
(A) stock or securities for which there is a market on an established securities market or otherwise, and
(B) property (other than stock or securities for which there is a market on an established securities market or otherwise, and
(5) SUBSECTION NOT TO APPLY TO CERTAIN INCOME.—This section shall not apply to any individual which has not attained age 26 before the close of the taxable year.
(d) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—The deduction allowed under this subsection shall be allowed for any taxable year and only to those taxpayers who are—
(1) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or
(2) an estate or trust.
(e) SPECIAL RULES.—(1) TREATMENT OF CERTAIN SALES OF INTERESTS IN PASS-THRU ENTITIES.—For purposes of subsection (a), any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust (including fiduciary) shall not exceed the amount of the net capital gain determined by taking into account gains and losses from sales and exchanges of such assets (other than stock or securities for which there is a market on an established securities market or otherwise, and
(2) DEDUCTION NOT AVAILABLE FOR SALES OR EXCHANGES ON OR AFTER OCTOBER 15, 1990.—The amount of the net capital gain taken into account under subsection (b)(1)(A) and (c)(3)(A) shall not exceed the amount of the net capital gain determined by only taking into account gains and losses from sales and exchanges on or after October 15, 1990.
(3) DETERMINATION OF ADJUSTED GROSS INCOME.—
(A) IN GENERAL.—For purposes of subsection (b), adjusted gross income shall be determined—
(B) without regard to the deduction allowed under this section, but
(2) after the application of sections 88, 115, 219, and 469.
(4) AMOUNT THAT MAY BE TAKEN.—(A) subject to the limitation of paragraph (1), the lifetime capital gains deduction for nontradable property determined under this subsection for any taxable year is 50 percent of the qualified gain for such taxable year.
(B) limitation upon the amount that may be taken into account under this subsection by any individual and determined under paragraph (1) for any taxable year shall not exceed $200,000 reduced by the aggregate amount of any gain taken into account under this subsection by the taxpayer for prior taxable years.
(2) SPECIAL RULE FOR JOINT RETURNS.—The amount of the qualified gain taken into account under this subsection on a joint return for any taxable year shall be allocated equally (or in any other ratio determined by the taxpayer, for purposes of determining the limitation under subsection (A) for any succeeding taxable year.
(3) QUALIFIED GAIN.—For purposes of paragraph (1), the term 'qualified gain' shall mean the lesser of—
(A) the net capital gain for the taxable year reduced by the annual capital gains deduction for such taxable year, or
(B) the net capital gain for the taxable year determined by only taking into account gains and losses from sales and exchanges on or after October 15, 1990, of qualified assets.
(1) a real estate investment trust,

(2) an S corporation,

(3) a partnership,

(4) an estate or trust, and

(5) a common trust fund.

(b) **TREATMENT OF COLLECTIBLES.—**

(1) **IN GENERAL.—**Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"""(12) **SPECIAL RULE FOR COLLECTIBLES.—**

(A) **IN GENERAL.—**Any gain or loss from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence applies only to the extent the gain or loss is taken into account in computing taxable income.

(B) **TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ET C.—**For purposes of subparagraph (A), any gain from the sale or exchange of any interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of a collectible held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

(C) **COLLECTIBLE.—**For purposes of this paragraph, the term "collectible" means any capital asset which is a collectible (as defined in section 408(m)) without regard to paragraph (3) thereof.

(D) **CAPITAL GAIN OR LOSS NOT AFFECTED.—**

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) **SPECIAL RULE.—**Section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following new sentence: "and inserting 'section 1250 contracts' in the subparagraph heading and inserting 'DEPRECIATION ADJUSTMENTS'."

(E) **CLERICAL AMENDMENT.—**The table of sections for part I of subchapter P of chapter 1 of subtitle A is amended by inserting new paragraph:

"""(X) **CAPITAL GAINS DEDUCTION.—**The deduction allowed by section 1222 shall be treated as a capital gain deduction for purposes of sections 1245 and 1250. Any reduction attributable to periods before the date of the enactment of the Revenue Reconciliation Act of 1990 shall not exceed the gain recognized in the transaction under this subsection."

(F) **LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY NOT ALLOWED.—**The deduction allowed under section 1222(a) shall not be allowed.

(g) **CONFORMING AMENDMENTS.—**

(1) Subsection (a) of section 62 is amended by striking the first place it appears and inserting 'section 1250 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)'.

(2) Clause (i) of section 163(d)(4)(B) is amended by striking "section 1245" and inserting "section 1250(a) or (B) (as in effect after its repeal by the Tax Reform Act of 1976)".

(h) **MINIMUM TAX.—**Subsection (a) of section 41(a) is amended by inserting before the period at the end thereof the following new sentence: "For purposes of sections 41(a) and 56(b) the amount deductible on account of gains from sales or exchanges of capital assets shall not exceed the amount includible in the gross income of any other person for the same or other property allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization for purposes of section 168), or in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for expenses of a business or for the purpose of producing income."

(i) **DEPRECIATION ADJUSTMENTS.—**For purposes of this section, the term 'depreciation adjustments' shall be treated as a net capital gain deduction in computing taxable income. The deduction allowed by section 1222 shall be treated as a capital gain deduction for purposes of sections 1245 and 1250. Any reduction attributable to periods before the date of the enactment of the Revenue Reconciliation Act of 1990 shall not exceed the gain recognized in the transaction under this subsection."

(j) **RECAPTURE OF REDUCTION.—**For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods before the date of the enactment of the Revenue Reconciliation Act of 1990 which exceed the gain recognized in transactions under this subsection.
(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B).

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)."

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990.".

(EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after October 15, 1990, in taxable years ending on or after such date.

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

SEC. 12001. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5041(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "$13.50."

(b) WINE.—

(1) TAX INCREASE.—

(A) AMOUNT.—(i) WINE CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—(Paragraph (5) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "19 cents.")

(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 "72 cents.")

(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 "$2.35.")

(D) ARTIFICIALLY CARBONATED WINES.—(Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$2.50.")

(2) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e), respectively, and inserting therein:

"(c) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—

(1) IN GENERAL.—Except as otherwise provided in this section, in the case of a person who produces not more than 200,000 wine gallons of wine during the calendar year, the wine tax rate on such wine, for such year for consumption or sale and which have been produced at qualified facilities in the United States:

"(A) 17 cents in the case of wines described in subsection (b)(1).

"(B) 67 cents in the case of wines described in subsection (b)(2).

"(C) $2.25 in the case of wines described in subsection (b)(3).

"(D) $3.40 in the case of wines described in subsection (b)(4).

"(E) $2.40 in the case of wines described in subsection (b)(5)."

(2) CONTROLLED GROUPS.—Rules similar to those of paragraph (1) shall apply for purposes of this subsection.

(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this subsection from benefiting any producer who produces more than 200,000 wine gallons of wine during a calendar year.

(C) EXCISE TAXES.—

(1) COMFORMING AMENDMENTS.—

(A) Subsection (a) of section 5041 is amended by striking "shown in subsection (b)" and inserting "applicable under subsection (b) or (c)".

(B) Paragraph (3) of section 5061(b) is amended by inserting "291(d)(1)(B)

"(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 is a retail dealer (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to

"(A) $240 to the extent such taxes are attributable to distilled spirits.

"(B) $330 to the extent such taxes are attributable to wine.

"(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 any tax-increased article, 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.

(6) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(CORPORATIONS.—In the case of a controlled group—

(1) the 500 wine gallon amount specified in paragraph (3), and

"(B) $240, $330, and $87 amounts specified in paragraph (4), shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by the Secretary of the Treasury (as determined by such Secretary)."

(7) OTHER LAWS APPLYING.—

(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 section, 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) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(C) LIQUID VOLUME.—An adjustment shall be made for purposes of subparagraph (A), the term "comparable excise tax with respect to which a tax-increased article is subject to such tax" shall be defined to mean—

"(A) the tax imposed by section 5041 of such Code in the case of distilled spirits,

"(B) the tax imposed by section 5001 of such Code in the case of wine,

"(C) the floor stocks taxes imposed by section 5041 of such Code, and

"(D) the floor stocks taxes imposed by section 5001 of such Code."
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(iii) the tax imposed by section 5051 of such Code in the case of beer.

(B) Definitions.—For purposes of this subsection—

(A) in general.—Terms used in this subsection, including in subchapter A of chapter 61 of such Code shall have the respective meanings such terms have in such part.

(5) 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. 102. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) Cigarettes.—Subsection (a) of section 5701 is amended—

(1) by striking “75 cents per thousand” in paragraph (1) and inserting “$1.125 cents per thousand on cigarettes removed during 1991 or 1992”, and

(2) by striking “equal to” and all that follows in paragraph (2) and inserting “equal to”—

(A) 10.625 percent of the price for which sold but not more than $25 per thousand on cigarettes removed during 1991 or 1992, and

(B) 12.75 percent of the price for which sold not more than $30 per thousand on cigarettes removed after 1992.

(b) Cigars.—Subsection (b) of section 5701 is amended—

(1) by striking “38 cents per thousand on cigarettes removed during 1991 or 1992”, and

(2) by striking “$2.50 per thousand on cigarettes removed after 1992.”

(c) Cigarette papers.—Subsection (c) of section 5701 is amended by striking “1/2 cent” and inserting “7.5 cents”.

(d) Cigarette tubes.—Subsection (d) of section 5701 is amended by striking “1 cent” and inserting “1.5 cents”.

(e) Pipe tobacco.—Subsection (e) of section 5701 is amended—

(1) by striking “74 cents” in paragraph (1) and inserting “$1.25 cents on per pound on snuff removed during 1991 or 1992”, and

(2) by striking “8 cents” in paragraph (2) and inserting “12 cents”.

(f) Pipe tobacco.—Subsection (f) of section 5701 is amended by striking “6.5 cents” and inserting “8 cents”.

(g) Effective date.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(b) Floor stocks taxes on cigarettes.—(1) Tax on cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

(A) Small cigarettes.—On cigarettes weighing not more than 3 pounds per thousand, $2 per thousand.

(B) Large cigarettes.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 8 inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each ¾ inches, or fraction thereof, of the length of each one cigarette.

(2) Exception for certain amounts of cigarettes.—(A) In general.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(I) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6 inches in length, each ¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) Authority to exempt cigarettes.—In determining the tax imposed in 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) to the $60 amount in paragraph (3) with respect to such person.

(3) Credit against tax.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) for which such person is liable.

(f) Liability for tax and method of payment.—(A) Liability for tax.—A person holding cigarettes on any tax-increase date to which such Section 5701 applies shall be liable for such tax.

(B) Method of payment.—The tax imposed by paragraph (1) shall be paid on or before the last day of June following the tax-increase date.

(4) 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.

(D) Controlled groups.—Rules similar to the rules of section 13201(e)(5) shall apply for purposes of this subsection.

(E) Ozone-depleting chemicals.—The base tax amount for purposes of paragraph (3) shall be applied separately with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) and is the
amount determined under the following table for such calendar year:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Base Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991 or 1992</td>
<td>$1.37</td>
</tr>
<tr>
<td>1993 or 1994</td>
<td>$2.67</td>
</tr>
<tr>
<td>1995</td>
<td>$4.00</td>
</tr>
<tr>
<td>1996</td>
<td>$5.37</td>
</tr>
<tr>
<td>1997</td>
<td>$6.75</td>
</tr>
</tbody>
</table>

(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 calendar year shall be the base tax amount for such last year increased by 45 cents for each year after such last year.

(1) The last sentence of section 4628(c)(2)(C) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4628(b) is amended by striking "April 1" and inserting "June 30".

The amendments made by this section shall apply to sales and uses after December 31, 1990.

(1) Deposits for 1st Quarter of 1991.—No deposits required for the sale or use of ozone-depleting chemicals specified in chapter 33 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by section 4283(a) of the Act are allowed for any deposit made by the Secretary of the Treasury before October 1, 1990.

(2)レASON.—If any person separates from the aviation fuel a mixture from which the aircraft 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 6421(b)), 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.

The heading for subsection (c) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF"

Subsection (f) of section 8427 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 4091 or 4092 at the regular tax rate is sold or used in such manner that the producer of such aviation fuel was required to be made before April 1, 1991.

PART II—USER-RELATED TAXES

SECT. 13211. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND REPEAL OF REDUCTION IN RATES.

(a) Increase in Rates on Transportation Fuels.—

(1) Transportation of Persons.—

Subsections (a) and (b) of section 4261 are each amended by striking "6 percent" and inserting "10 percent".

(2) Transportation of Property.—

Subsection (a) of section 4261 is amended by striking "5 percent" and inserting "8.25 percent".

(b) Conforming Amendments.—

(1) Paragraph (i) of section 4261(c) is amended by striking "14 cents" and inserting "17.5 cents".

(2) Subparagraph (C) of section 4261(k)(1) is amended to read as follows:

"(C) Subsection (c) shall be applied by substituting 3.5 cents for '17.5 cents'."

(iii) Time for Payment.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(c) Tax on Ammonia.—

The tax imposed by this paragraph shall be paid on or before May 31, 1991.

(d) Definitions.—For purposes of this paragraph:

(i) Held by a Person.—Flour shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) Aviation Fuel.—The term "aviation fuel" has the meaning given such term by section 4091(b)(5) of such Code.

The term "Secretary of the Treasury" means the Secretary of the Treasury or his delegate.

(e) Exception for Exempt Uses.—The tax imposed by this paragraph shall apply to the sale or use of any aviation fuel held by any person for any use which is not a taxable use (as defined in section 4247(h) 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 to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(g) Extension of Tax Revenues Before 1995 to Remain in General Fund.—

Subsection (b) of section 9502 is amended by adding at the end thereof the following new sentence:

"In the case of taxes imposed before January 1, 1993, paragraphs (1), (2), and (3) shall not apply without regard to any increase in tax enacted by Revenue Reconciliation Act of 1990.""
shall be subject to floor stocks taxes imposed by such parts if—

(1) such article is held on such date under the supervision of a licensed person pursuant to the 24 proviso of such section (a).

Subtitle C—Other Revenue Provisions

Part I—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 12321. 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. 808(a).—Rules Concerning 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) Year Amortization Period for Small Company. —

"(1) In General.—Paragraph (2) of subsection (a) shall be applied with respect to specified policy acquisition expenses for any taxable year of an insurance company which is a small company for such taxable year by substituting '60-month' for '120-month'.

"(2) Small company defined.—For purposes of this subsection, the term 'small company' means any insurance company which meets the requirements of section 808(a)(3); except that—

"(A) paragraph (1)(a) of section 808(c) shall be applied by substituting an insurance company for 'life insurance' each place it appears, and

"(B) paragraph (2) of section 808(c) shall not apply.

"(c) Exception for Acquisition Expenses Attributable to Certain Reinsurance Contracts. —

"This subsection shall not apply to any specified policy acquisition expenses for any taxable year attributable to premiums or other consideration under any reinsurance contract with any insurance company unless each insurance company which takes any specified policy acquisition expenses with respect to the reinsured contract is a small company.

"(d) 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 do not exceed the sum of—

"(A) 1.5 percent of the net premiums for such taxable year attributable to premiums on specified insurance contracts which are annuity contracts,

"(B) 1.80 percent of the net premiums for such taxable year attributable to premiums on specified insurance contracts which are group life insurance contracts, and

"(C) 6.75 percent of the net premiums for such taxable year attributable to 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 subparagraph (D) of section 401 and following, relating to pension, profit sharing, stock bonus plans, etc.

"(3) Net Premiums.—For purposes of this section—

"(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), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums, dividends, and other consideration incurred for reinvestment of such contracts.

The rules of section 808(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, any computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a)(4) for life insurance companies.

"(3) Treatment of Certain Policyholders' Dividends and Similar Amounts.—Net premiums shall be determined 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 subsection P of part III of subchapter N.

"(e) Classification of Contracts.—For purposes of this section—

"(1) Specified Insurance Contract.—

"(A) In General.—The term 'specified insurance contract' means any insurance contract which meets the requirements of section 808(a)(3); except that—

"(i) with respect to contracts described in subparagraph (A) of section 805(b)(3) relating to special rule excluding policy acquisition expenses, that such contracts shall be treated as an insurance contract for purposes of this section,

"(ii) any life insurance contract which meets the requirements of section 805(b)(3) relating to special rule excluding policy acquisition expenses, and

"(iii) any life insurance or annuity contract combined with noncancellable accident and health insurance contracts (including any life insurance or annuity contract combined with noncancellable accident and health insurance contracts) shall not include—

"(1) any pension plan contract (as defined in section 818(a)),

"(2) any flight insurance or similar contract, and

"(3) any qualified foreign contract (as defined in section 818(a), but without regard to paragraph (5) of that section).

"(2) Group Life Insurance Contract.—The term 'group life insurance contract' means any insurance contract which meets the requirements of section 805(b)(3) relating to special rule excluding policy acquisition expenses, but—

"(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 Amenity Contracts Combined with Noncancellable Accident and Health Insurance. —Any amenity contract combined with noncancellable accident and health insurance shall be treated as a noncancellable accident and health insurance contract and not as an amenity contract.

"(4) Treatment of Guaranteed Renewable Contracts.—The rules of section 818(e) shall apply in a manner similar to the manner in which the rules of sections 808(b) and 808(c)(1), as modified by subsection (b)(3), apply in the case of an insurance contract which meets the requirements of section 805(b)(3) relating to special rule excluding policy acquisition expenses.

"(5) Treatment of Reinsurance Contract.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(f) Special Rule Where Negative Net Premiums.—

"(1) In General.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (c)(1)—

"(A) the amounts described in subsection (c)(1)(A) shall be treated as if such amounts were 1.00 percent of such contracts,
(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.

(2) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

(i) shall reduce the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning on or after September 30, 1990) and shall be allowed as a deduction for such taxable year, and

(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

(3) NEGATIVE CAPITALIZATION AMOUNT.

(a) 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 determined under paragraph (A) for such taxable year.

(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 so taken into account as the opening or closing balance, as the case may be.

(iii) TRANSITIONAL RULE.

(1) 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 premiums of any life insurance company an amount equal to $1/4 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.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—

(b) the sum of the amount of salvage recoverable and estimated salvage and reinsurance recoverable as of the end of such taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulation provide that any amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations.
such excess (adjusted by the discount rate used in determining the amount of salvage recoverable as of the close of the last tax-able year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

Effect on Earnings and Profits.—The earnings and profits of the insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the adjustment made under paragraph (2).

For purposes of applying sections 56, 902, 992(c)(1), and 960 of the Internal Revenue Code of 1986, and for the computation of earnings and profits of a corporation shall be determined without regard to the preceding sentence.

Subpart C.—Waiver of Estimated Tax Penalties

SEC. 13207. 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, 1994, if any underpayment of the extent such underpayment was created or increased by any provision of this part.

PART II.—COMPLIANCE PROVISIONS

SEC. 13311. SUSPENSION OF STATUTE OF LIMITATION DURING PROCEEDINGS TO ENFORCE JUDGMENT

(a) General Rule.—Section 6583 (relating to suspension of running of period of limitation) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (f) the following new subsection:

"(g) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) In general.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which relates to the same return as such designated summons and 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 (as defined in section 6033) or any action to be taken by such corporation, 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 in connection with purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the date on which the period prescribed in section 6501 for the assessment of such tax expires (determined with respect to such return) 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.

"(C) 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 summons (determined with respect to such summons)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to any summons (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13312. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS

(a) General Rule.—Subsection (e) of section 6662 (defining substantial valuation misstatement) 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 under section 482 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 return in connection with any transaction between persons described in section 482(c)(4)(B)(iv) which is in excess of 25 percent (adjusted by the discount rate under subparagraph (A)) 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 price for any property or services claimed on any return in connection with any transaction between persons described in section 482(c)(4)(B)(iv) which is in excess of 25 percent (adjusted by the discount rate under subparagraph (A)) of the amount determined under section 482 to be the correct amount of such price, or

"(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 attributable to substantial valuation misstatements under chapter 1 except $5,000 ($10,000 in the case of a corporation or a personal holding company (as defined in section 542)).

"(4) Net Section 482 Transfer Price Adjustment.—The provisions of this section shall in no event expire before the 30th day after the period for filing such returns (determined with respect to such transactions) has expired.

"(5) Time for Determination.—The time for determining the amount of the penalty imposed by section 6662 for a taxable year shall begin on or after the date of the enactment of this Act, and

"(6) Interest.—The provisions of paragraph (1) shall apply to any interest accrued on such tax for any taxable year, without regard to any amount carried to another taxable year (determined with respect to such transactions) which is in excess of 25 percent of the amount determined under section 482 to be the correct amount of such valuation or adjusted basis (as the case may be).

"(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(b)(2)(A) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) of section 6662;"

"(3) (i) '400 percent' for '200 percent' each

"(ii) '25 percent' for '50 percent', and

"(iii) $10,000,000.

"(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 13313. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) General Rule.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

"(1) by striking 'and the programming' and inserting 'the programming, and

"(2) by inserting after 'equipment,' the following "and the providing of other services.'

"(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13314. APPLICATION OF AMENDMENTS MADE BY PART II TO SECTION 6662 DURING THE TAXABLE YEARS BEGINNING ON OR BEFORE MARCH 30, 1990.

(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 6038(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section occurred after the date of the enactment of this Act, and

"(2) any requirement under section 6038(a) to maintain records which were in existence on or after March 30, 1990.

"(b) any requirement to authorize a corporation to act as a limited agent under section 6038(a)(1) of such section (as so amended) if the time for authorizing such action occurred after the date of the enactment of this Act, and

"(3) any summons issued after such date of enactment, without regard to when the taxable year (to which the information, records, authorization, or summons relates) shall apply in any case to which they would apply without regard to this section.

SEC. 13315. OTHER REPORTING REQUIREMENTS.

(a) General Rule.—Subpart A of part III of chapter 61 of subchapter A of chapter 1 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6033B the following new section:

"SEC. 6033C. 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 paragraph (1) of section 6033B to the Secretary of the Treasury, and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed by 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 in the case of another person to whom such maintenance is required.

"(b) Required Information.—For purposes of subsection (a), the information described in this subsection is—
(a) **General.**—Section 4980 is amended by adding at the end thereof the following new subsection:

"(g) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—"

"(1) IN GENERAL.—Subsection (b) 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 participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

(B) **ASSISTANT TRANSFER REQUIREMENT.**

(i) 30 percent CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer in an amount equal to the excess (if any) of—

(1) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

(2) the amount determined under clause (ii)."
(1) 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 limitation under section 415, shall be allocated to the participant as provided in section 415.

(iii) Treatment of Income.—An income or gain allocable to a suspense account under clause (i) shall be taxed to the participant as provided in section 415.

(iv) Unallocated Amounts at Termination.—If any amount credited to a suspense account under this subsection is not allocated to the participant as provided in section 415, such amount shall be treated as an employer reversion without regard to this subsection, and

(v) Take Effect Immediately on the Termination Date of the Plan.—If any amount credited to a suspense account under this subsection is not allocated to the participant as provided in section 415, such amount shall be treated as an employer reversion without regard to this subsection, and

(vi) Pro Rata Benefit Increases.—(A) in general.—The requirements of this paragraph are not if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides for an increase in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

(1) have an aggregate present value not less than 25 percent of the maximum amount that the employer could receive as an employer reversion without regard to this subsection, and

(2) 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 benefits of all participants (including nonactive participants) in an amount which bears the same ratio to 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)(ii) 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 no 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 415.

(B) Treatment as Employer Contributions.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of income or gain as provided in subparagraph (C), if such increase or allocation would result in a failure to meet any requirement under section 415, shall be treated as an employer reversion for purposes of section 415.

(5) Definitions and Special Rules.—For purposes of this subsection:

(A) Excess Pension Plan.—The term "excess pension plan" means any plan which—

(i) is a participant in pay status as of the termination date, or

(ii) a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

(iii) is a participant not described in clause (i) or (ii)—

(1) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

(2) whose service, which was creditable during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs, is in a plan which—

(a) is not an employer reversion, and

(b) is not a benefit reversion; such transfer shall not be treated—

(1) as a participant under title IV of the Employee Retirement Income Security Act of 1974, or

(2) for purposes of section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991), or

(B) Determination of Benefits.—(a) in General.—The term "determination of benefits under title IV of the Employee Retirement Income Security Act of 1974" shall mean the meaning as when used in such section, and

(b) Any reference to title IV of the Internal Revenue Code of 1986 shall be treated as a reference to such Code in effect on January 1, 1991.

(2) Conforming Amendments.—(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1054(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 404(d)(1) of such Act (29 U.S.C. 1054(d)(1)) is amended by inserting", and the amendments made by this subpart shall apply to reversion proceedings occurring after September 30, 1990, and any other reversion proceedings made by this subpart shall 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 terminate was provided 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. 421. Transfers of excess pension assets to retiree health accounts.

(a) in General.—Part I of subchapter D of chapter 40 of title 29, 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.

(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), and

(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

(c) the limitations of subsection (d) shall apply to such employer.

(b) Qualified Transfer.—For purposes of the preceding paragraph—

(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 a taxable year may be treated as a qualified transfer for purposes of this section.
(B) TRANSFER.—A transfer described in paragraph (a) shall not be taken into account for purposes of subparagraph (A).
(3) LIMITATION ON AMOUNT TRANSFERRED.—
(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer shall be used only to pay qualified current retiree health liabilities for such taxable year.
(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for such taxable year, the amount determined by—
(I) without regard to any reduction under subsection (b)(1)(A), and
(II) the number of individuals to whom the employer provided during such taxable year qualified current retiree health liabilities.
(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 for such taxable year.

"ORDERING RULE.—For purposes of this section, an account used to pay qualified current retiree health liabilities shall be treated as paid first out of the assets and income described in subparagraph (A).
(2) REDUCTION RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—
(A) IN GENERAL.—The requirements of this paragraph shall be applied by taking into account the fact that the plan provides that the accrued pension benefits of any participant or beneficiary under the plan shall be treated as a qualified transfer for purposes of this section for benefits accrued 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 an employer who, during the taxable year, also—
(I) establishes and maintains a health benefits account or welfare benefit fund (as defined in section 412(c)(7)(B)).
(2) MINIMUM COST REQUIREMENTS.—
(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable employer costs (whether directly or through reimbursement) out of such account during the taxable year to which the transfer relates is treated as a qualified transfer for purposes of this paragraph applies separately with respect to any plan during a taxable year.

(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.
(2) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amounts previously contributed to a health benefits account or welfare benefit fund (as defined in section 412(c)(1)) to pay for the qualified current retiree health liabilities.
(3) MINIMUM COST REQUIREMENTS.—
(A) IN GENERAL.—Any assets transferred to a health benefits account or welfare benefit fund (as defined in section 412(c)(7)(B)) shall be applied by taking into account the fact that the accrued pension benefits of any participant or beneficiary under the plan shall be treated as a qualified transfer for purposes of this section for benefits accrued 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) APPLICABLE EMPLOYER COST.—For purposes of this section, the term 'applicable employer cost' means, with respect to any taxable year, the highest applicable employer cost required to be provided under subsection (A) for such taxable year.
(C) ORDERING RULE.—For purposes of this section, an account used to pay qualified current retiree health liabilities shall be treated as paid first out of the assets and income described in subparagraph (A).
(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)(2)),
(B) for qualified current retiree health liabilities paid out of the (assets and income) described in subparagraph (A), 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 liabilities are not greater than the excess (if any) of—
(i) the amount determined under paragraph (A) and income allocable thereunder,
(ii) the amount determined under subparagraph (B).
(2) NO CONTRIBUTIONS ALLOWED.—An employer may not make any contributions to a health benefit account or welfare benefit fund (as defined in section 412(c)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).
(3) ORDERING RULE.—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.

"(B) the number of individuals to whom the employer provided during such taxable year qualified current retiree health liabilities,
(II) the number of 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.
(1) USE OF TRANSFERRED ASSETS.—
(A) IN GENERAL.—Any assets transferred to a health benefits account or welfare benefit fund (as defined in section 412(c)(7)(B)) shall be applied by taking into account the fact that the accrued pension benefits of any participant or beneficiary under the plan shall be treated as a qualified transfer for purposes of this section for benefits accrued 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).
(2) MINIMUM COST REQUIREMENTS.—
(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable employer costs (whether directly or through reimbursement) out of such account during the taxable year to which the transfer relates is treated as a qualified transfer for purposes of this paragraph applies separately with respect to any plan during a taxable year.

"ORDERING RULE.—For purposes of this section, an account used to pay qualified current retiree health liabilities shall be treated as paid first out of the assets and income described in subparagraph (A).
(a) Any assets transferred in a plan year after the valuation date for such year (and any 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 the assets 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 (a)(3)) that such transfer shall be applied to such amount by substituting '10 plan years' for '5 plan years'.

(b) Effective Date.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 1332. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) Exclusive Benefit of Retirees.—Section 408(b)(6)(A) of such Act (29 U.S.C. 1103(c)(1)) is amended by inserting ‘, or before 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’ in effect on January 1, 1991’ after ‘404(a)’.

(c) Transferred Pension Benefits.—Section 408(b)(4) of such Act (29 U.S.C. 1104(b)(4)) is amended by adding at the end thereof the following new paragraph:

‘(8) [New sublanguage]—In the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

(A) any employee pension benefit plan described in section 412(c)(7) of such Code, and

(B) any employee retirement income security plan described in section 403(b) of such Code, if such plan has any minimum fund requirements under such section 412(c)(7) or such section 403(b)(4)(B)

which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991), shall immediately after the transfer be treated as a defined benefit plan and in addition to the amount of excess pension benefits attributable to such defined benefit plan, the employer maintaining the plan from which the transfer is made shall provide the administrator of the plan (as defined in subsection (d)(2)), the trustee of the plan, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of such notice shall be available for inspection in the principal office of the administrator.

(b) (B) Information Regarding Transfer.—Such notice shall include information with respect to the amount of excess pension assets transferred, the portion of the amount of excess pension assets transferred, and the amount of pension benefits attributable to such defined benefit plan which will be vested immediately after the transfer.

(2) Notice To Secretaries, Administrators, and Employees 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 administrator (as defined in subsection (d)(2)), the trustee of the plan, the administrator, and each employee organization representing participants in the plan a written notice of such transfer.

(B) Information Regarding Transfer.—Such notice shall include information with respect to the amount of excess pension assets transferred, the portion of the amount of excess pension assets transferred, and the amount of pension benefits attributable to such defined benefit plan which will be vested immediately after the transfer.

(C) Authority for Additional Reporting Requirements.—For purposes of this subsection, the term ‘disqualified distribution’ means any distribution to which this section (or so much of section 336 as relates to this section) applies if, immediately before and 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.

(2) Disqualified Distribution.—For purposes of this subsection, the term ‘disqualified distribution’ 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, or

(B) any stock in any controlled corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

(C) stock which constitutes a 50-percent or greater interest in any controlled corporation.

(3) Coordination With Section 336.—Sections 331 and 336(a) shall not apply to any distribution referred to in paragraph (1).

(4) Notice requirements.—For purposes of subparagraph (A), the term ‘qualified property’ means any stock or securities in the controlled corporation.

(5) Subsection 336.—If—

(A) in a distribution referred to in paragraph (1), the corporation to which the stock or securities are transferred is entitled to receive disqualified property, and

(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation) in such property, the distribution shall be treated as if such property were sold to the distributee at its fair market value.

(6) Qualified Property.—For purposes of subparagraph (A), the term ‘qualified property’ means any stock or securities in the controlled corporation.

SEC. 13331. RECOGNITION OF CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATIONS.

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 331(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 336 as relates to this section) applies if, immediately before and 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.

(2) Qualified Distribution.—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, or

(B) any stock in any controlled corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

(C) stock which constitutes a 50-percent or greater interest in any controlled corporation.

(3) Coordination With Section 336.—Sections 331 and 336(a) shall not apply to any distribution referred to in paragraph (1).

(4) Notice requirements.—For purposes of subparagraph (A), the term ‘qualified property’ means any stock or securities in the controlled corporation.

(5) Subsection 336.—If—

(A) in a distribution referred to in paragraph (1), the corporation to which the stock or securities are transferred is entitled to receive disqualified property, and

(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation) in such property, the distribution shall be treated as if such property were sold to the distributee at its fair market value.

(6) Qualified Property.—For purposes of subparagraph (A), the term ‘qualified property’ means any stock or securities in the controlled corporation.
using 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 paragraph (4), each purchase of stock (whether by purchase or otherwise) 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.

(B) SALE OR TRANSFER.—For purposes of this subsection—

(i) any person who holds stock in any corporation (described in subparagraph (A) or (B)(i) of paragraph (3) of section 355(d)) or of the Internal Revenue Code of 1986 as amended by this section, 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 to—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990, and

(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. 1558. MODIFICATIONS TO REGULATIONS UNDER SECTION 355(a).

(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 paragraph (3) of this subsection—" (b) TECHNICAL AMENDMENTS.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

(4) Cross Reference.—"For provisions providing for recognition of gain in certain instances, see section 355(d)."

(5) 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) of section 355(d) of the Internal Revenue Code of 1986 as amended by this section, 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 to—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990, and

(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. 1234. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON 21ST CENTURY CABLE EXCLUSIONS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 1721(m)(3)(B) (relating to exceptions) is amended by repealing such clause.

(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) 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. 1235. 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.

(2) 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 debt 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 subparagraph (A) and redesignating paragraph (5) as paragraph (4).

(c) LIMITATION ON STOCK FOR DEBT EXCERPT.—

(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 INCELLOPENENT DEBTORS.—

(1) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock).

(2) DISQUALIFIED STOCK.—For purposes of clause (1), the term 'disqualified stock' means any stock with a stated redemption price.

(3) such stock has a fixed redemption date.

(4) the issuer of such stock has the right to redeem such stock at one or more times, or

(5) the holder of such stock has the right to require its redemption at one or more times.

(2) CONFORMING AMENDMENT.—Paragraph (b) of section 108(e) is amended by adding at the end thereof the following new paragraph:

"Any stock which is disqualified stock (as defined in paragraph (10)(B)(i)) 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 the 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 December 31, 1990; or

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer.

(2) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990, in satisfaction of any indebtedness if such acquisition is pursuant to an offer to—

(i) the material terms of which were described in a written public announcement on or before December 31, 1990;

(ii) was the subject of a prior filing with the Securities and Exchange Commission; and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART V—EMPLOYMENT TAX.

SEC. 1241. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EXEMPTION 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

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

"(F) service in the employ of a State (other than the State 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 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.

(b) TECHNICAL AMENDMENT.—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 at the end thereof the following new sentence:

"(II) which was the subject of a prior filing with the Securities and Exchange Commission; and

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

"(III) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency."
"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any trust created after the date of the enactment of this Act, and

(2) any portion of a trust created on or before such date which is attributable to amounts contributed to the trust after such date.

SEC. 13352. RETURN REQUIREMENT WHERE CASH RECEIVED IN TRADE OR BUSINESS

(a) CERTAIN MONETARY INSTRUMENTS TREATED AS CASH.—Subsection (d) of section 6050I (relating to returns relating to cash received in trade or business) is amended to read as follows:

"(d) CASH INCLUDES FOREIGN CURRENCY AND CERTAIN MONETARY INSTRUMENTS.—For purposes of this section, the term 'cash' includes—

(1) foreign currency, and

(2) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than $10,000.

Paragraph (2) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subsection (e)(1)(B).

(b) INCREASE IN PENALTY FOR INTENTIONAL DISREGARD OR REPORTING REQUIREMENT.—Paragraph (2) of section 6721(e) (relating to penalty for intentional disregard) is amended—

(1) by inserting "6050I," after "6050H," in subparagraph (A),

(2) by striking "or" at the end of subparagraph (A),

(3) by striking "and" at the end of subparagraph (B) and inserting "or", and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

(i) $25,000, or

(ii) the amount of cash (within the meaning of section 6050H(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed $100,000, and";

(c) CLARIFICATION OF APPLICATION OF PROVISION PROHIBITING EVASION TECHNIQUES.—The heading of subsection (f) of section 6050H is amended to read as follows:

"(f) STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.—"

(d) STUDY.—The Secretary of the Treasury shall conduct a study on the operation of section 6050I of the Internal Revenue Code of 1986. Such study shall include an examination of—

(1) the extent of compliance with the provisions of such section,

(2) the effectiveness of the penalties in ensuring compliance with the provisions of such section.

(3) methods to increase compliance with the provisions of such section, and

(4) appropriate methods to increase the usefulness and availability of information submitted under the provisions of such section.

Not later than March 31, 1991, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to amounts received after the date of the enactment of this Act.

(2) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) Not later than June 1, 1991, the Secretary of the Treasury or his delegate shall prescribe regulations under section 6556(d)(2) of the Internal Revenue Code of 1986 (as amended by this section).

SEC. 13353. PART B PREMIUM.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395r(e)), as amended by section 6161, is further amended—

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

(2) by adding at the end of paragraph (1) the following new subparagraph:

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

(i) 1991 shall be $29.90,

(ii) 1992 shall be $31.10,

(iii) 1993 shall be $36.50,

(iv) 1994 shall be $41.20, and

(v) 1995 shall be $46.20,"; and

(3) by striking "and for each month after December 1992 and before January 1996" after "January 1991" each place it appears.

SEC. 13354. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l), as amended by section 6182, is further amended by striking "for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996" and inserting "for calendar years before 1991 and $100 for 1991 and subsequent years".

October 17, 1990 CONGRESSIONAL RECORD — SENATE
OMNIBUS BUDGET RECONCILIATION ACT

HOLLINGS (AND OTHERS)
AMENDMENT NO. 3033

Mr. HOLLINGS (for himself, Mr. HEINZ, Mr. MOYNIHAN, Mr. MCCAIN, Mr. PRESSLER, Mr. MCCONWELL, Mr. GRAHAM, Mr. McCUIRE, Mr. COHEN, Mr. GRASSLEY Mr. LEVIN, Mr. KERRY, Mr. JEFFORDS, Mr. DECONCINI, Mr. SIMON, Mr. RIEGLE, Mr. BRADLEY, and Mr. KASTEN) proposed an amendment to the bill S. 3209, supra, as follows:

At the appropriate place, insert the following:

SEC. SOCIAL SECURITY PRESERVATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Social Security Preservation Act".

(b) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 27(b)/2(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(0) of such Act (as added by section 201(a)(1) of this joint resolution)".

(c) Social Security Act.—Subsection (a) of section 710 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".
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"(G) with respect to the fiscal year beginning October 1, 1991, $215,000,000,000;

"(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, $166,000,000,000;

"(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 1995 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 1995 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:

"(EE) 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 by only changes in the budgetary accounting for credit and in the definition of 'budget authority'; and

"(FF) economic and technical changes, which shall equal—

"(aa) the deficit in the budget baseline set forth pursuant to paragraph (6) of this subsection, minus

"obtain 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 sequestrations), and

"(bb) the maximum deficit amount as it existed immediately before the issuance of the report, and

"(gg) 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

"(ff) 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

"(ii) changes in the budgetary accounting for credit and in the definition of 'budget authority'; 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

"(ii) changes in the budgetary accounting for credit and in the definition of 'budget authority'; and

"(ll) changes in forecasts of inflation using only changes in the forecast of the fiscal year average of the estimated gross national product 'real' domestic price deflator."

SEC. 12001. DISCRETIONARY SPENDING LIMITS.

(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:

"(I) with respect to the fiscal year beginning October 1, 1990, $242,000,000,000;
(i) new budget authority, $291,642,000,000, (ii) outlays, $295,644,000,000, and (C) for fiscal year 1993:
(1) new budget authority, $291,785,000,000, (ii) outlays, $295,787,000,000, and
(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(i)(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 in categories other than major functional category 050 (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)(1)(F) 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, $180,100,000,000, (B) for fiscal year 1992:
(i) new budget authority, $191,300,000,000, (ii) outlays, $198,100,000,000, and (C) for fiscal year 1993:
(i) new budget authority, $198,300,000,000, (ii) outlays, $210,100,000,000, 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(i)(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 1991 and 1995 for discretionary spending shall be—
(1)(a) for fiscal year 1991:
(i) new budget authority, $188,000,000,000, (ii) outlays, $188,000,000,000, (B) for fiscal year 1992:
(i) new budget authority, $191,000,000,000, (ii) outlays, $183,000,000,000, and (C) for fiscal year 1993:
(i) new budget authority, $198,300,000,000, (ii) outlays, $179,000,000,000, 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(i)(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 estimate in its report 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).
(2) ADDITIONAL TECHNICAL REVIEWS.—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 in strict conformance with the provisions of section 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—
(1) in addition to any other amounts under this paragraph, for each of fiscal years 1992 and 1993, in the amounts of—
(A) up to 0.021 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1992 and 1993, other than the defense discretionary spending budget authority under subsection (b)(2),
(B) 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 1992, 1993, and 1994 (together), for international affairs discretionary spending budget authority under subsection (b)(2),
(C) 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 discretionary spending in the categories allocable to the Office of Management and Budget under section 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Control Act of 1985.
(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(i)(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.
(3) for fiscal year 1991:
(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(i)(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.
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"(A) for the defense, international affairs, and foreign operations appropriations category as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 and as amended by sections 12502(b)(1) and (2)(B) of the Omnibus Budget Reconciliation Act of 1990 as amended by section 12502(c)(5) of this Act, except assuming such lower levels in annual appropriations or continuing appropriations Act of 1990 as may be required by sections 252A and 252B, assuming that any sequester under section 252B that will be ordered on November 15, 1980, or later, and after the date of the report for the entire fiscal year that are enacted at a lower level, when appropriation bills have been enacted covering all subcommittees covered by the relevant category.

"(B) determining whether such Appropriations Act causes the aggregate allocation for budget authority or outlays in the spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by the Balanced Budget and Emergency Deficit Control Act of 1990 is more than the estimated aggregate amount of budget authority or outlays in the spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by that Act to be reduced after the date of enactment of this section (after adjusting for the expected change in budget authority or outlays in the spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by that Act due to any sequestration that will be ordered, if any, as may be required by sections 252A and 252B; and

"(C) after having ordered such reductions, if any, as may be required by sections 252A and 252B; and

"(D) assuming that any sequester under section 252B that will be ordered on November 15, 1980, or later, and after the date of the report for the entire fiscal year that are enacted at a lower level, when appropriation bills have been enacted covering all subcommittees covered by the relevant category.

--(1) in paragraph (3), by striking "and";

--(2) by redesignating paragraph (4) as paragraph (5);

--(3) by inserting after paragraph (3) the following new paragraph:

"(4) set forth pay-as-you-go procedures for each of fiscal years 1990 and 1991;" and

--(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 cost of such legislation is 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 deficit (by virtue of either deficit reduction in the bill or previously-passed deficit reduction) in the resolution for the second fiscal year covered by the concurrent resolution on the budget; and

--(B) upon the report of legislation pursuant to paragraph (4), the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on Ways and Means, the chairman of the Senate Finance Committee, and the Speaker of the House of Representatives (as the case may be) may file with the Senate or the House of Representatives (as the case may be) appropriateness revised allocation under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

--(C) such revised allocations, functional levels, and aggregates under section 302(a) shall be prepared for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget and the appropriate resolutions under section 302(a) and revised functional levels and aggregates to carry out this paragraph; and

SEC. 1302. PAY-AS-YOU-GO SEQUESTER.

"(a) REPORT.—Section 1251(a)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking estimating the aggregate amount of required mandatory outlay reductions under section 252B and by inserting after section 252B the following new section:

"SEC. 252B. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992-1995 ENFORCEMENT.—The purposes of this section is to ensure that any legislation enacted after the date of enactment of this section affects direct spending or receipts that increases the net deficit in any fiscal year covered by this Act in an amount that is less than or equal to the amount that is determined (after adjusting for the expected change in budget authority or outlays in the spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by that Act due to any sequestration that will be ordered, if any, as may be required by sections 252A and 252B; and

"(B) MANDATORY REDUCTIONS.—The Balanced Budget and Emergency Deficit Reduction Act of 1995 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 purposes of this section is to ensure that any legislation enacted after the date of enactment of this section affects direct spending or receipts that increases the net deficit in any fiscal year covered by this Act in an amount that is less than or equal to the amount that is determined (after adjusting for the expected change in budget authority or outlays in the spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by that Act due to any sequestration that will be ordered, if any, as may be required by sections 252A and 252B; and

"(B) MANDATORY REDUCTIONS.—The Balanced Budget and Emergency Deficit Reduction Act of 1995 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 purposes of this section is to ensure that any legislation enacted after the date of enactment of this section affects direct spending or receipts that increases the net deficit in any fiscal year covered by this Act in an amount that is less than or equal to the amount that is determined (after adjusting for the expected change in budget authority or outlays in the spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by section 12502 of the Omnibus Budget Reconciliation Act of 1990 as amended by that Act due to any sequestration that will be ordered, if any, as may be required by sections 252A and 252B; and

"(B) MANDATORY REDUCTIONS.—The Balanced Budget and Emergency Deficit Reduction Act of 1995 is amended by adding after section 252 the following new section:

"SEC. 252B. ENFORCING PAY-AS-YOU-GO.
(2) the estimated amount of deficit reduction applicable to each such fiscal year results in a deficit higher than the deficit resulting from the use of budgetary and budgetary-related assumptions specified in the most recently adopted concurrent resolution on the budget, and

(3) by adding at the end thereof the following: "In applying this subsection—

(A) estimated Social Security revenues shall be deemed to be reduced by the excess of the estimated Social Security revenues (including those provided for in the bill, resolution, amendment, or conference report to which this subsection is being applied) over the appropriate level of Social Security revenues in the most recently adopted concurrent resolution on the budget;

(B) estimated Social Security revenues shall be deemed to be increased by the short-fall of estimated Social Security revenues provided for in the bill, resolution, amendment, or conference report to which this subsection is being applied over the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

(C) estimated Social Security revenues 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 to which this subsection was applied, over 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 any statement in opposition to the recommendations contained in the report of the Committee on Ways and Means regarding the budget, and the Senate shall not consider any such statement unless the Senate by a roll-call vote shall give its consent thereto by a majority vote.

SEC. 311(a).—The Committee on the Budget of the Senate, in preparing its report, shall take into account the effect of the legislation affecting the programs established under title II of the Social Security Act (including the program of unemployment compensation), the Social Security program established under title II of the Social Security Act and the related provisions of the Internal Revenue Code of 1986, and the regulations thereunder.

SEC. 311(b).—In preparing its report, the Committee on the Budget of the Senate shall take into account the effect of the legislation, the recommendations of the Committee on Ways and Means of the House of Representatives, and the recommendations of the Committee on Finance of the Senate, and the recommendations of the Committee on Finance of the Senate on the Budget for the fiscal year ending September 30, 1990.

SEC. 311(c).—The Committee on the Budget of the Senate shall report revised allocations pursuant to section 310(c).
generally accepted within the actuarial profession and whether or not the assumptions and resulting cost estimates are reasonable. Upon receipt of an actuarial analysis submitted in this subsection, the chairman of the Committee on Finance shall file such an analysis in the Senate Journal and make a copy available to the public.

(b)(1) It shall not be in order in the Senate to consider any measure or amendment that would modify the program established for purposes of paragraphs (1) and (2) of section 303(a) of the Act of 1974, unless—

(1) 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; and

(2) the Senate has agreed by unanimous consent or by motion described in paragraph (2) to dispense with such actuarial analysis.

(b)(2) A motion described in paragraph (1)(B) shall not be considered to be in order 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 entry of the clerk that a majority of Senators present and voting favor the motion.

(A) an actuarial analysis was requested from the Secretary more than 72 hours before the Senate took up the measure; and

(B) the motion relates to an amendment in the first degree to an amendment described in subparagraph (A) from the Senate to consider any measure or amendment that would modify the program described in paragraph (1) of section 303 of the Act of 1974, unless—

(1) the Committee on Finance shall file such an analysis in the Senate Journal and make a copy available to the public; and

(2) the Senate has agreed by unanimous consent or by motion described in paragraph (2) to dispense with such actuarial analysis.

Title D—Multyear Budgeting to Ensure Permanent Savings

SECTION 121A. MULTIYEAR BUDGETING.

Applicability—Section 301(a) of the Congressional Budget Act of 1974 is amended in the matter before paragraph (1) by striking "planning level", inserting "multyear planning level", and inserting "for each fiscal year" in its stead.

(1) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Changes in the appropriation Act—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(3) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(4) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(5) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(c) Section 302(b)(2) of that Act is amended—(1) by inserting after "the first fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(2) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(2) Appropriations—In general—(A) by inserting after "for a fiscal year", inserting "for the first fiscal year", and inserting "for the first fiscal year" as it appears in the matter preceding subparagraph (A) and inserting the following: "the appropriate cost estimates for each fiscal year and the following 4 fiscal years".

(B) by inserting after "such fiscal year", inserting "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".
"modify the legislative and executive budgetary processes to carry out these purposes.

DEFINITIONS

"Sec. 1102. For purposes of this title—

(a) The term 'Federal agency' means an executive department, an independent Federal agency, an instrumentality of the United States, 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 Federal Home Loan Bank Board.

(b) The term 'direct loan obligation' means a direct loan obligation 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.

(c) 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 or loss of receipts resulting from the term and conditions of the direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(d) The term 'loan guarantee agreement' means a loan guarantee or for groups of similar new direct loans and loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(e) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(f) The term 'guarantee' includes any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(g) The term 'performance 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 or loss of receipts resulting from the term and conditions of the direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(h) The term 'direct loan obligation' means a direct loan obligation 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.

(i) 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 or loss of receipts resulting from the term and conditions of the direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(j) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(k) The term 'loan guarantee agreement' means a loan guarantee or for groups of similar new direct loans and loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(l) The term 'performance 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 or loss of receipts resulting from the term and conditions of the direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(m) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(n) The term 'guarantee' includes any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(o) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(p) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(q) The term 'guarantee' includes any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(r) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(s) The term 'guarantee' includes any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(t) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(u) The term 'guarantee' includes any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(v) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(w) The term 'guarantee' includes any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(x) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(y) The term 'guarantee' includes any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.

(z) The term 'primary guarantee' means any guarantee, insurance, or other pledge with respect to any direct loan or loan guarantee agreements that result in increased cost to the Government, calculated on a net present value basis.
"(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 LOANS

"(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 direct loan, and, if the loan is guaranteed, from the Director or, at the discretion of the Director, shall make such an estimate based upon guidelines established by the Director.

"(2) MODIFICATION.—The amount of an estimate made under paragraph (1) shall constitute an obligation of the Federal agency for the cost to the Government at the time the underlying guaranteed loan is disbursed.

(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with direct loan obligations incurred under this 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 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). The subsidy account shall be credited with the additional amount of the loan guarantee that is attributable to the modification.

(f) MODIFICATION.—The cost to be charged shall be the full direct loan obligation incurred after October 1, 1991, as modified in this subsection, unless the cost to the Government associated with the loan guarantee is less than the cost to the Government at the time the underlying guaranteed loan is disbursed.

(g) ENSURE OF COST TO THE GOVERNMENT.—At the time a loan guarantee commitment is made, the cost to the Federal agency for the cost to the Government associated with the loan guarantee shall be included in the budget function entitled 'credit financing activities' as an obligation of the Federal agency for the cost to the Government.

(h) MODIFICATION.—For the purposes of section 1501 of title 31, United States Code—
"(1) the amount of an estimate made under paragraph (1) shall constitute an obligation of the subsidy account to pay to the financing account; and
"(2) the estimated cost to the subsidy account shall be chargeable to a financing account if it exceeds the amount of the actual cost of the direct loan.

(i) CREDIT FINANCING ACTIVITIES.—For the purposes of section 1501 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 associated with the Federal agency shall be chargeable to a financing account for each program. Financing requirements of direct loans or loan guarantee commitments made by the Federal agency shall be included in the budget function entitled 'credit financing activities'. The Antideficiency Act shall apply to the financing account.

(j) Accounts reported in the budget function entitled 'credit financing activities' pursuant to this subsection shall not be included—
"(1) in calculating the costs 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; or
"(2) in calculating the points of order under section 311 of this Act; or
"(3) for purposes of reconciliation under section 310 of this Act, or for purposes of allocations and points of order under section 302 of this Act.

(k) TRANSACTIONS IN THE FINANCING ACCOUNT—The head of each Federal agency authorized to make guaranteed loan commitments shall report the amount of the guaranteed loan commitment to the Secretary of the Treasury on or after October 1, 1991, the cost to the Government incurred by the Federal agency in connection with the loan guarantee commitment.

(l) MODIFIED FINANCING ACCOUNT.—The Antideficiency Act shall apply to the financing account.

(m) MODIFICATION.—The budget function entitled 'credit financing activities' as an obligation of the Federal agency for the cost to the Government shall be excluded from the budget function entitled 'credit financing activities'

"(1) For the purposes of section 1501 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 associated with the Federal agency shall be chargeable to a financing account for each program. Financing requirements of direct loans or loan guarantee commitments made by the Federal agency shall be included in the budget function entitled 'credit financing activities'. The Antideficiency Act shall apply to the financing account.

(2) In computing the cost to the Government associated with the program, the Secretary of the Treasury shall apply the Antideficiency Act to the financing account.

(n) AUTHORIZATION OF APPROPRIATIONS

"SEC. 1108. (a) DIRECT LOAN OBLIGATIONS.—There are authorized to be appropriated to each Federal agency authorized to make guaranteed loan commitments, such sums as may be necessary to pay the cost to the Government associated with proposed direct loan commitments, and the costs of administering direct loans.

"(b) LOAN GUARANTEE COMMITMENTS.—There are authorized to be appropriated to each Federal agency authorized to make guaranteed loan commitments, such sums as may be necessary to pay the cost associated with the guaranteed loan commitments and the costs of administering guaranteed loan commitments.

"(c) TREASURY NOTES FINANCING.—If at any time the Secretary of the Treasury finds that the financing account is insufficient to discharge its responsibilities under this title, the head of a Federal agency shall request the Secretary of the Treasury to sell 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 (b). Such notes or other obligations shall bear interest at rates determined by the Secretary of the Treasury, which shall not be less than the average market yield on United States Treasury notes of comparable maturities on the monthly preceding the date of issuance of such notes or other obligations. The Secretary of the Treasury shall sell such notes or other obligations issued under this subsection and for that purpose the Secretary of the Treasury is authorized to use as security for such notes or other obligations issued under this subsection and for that purpose the Secretary of the Treasury is authorized to use as security for such notes or other obligations the notes or other obligations issued under this subsection.

"(d) MODIFIED FINANCING ACCOUNT.—The Antideficiency Act shall apply to the financing account.
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. But 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 funds as are necessary to repay those obligations.

(2) To the extent that the resources of the financial account exceed those needed to meet the requirements of the account, the excess funds shall be transferred from time to time by the Director to 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, or the amount of assistance provided by, the financial accounts of Federal agencies. Amount 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 financial accounts (as well as any necessary amounts to meet those obligations) 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 on the date of enactment of this title, for 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(31), of all Federal direct loan and loan guarantee authority by program and by account.

(b) Budget Committees.—At the time of the submission 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, the Director shall include, in the Budget Appendix, an estimate for the cost to the Government, as defined in section 1102(31), of all Federal direct loan and loan guarantee authority by program and by account.

(c) Congressional Budget Office.—

(1) In General.—Beginning on January 1, 1991, the Congressional Budget Office shall include, in the Budget Appendix, an estimate for the cost to the Government, as defined in section 1102(31), of all Federal direct loan and loan guarantee authority provided for in all reported bills.

(2) Eligibility and Assistance.—Nothing in this section shall be construed to change the eligibility for, or the amount of assistance available, to the same extent that they were available prior to the date of enactment of this title.
suant 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 amount.

SEC. 1211. 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. 1100. Short title.
'Sec. 1101. Purposes.
'Sec. 1102. Definitions.
'Sec. 1103. OMB and CBO analysis, coordination, and review.
'Sec. 1104. Direct loan programs.
'Sec. 1105. Loan guarantee programs.
'Sec. 1106. Agency responsibilities.
'Sec. 1108. Authorization of appropriations.
'Sec. 1109. Treatment of deposit insurance agencies.
'Sec. 1110. Effect on other laws.
'Sec. 1111. Implementation for fiscal year 1992."

SEC. 1212A. GOVERNMENT-SUPPORTED 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 containing—

(A) making an objective assessment of the financial safety and soundness of the Government-sponsored enterprises;

(B) a description 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) Adoption of the regulations and policies of any Government-sponsored enterprise.

(b)(1) 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.

(2) The Department of Treasury 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 Secretary 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;

(C) assessing the adequacy of the existing regulatory structure for Government-sponsored enterprises; and

(D) a model, or an alternative model, of an independent, privately administered rating agency.

(ii) ways in which the Congress can improve understanding of these risks; and

(iii) the risks to the budget posed by Government-sponsored enterprises;

(b) prohibiting the administration from issuing any decision or order that will have a significant impact on the budget, without notification to both the Senate and the House of Representatives.

(c) requiring that the administration provide full and prompt access to the Senate and the House of Representatives to any information made available under this section and determined by the Director to be confidential under subparagraph (A);

(d) requiring that the Director provide full and prompt access to any information made available under this subsection and determined by the Director to be confidential under subparagraph (A);

(e) requiring that the administration provide full and prompt access to any information made available under this subsection and determined by the Director to be confidential under subparagraph (A); and

(f) requiring that the administration provide full and prompt access to any information made available under this subsection and determined by the Director to be confidential under subparagraph (A).

SEC. 1213. BUDGET TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"SECTION 300. (a) IN GENERAL.—Except as provided in subsection (b), the timetable for the Congressional budget process is as follows:

"(1) On or before January 27, 1991, the Director of the Congressional Budget Office shall submit its base-lime report to the Budget Committees.

"(2) On or before February 1, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"(3) On or before March 1, 1991, the President submits to the Executive Branch the budget request.

"(4) On or before March 15, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"(5) On or before April 1, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"(6) On or before April 15, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"(7) On or before May 15, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"(8) On or before September 30, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"(9) On or before October 1, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"(10) On or before November 15, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"(11) On or before December 15, 1991, the President submits to the Congress the budget that is to be presented to the Congress.

"Action to be completed:

"Budgetary treatment.


"Action to be completed:

"Congressional Budget Office issues its final report to the Budget Committees.

"Action to be completed:

"Congressional Budget Office issues its final report to the Budget Committees.

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"Action to be completed:

"Congressional Budget Office issues its final report to the Budget Committees.

"Action to be completed:
On or before June
President submits the ex-
cutive budget request, Office of Management and Budget, to the In-
tial budget report to the Presi-
dent 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 the In-
tial estimate of the Presi-
dent's budget to the Com-
mitees on Appropriations and on the budget request, committees submit their views and estimates to Budget Com-
mitees.

May 1
Senate Budget Com-
mtee reports early initial res-
olution 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 reconcili-
ations legislation and completes action on reconciliation legis-
lation.

October 1
Congress completes action on the reconciliation bill and the Senate and again upon the subm-
ission of a conference report on such a reconciliation bill, the Presi-
dent may raise the point of order, any Senator may move to waive such a point of order and any the provisions against which the Senator raised the point of order, shall be deemed stricken pursuant to this section.

November 10
Congressional Budget Office issues its revised report to Office of Management and Budget and the Con-
mmittees.

November 15
Department of Management and Budget issues its revised report to the President and the Con-
mmittees. President issues final order (which becomes effective immedi-
ately).

November 30
President transmits to Congress a detailed message regarding the final order.

December 15
Comptroller General transmits a compliance report.

Subtitle G—Early Initial Gramm-Rudman-Hollings Reports
SEC 1231. EARLY INITIAL GRAMM-RUDMAN-HOLLINGS REPORTS

(a) GRAMM-RUDMAN-HOLLINGS—The Bal-
anced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection 251(a)(1)(A), by striking "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)(D), by striking "and "taxpayer" and inserting "and "fiscal year;"

(4) in section 251(a)(2)(C), by striking clauses (f) and (v);

(5) in section 251(a)(1)(I)(H), by striking "paragraph and inserting "paragraph;"

(6) in section 251(a)(1)(I)(I), by striking "paragraph and inserting "paragraph;"

(7) in section 251(a)(1)(I)(I), by striking "paragraph and inserting "paragraph;"

(8) in section 251(a)(1)(I)(I), by striking "paragraph and inserting "paragraph;"

(9) in section 251(a)(1)(I)(I), by striking "paragraph and inserting "paragraph;"

(10) in section 251(b)(1), by striking "August 15 of" and inserting the "snapshot date for the Director's report pursuant to subsection (a) for;"

(b) In section 252(a)(1), by striking "February 15;"

(b) 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)(12), 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 Con-
gressional Budget Act of 1974 is amended—

(1) in section 252(11)(I), by striking "Febru-
ary 15" and inserting "January 27;"

(2) in section 252(11)(D), by striking "and any changes in such levels based on propos-
sals in the budget request submitted by the President for such fiscal year;"

(3) in section 252(11), 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 set-
thing forth the Director's analysis of the pro-
posals in the budget request submitted by the President for the fiscal year beginning October 1 of that year; and

(4) in section 301(1), by striking "February 25" and inserting "March 1;"

(5) The Senate or the House of Representa-
tives may strike any of the provisions of the Congressional Budget Act of 1974 is amended—

(a) BUDGET ACT—The Congres-
sional Budget Act of 1974 is amended—

(1) by amending section 310(a), by inserting after "a" the following: "Congress-authorized;" and

(2) by adding at the end thereof the follow-
ing new subparagraphs:

"(c) EXTRANEORIS MATERIALS—Upon the re-
porting or discharge of a reconciliation bill or resolution pursuant to section 310 by the Senate and again upon the subm-
mission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate may report a list of material considered to be ex-
traneous under subsections (b)(11), (b)(11), and (b)(11)(E) of this section to the President, who shall be deemed stricken pursuant to this section. The inclusion or exclusion of a provision shall not constitute a deter-
nation of extraneouseness by the President Of-
mier of the Senate.

(1) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a point of order to strike any or all fund provisions contained in any bill or resolution. After the Presi-
ding Officer rules on such a point of order, any Senator may move to waive such a point of order and any the provisions against which the Senator raised the point of order, shall be deemed stricken pursuant to this section. Before the Presiding Officer orders on such a point of order, any Senator may move to waive such a point of order and any the provisions against which the Senator raised the point of order, shall be deemed stricken pursuant to this section.

(2) TRANSFER OF BUDGET ACT.—(a) Section 3001 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.

(b) Section 313 of the Congressional Budget Control Act of 1974 is amended by—

(1) adding at the beginning thereof the fol-
lowing center heading: "EXTRANEORIS MATTER IN RECONCILIATION LEGISLATION;"

(2) striking subsection (b), subsection (c), subsection (d), and subsection (e) of section 313 of the Consolidated Omnibus Budget Reconciliation Act of 1974, as amended by subsection (a), and re-

(3) redesignating subsections (d) (e), (f), (g) and (h) as subsections (b), (c), (d) and (e), respectively.

(4) in 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 a.

(5) redesignating subsections (a), (d), (b) and (c) as subsections (d), (e), (f) and (g) respectively.

(6) in subsection (d) of section 313 of the Congressional Budget Control Act of 1974.
Budget Act of 1974 is amended—

'SPC. 307. Repealed.

In section 307 and inserting the following—

The label of contents for the Congressional Budget Act of 1974 as amended by section 300(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 as added by section 12551 the following new item:

'SEC. 313. Extraneous matter in reclassification legislation.'

Subtitle I—Budget Submissions in New Administrations

SEC. 12401. REQUIREMENT FOR NEW PRESIDENTS' BUDGETS.

Section 1105(a) of title 31, United States Code, is amended by striking "February 5 in 1985" 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. 12402. DUE DATE IN YEARS WHEN A NEW PRESIDENT TAKES OFFICE.

(a) CONGRESSIONAL BUDGET ACT—The Congressional Budget Act of 1974 is amended—

(1) in subsection (a)(1), by inserting after "April 15 of each year" the following: "for May 15 in any year to which section 300(b) applies;"

(2) in subsection (a)(2), by striking "April 15 of each year" and inserting "March 15 in any calendar year" the following: "for June 1 in a year to which section 300(b) applies;" and

(b) BALANCED BUDGET AND EMERGENCY DEFICIENCY CONTROL ACT OF 1985—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1), by striking "October 15, 1987, in the case of fiscal year 1985" and inserting "March 10 in any year to which this Act is amended by section 312;"

(2) in section 312(b)(1), by striking "October 18, 1987, in the case of fiscal year 1986" and inserting "March 15 in any year to which section 300(b) of the Congressional Budget Act of 1974 is in effect and paragraphs (1), (2), and (3) in subsection (a)(1) of section 302 of such Act are in effect;"

(3) in section 252(a)(1), by striking after "March 15 in any year in which a new President takes office on January 20, not having been President on January 19.

Subtitle K—Standardization of Points of Order

SEC. 12551. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.

In general—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 311(a), by striking "this subsection or any conference report" and inserting "this subsection or any amendment which provides such new spending authority;" and

(2) in section 313(b)(5) the following new item:

'SEC. 313. Extraneous matter in reclassification legislation.

Subtitle L—Points of Order Against Amendments Between the Houses

SEC. 12451. EFFECTS OF POINTS OF ORDER.

(1) In general.—The term "Budget authority—" means the authority provided by Federal
(3) in section 401(d), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and
(4) in section 251(a)(3)(A)(ii), by striking "(III) for fiscal year 1990, 1991, 1992, and 1993," and inserting "(II) for fiscal years 1989 and subsequent fiscal years, to the extent that the report submitted by the President for such fiscal year" and inserting "(II) for fiscal year 1989 and subsequent fiscal years," and inserting "means";
(5) in section 251(a)(6)(D)(ii), by—
(A) striking clause (i); and
(B) striking "(III) for fiscal year 1989, in the case of any fiscal year after October 10, 1987, and in the case of a final report submitted under subsection (c), the latest possible date before its submission; (II) for fiscal year 1989 and subsequent fiscal years," and inserting "means;"
in the case of any subsequent fiscal year, before:

(21) in section 253, by striking "for December 15, 1987, in the case of fiscal year 1988"; and

(22) in section 254(b)(1)(E), by striking 

"and for fiscal year 1988 or 1989, exceed the amount of the estimated deficit for such fiscal year, as measured pursuant to the changes and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured pursuant to the budget baseline specified in section 252(c)(2)(H)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $25,000,000,000 for fiscal year 1989;"

SEC. 1960. TECHNICAL REVIZIONS OF GRAMM-LEACH-BLAIKLEY ACT (a) in section 904(c) of the Congressional Budget Act of 1974 is amended—

(1) by amending subsection (c) to read as follows:

"(c) Waiver.—Sections 305(b)(2), 305(c)(4), 306, 309, 310(c), 310(d), 311(a), 312, and 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iii), 252(c)(2)(J)(ii), 254(a)(1)(A), 254(b)(1), 254(b)(2), (b)(3), (b)(4), and 254(b)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn, and in the House only by the affirmative vote of three-fifths of the Members, duly chosen and sworn; and

(2) in subsection (d) by inserting at the end thereof the following: "An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 309, 310(c), and 310(d) of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iii), 252(c)(2)(J)(ii), 254(a)(1)(A), 254(b)(1), 254(b)(2), (b)(3), (b)(4), and 254(b)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985."

(b) Section 257(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (C), by striking the final word "and";

(2) in subparagraph (D), by striking the final period and inserting "; and"; and

(3) by inserting at the end thereof the following new subparagraph:

"(E) the second sentence of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 309, 310(c), and 310(d) of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iii), 252(c)(2)(J)(ii), 254(a)(1)(A), 254(b)(1), 254(b)(2), (b)(3), (b)(4), and 254(b)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985."

(c) Section 305(b)(2), 305(c)(4), 306, 309, 310(c), 310(d), 311(a), 312, and 313 of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn, and in the House only by the affirmative vote of three-fifths of the Members, duly chosen and sworn; and

(2) in subsection (d) by inserting at the end thereof the following: "An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 309, 310(c), and 310(d) of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iii), 252(c)(2)(J)(ii), 254(a)(1)(A), 254(b)(1), 254(b)(2), (b)(3), (b)(4), and 254(b)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985."

(d) Section 312 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(b)(3)(C) by striking "Congress" and inserting "Senate and the House of Representatives";

(2) in section 252(c)(2)—

(A) in subparagraph (F)(ii) by striking "Instead of the Senate they relate to major function 650 (national defense)"; and

(B) in subparagraph (F)(i)—

(i) striking "22" and inserting "XXII";

(ii) striking "resolution, and all" and inserting "resolution. In the House of Representatives, all;"

(iii) striking "is privileged in the Senate and is not debatable," and inserting ", and it is not privileged in the Senate. The joint resolution is privileged in the Senate;" and

(iv) striking "The motion is not subject to amendment" and inserting "In the House of Representatives, the motion is not subject to amendment;"

(C) in subparagraph (H)(ii)—

(i) striking "as they relate to major function 650 (national defense);" and

(ii) striking "section 311(a) of the Balanced Budget Act of 1997" and inserting "section 311(a) of the Balanced Budget Act of 1997";

(D) in section 254(b)(2)—

(A) in paragraph (1)(B), by striking "the" and inserting "as a";

(B) in paragraph (3)(C), by striking "resolutions, and aU" and in-
the joint resolution; and
(10) in section 251(e), by striking "preceding provisions of this section" and inserting "provisions of this part";
(11) in section 251(h), in subsections (b) and (c), by —
(A) in subsection (a), by inserting "or provide an alternative to the reduce-'
(b) in subsection (b)(2) by —
(i) striking "22" and inserting "XXII";
(ii) inserting "the joint resolution is" after "the motion or amendments pro-\nduced in this Act, no reduction may end thereof the following new paragraphs:
percentage,";
percentage exceeding the domestic sequester
matching payments from the Federal Gov-
elment the suspension of which would not
imminently threaten the safety of (human
(12) the term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum def-
cert amount for that fiscal year.".
SEC. 12655. COMPARISON OF PRECEDENT WITH REPORTS AND AMENDMENTS BETWEEN HOUSES.
Section 305(c) of the Congressional Budget Act 1974 is amended —
(1) in paragraph (1), by striking the first sentence; and
(b) by inserting after "Act of Congress" the following:
"any concurrent resolution on the budget";
and
(2) in paragraph (2), by inserting "for a message report" each place it appears.
SEC. 12516. CONFORMING CHANGES TO TITLE 31.
(a) LIMITATIONS ON EXPENDING AND OBLI-
cer or trust funds in excess of the sequester
end thereof the following: "For the purposes
make a sequester in a fiscal year, no withhold-
percentage for such fiscal year.";
match of the defec-'
(12) the term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum def-
cert amount for that fiscal year.".
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(1) in paragraph (1), by striking the first sentence; and
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"any concurrent resolution on the budget";
and
(2) in paragraph (2), by inserting "for a message report" each place it appears.
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make a sequester in a fiscal year, no withhold-
percentage for such fiscal year.";
match of the defec-'
(12) the term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum def-
cert amount for that fiscal year.".
SEC. 12655. COMPARISON OF PRECEDENT WITH REPORTS AND AMENDMENTS BETWEEN HOUSES.
Section 305(c) of the Congressional Budget Act 1974 is amended —
(1) in paragraph (1), by striking the first sentence; and
(b) by inserting after "Act of Congress" the following:
"any concurrent resolution on the budget"; and
(2) in paragraph (2), by inserting "for a message report" each place it appears.
SEC. 12516. CONFORMING CHANGES TO TITLE 31.
(a) LIMITATIONS ON EXPENDING AND OBLI-
cer or trust funds in excess of the sequester
end thereof the following: "For the purposes
make a sequester in a fiscal year, no withhold-
percentage for such fiscal year.";
match of the defec-'
(12) the term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum def-
cert amount for that fiscal year.".
TITLE XIII—SOCIAL SECURITY PRESERVATION
SEC. 1401. SOCIAL SECURITY PRESERVATION ACT.
(a) SHORT TITLE.—This section may be cited as the "Social Security Preservation Act".
(b) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.
(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(b) of such Act (as added by section 201(a)(1) of this joint resolution)".
(c) SOCIAL SECURITY ACT.—Subsection (A) of section 710 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".
(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply with respect to fiscal years beginning after September 30, 1990.

TITLE XIV—REDUCTION OF PAY FOR MEMBERS
SEC. 1402. REDUCTION OF PAY OF MEMBERS OF CONGRESS.
(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.
(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).
(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—
(A) determine whether, for a reason described in subsection (a), the total amount of pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;
(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;
(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and
(D) transmit to Congress a written report containing the average computed under subparagraph (C).
(2) The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph (1).
(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.
(e) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress or Executive officers and employees occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress or Executive officers and employees, all reductions which would have occurred if this section had been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for Fiscal Year 1991.
(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code.

APPL ENCE TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

APPL ENCE TO EXECUTIVE OFFICER.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code.